



House of Commons
Communities and Local
Government Committee

**Planning, housing and
growth**

Oral and written evidence

Monday 15 October 2012

*Mr Mark Prisk MP, Minister for Housing and
Nick Boles MP, Parliamentary Under Secretary
of State for Planning*

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The Communities and Local Government Committee

The Communities and Local Government Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Communities and Local Government.

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Bob Blackman MP (*Conservative, Harrow East*)
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Mark Pawsey MP (*Conservative, Rugby*)
John Stevenson MP (*Conservative, Carlisle*)
Heather Wheeler MP (*Conservative, South Derbyshire*)

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Glenn McKee (Clerk), Sarah Heath (Second Clerk), Stephen Habberley (Inquiry Manager), Kevin Maddison (Committee Specialist), Emily Gregory (Senior Committee Assistant), Mandy Sullivan (Committee Assistant), Stewart McIlvenna, (Committee Support Assistant) and Hannah Pearce (Media Officer).

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Oral evidence

Taken before the Communities and Local Government Committee on Monday 15 October 2012

Members present:

Mr Clive Betts (Chair)

Heidi Alexander
Bob Blackman
Simon Danczuk
Bill Esterson

David Heyes
James Morris
Mark Pawsey
Heather Wheeler

Examination of Witnesses

Witnesses: **Mr Mark Prisk MP**, Minister for Housing, and **Nick Boles MP**, Parliamentary Under-Secretary of State for Planning, Department for Communities and Local Government, gave evidence.

Q1 Chair: We welcome both new Ministers in the Department to our session today on planning and housing. I wonder whether, just for our records, you could say who you are and your particular departmental responsibilities. That would be helpful.

Nick Boles: I am Nick Boles, Parliamentary Under Secretary of State for Planning and Development.

Mr Prisk: I am Mark Prisk, Minister of State with responsibility for housing and local growth.

Q2 Chair: You are both welcome, and congratulations on your appointment. I have spoken personally to both Grant Shapps and Greg Clark and congratulated them on their movement upwards. I have thanked them in their personal capacity. I think it would be appropriate if I put on the record my thanks to Bob Neill. I have already thanked Andrew Stunell at a debate in Westminster Hall, but Bob was particularly assiduous in his dealings with the Select Committee and me personally. He came regularly to the Committee and always gave us good evidence. We did not always necessarily agree with what he said, of course; we do not have to. Nevertheless, he was always very helpful, particularly, as I remember, on issues to do with the fire control centres. He allowed a good deal of confidential briefing to be given, and the way he treated the matter before the Select Committee was important. He involved me and members of the Committee in what was a difficult and complicated subject, but it was typical of the way he behaved as a Minister. I would like to put on record thanks to him for that.

Mr Prisk: Thank you very much for those remarks. He will read the record, but we will also pass those on. We certainly felt he was a very effective colleague. Can I also say that we welcome this early opportunity to engage with the Committee as Ministers new to the subject? We very much feel that, whether it is on investment, planning reform or access to finance, there are some important opportunities for discussions between the Committee and the Government, and also for how we can deliver what we all recognise has been a long-standing issue, regardless of who is in government. We recognise that there are short-term challenges, but also a longer-term issue, as to how we make the housing market less dysfunctional, whether

it be rented or owner occupied. We very much welcome this chance to engage with you. I may be less sanguine about it in an hour and a half's time, but that is certainly my view at the moment.

Q3 Chair: That is a challenge to us. To begin with Nick, only a few months ago we went through a very long and rigorous consultation on the NPPF in which Greg Clark, the then Minister, very appropriately involved the Select Committee. We made our response and he took account of that in the final version of the NPPF, which generally commanded fairly widespread support. It is therefore slightly surprising, is it not, that only a few months later, before the NPPF has hardly bedded in and started to influence local planning decisions, we are back with another significant package of reforms?

Nick Boles: Thank you, Chairman. It is great to be here for my first ever appearance before a Select Committee. I am suitably nervous. I am sorry if I splutter slightly, but I am suffering a bit from a cold. If I may put it like this, maybe appropriately you could talk about the grand architecture of a policy and then the finer building details. The NPPF was a huge reform and a huge exercise in conceiving it intellectually, designing it, consulting on it, taking it through Parliament and it being amended in various ways. That having been put in place, it is a huge achievement and one that, certainly in the last four or five weeks I have been in the job, everybody seems to think is a good idea and is beginning to work. Local government, the construction industry, house-builders, developers and also some of the environmental and other lobbyists, who have a lot of concerns about how we make use of land and how we develop, have very positive about it. There is general consent, which I certainly share, that the NPPF is absolutely the right architecture for our national approach to planning policy.

That does not mean, however, that every single detail of how the planning system operates is perfect. Having got the broad architecture right, we are now going through a process of identifying various other tweaks and tightening-ups that can be done that would then improve the operation of the planning system. The proposals brought out at the beginning of

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September are some of those; there are other things. We have announced that Lord Matthew Taylor is leading a review of planning guidance. That is another follow-on into the detail. The broad design is right, but we have more work to do on the way it operates.

Q4 Chair: To come back to that, the review of planning guidance was flagged up when the NPPF was finalised. It was accepted that the framework was in place but the guidance that underpinned it was going to be reviewed. That was specifically referred to, so it was not an afterthought or something additional. It looks very much as though the package before us, which presumably you inherited when you got to the Department, was an afterthought. Growth still is not happening, so we have to do something else, and this is the “something else”, rather than a seamless roll-out of a continuing review of the planning system.

Nick Boles: I do not accept that. Though the package was announced the day before I was appointed, I fully support every element of it.

Q5 Chair: Otherwise it would be your last day in the job.

Nick Boles: Exactly. Let me just pick out one of the elements that will occasion some debate: the idea that where planning authorities are consistently and persistently failing to take decisions in a timely fashion, or take decisions that are in accordance with their own policy and national policy, there will be a possibility for developers to take applications directly to the Planning Inspectorate. That is obviously not a change in the nature of how we approach planning; it is observing that, where there are some authorities consistently failing to deliver the policy, we are going to put in place a system to accelerate the process. I guess that the balance of the big reform was that we want to put local authorities in the driving seat, but that places certain responsibilities on them to fulfil the functions of a planning authority for local people. If they do not do that, we are going to look at how we can encourage them to do so.

Q6 Chair: If that was part of a seamless policy, it is probably surprising that it was not flagged up as was the review of planning guidance at the time the NPPF was announced. I am sure we will come back to some of the more detailed issues in due course. In terms of the changes, are you saying, therefore, there is no change at all to the fundamental objectives which the Government have laid down in the NPPF, and this is just a bit of tinkering?

Nick Boles: No; seriously, there is no change at all. We want to have a planning system that delivers development that is consistent with environmental objectives and local concerns. We think the best way of doing that is to have a very slim set of national policies and to put local authorities that are duly elected into the driving seat with policies that are driven by a local plan. It is incredibly important that they get a local plan in place so it is clear to everyone what they are trying to achieve; that decisions are taken with reference to that local plan and to the much slimmer set of national policies; and that there is a

presumption of sustainable development if any particular application is in accordance with those policies. That is what the policy was, and nothing that we proposed on 6 September in any way resiled from that.

Q7 Chair: One of the successes of the NPPF process was that there was widespread consultation, and it was listened to. How many of these measures will now be consulted on properly and formally?

Nick Boles: There are quite a number of measures; I would have to come back to you to give you absolute chapter and verse. To give you an example, one of the ones that is proving to be somewhat contentious—no doubt you will be asking us about it—is the extension of permitted development rights for extensions. We are going to have a six-week consultation on that. We will be including consultation where it seems right and proper to do so.

Q8 Chair: It might be helpful if you could set out a framework for all the proposals and indicate to us the likely timeframe and consultation arrangements.

Nick Boles: I am very happy to do that; we will write to you.

Mr Prisk: Would it be helpful if we did that from both our points of view?

Q9 Chair: It would be.

Mr Prisk: It would give you the rounded picture. I am concerned that, obviously, sometimes planning affects some of the housing decisions, and vice versa, so if that would be helpful we are happy to do that jointly.

Q10 James Morris: If I may ask a philosophical question, we did quite an extensive inquiry into the financing of new housing supply. One of the clear things that came out of it was that the evidence that the planning system was to blame for lack of growth is pretty thin. I wondered where you were at. The Government are placing huge emphasis on the reform of the planning system, possibly for good reasons, but is it sufficient? Is it the key to unlocking house-building growth, for example, or are there other factors that are more important?

Nick Boles: I will give a very short answer and then Mark will give a longer one. Of course, it is not on its own sufficient. I think it is necessary. Ultimately, the planning system decides how much land is brought forward for development. Because we have historically, for a number of decades, been bringing forward too little land for development, the price of development land is some of the highest of any country with which we would normally compare ourselves. The planning system is at the heart of the very long-term problem, but there are also more immediate problems with finance and credit, and we have a whole suite of policies to deal with that, too.

Mr Prisk: I think that is the point, in the sense that some people argue it is either demand or supply. I do not buy that. I say that partly as a Minister but also as a chartered surveyor who used to work not in the residential market but certainly in the commercial market. There are substantial issues around stalled sites and demand issues, whether it be a targeted

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group like first-time buyers or whatever, so planning reform is an important part of that. There are substantial elements of the planning system that we are looking to address—indeed, we will also look at some of the issues around building regulations—where it is not fit for purpose and reform is important. Clearly, if that was the only element, we would be ignoring some of the other elements to it. We need to deal with supply and demand, and planning is an important part of that.

Q11 Mark Pawsey: Nick, it is very clear from the NPPF that this is a plan-led system and yet large numbers of local authorities still have not prepared a local plan. What steps are you taking, or intending to take, to ensure that local authorities put as many resources into plan-making as they currently do into development control?

Nick Boles: I strongly welcome that question, because it is absolutely critical. The thing works only if people do local plans. There is good news but also some slightly less welcome developments in certain areas. The good news is that plan-making is accelerating. We now have 148 authorities, which is 44%, with sound plans adopted and in place, and an additional 71 with published plans, taking us to 65% of authorities. As a comparison, when we came into office, fewer than 60 authorities had plans, so it is coming on apace, and that is partly because the NPPF places such weight on it and, having removed the requirement for regional strategies, it makes it more important that people have local plans. Some authorities have been rather slow about it, and we are going to use every aspect of the bully pulpit of government to try to persuade them to do so.

There is one authority I know of that I have mentioned in questions in the House. The City of York has not had an adopted plan of any form for 40 years. No doubt there are reasons, but I think that is simply unacceptable; that is failing local people. There are sometimes suspicions that some authorities would almost prefer to be able to blame government centrally through the Planning Inspectorate for any development decisions, and therefore that is one of the reasons they do not adopt a plan. If that is true—I am sure that it is only in a very few cases—we will be making it clear that that is not acceptable.

Q12 Bill Esterson: I would like to follow up that question. You said that no doubt there were good reasons within some local authorities. That is undeniably true. Rather than using your bully pulpit, is not the solution to allow authorities to work with their neighbours to come up with the numbers that are required in a region or area rather than try to fit numbers into a borough where there is not the physical capacity or opportunity?

Nick Boles: I do not think there is a conflict between what you are suggesting and what I was saying.

Q13 Bill Esterson: How is that achievable under these proposals?

Nick Boles: Under the Localism Act there is a duty to co-operate, whereby authorities need to work with other authorities to make those sorts of cross-border

plans exactly as you are talking about. There are certain authorities that do not have much room for manoeuvre, maybe because a lot of the land that is currently not developed is green belt. There are limitations on what they can do and they need to form a slightly more cross-border view of the plans for the future. Many are already doing that. Many of the plans that have been adopted were formed on the basis of that duty to co-operate, so that is working well. Nobody will ever persuade me that there is any good reason why an authority should not have a local plan for 40 years. There is no good reason for that.

Q14 Bill Esterson: But using the exception is not necessarily good practice for the rule, is it? Authorities that have lost very large numbers of planning officers due to cuts in local government are not in a strong position, are they?

Nick Boles: People can make excuses.

Q15 Bill Esterson: It is not an excuse, Minister, is it; it is the reality?

Nick Boles: I think it is an excuse, because the Local Government Minister has pointed out that many smaller districts have decided to merge their planning departments with neighbouring districts so that they can recruit a higher quality of planning officials to be able to cope with the workload. A number of authorities have improved their performance despite the cut in resources. Surrey Heath has increased the proportion of major applications decided within 13 weeks by 58%, from 42% to 100%; Coventry has improved its performance on the same measure by 44%, from 54% to 98%. Nobody is going to persuade me that Coventry has not also had to deal with some pretty tough financial settlements. It is possible to do it well. You just have to think creatively about how you are going to resource it and understand that this is an absolutely essential priority and responsibility of local authorities and they need to discharge it.

Q16 Bill Esterson: So you will make sure the support is there for authorities who need to co-operate.

Nick Boles: Yes. The Local Government Association has a support network.¹ PINS provide support and the Department provide support to anyone who finds obstacles to getting the plan in place.

Q17 Bill Esterson: Moving on to major infrastructure, you announced big changes on 6 September. What new areas will be brought within this regime? Can you also talk about how the thresholds might change?

Nick Boles: Thank you for that question. We are consulting informally at the moment on what should go in. A lot of it is up to other Government Departments to work out how this would work. The broad intention is that we should be adding business and commercial developments of significant national significance in terms of scale to the major infrastructure regime. That would include big business in science parks; R and D facilities; storage and distribution centres; minerals extraction; major industrial developments, like oil refineries and big

¹ See supplementary written evidence

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chemical works; conceivably major manufacturing plants; and other development which would be linked to major infrastructure. At the moment it is focused on pure infrastructure, and the idea is that some business and commercial developments of a significant scale should go into that, but we are talking to other Departments about exactly what should go in and how those criteria should be defined, and when that is ready we will obviously share that with you before anybody else.

Q18 Bill Esterson: Will there be a national policy statement for office development?

Nick Boles: I do not believe there will be a national policy statement; we do not need to do that, but there will be a clear set of criteria about which commercial developments will be counted as major infrastructure. It is not going to be a case where somebody wants to put up another office in Victoria Street. It is a major development that has potentially national significance in scale. You will understand that these proposals were announced in outline form only at the beginning of September, but as soon as we have more detail we will share it with the Committee before anyone else.

Q19 Bill Esterson: You have mentioned business. What about residential? Will that be covered by the major infrastructure approach?

Nick Boles: What we have said is that the Secretary of State is going to look at his call-in powers, which currently he uses very, very sparingly in relation to major residential developments, and be open to calling in applications more often on major residential developments when they are of such a scale that they have more than purely local significance. We do not believe it will be necessary to bring such developments into the major infrastructure regime. To do so would fly somewhat in the face of everything we have said about how, particularly on residential development, it is the local plan with the NPPF behind it that should be in the driving seat, so we believe that going through the call-in procedure is probably the better way to deal with that.

Q20 Bill Esterson: Do you think that primary legislation will be needed?

Nick Boles: Mr Esterson asks me a question that I am spectacularly bad at answering. I have not been an MP for that long—though that is no excuse—and I am never very good at working out whether or not something requires legislation. You will not mind if I quickly refer to my notes. This one is secondary legislation. As an aside, I find it extraordinary that whether or not something requires primary legislation does not seem to be related to its importance or otherwise. It seems possible to do some very important things through secondary legislation, and other things that seem rather banal require primary legislation. I apologise for that, but this one is secondary legislation.

Q21 Chair: It seems that in this there has been a significant change of policy. When the Planning Act 2008 was brought in, the IPC was set up to deal with major infrastructure projects. The Government have

now changed it so part of the Planning Inspectorate deals with them, but we were told that no significant change of policy was attached to that. The whole idea was that there would be a national policy statement for every area that was covered by the major infrastructure route for planning applications, the reason being that there would be a needs assessment done as part of that policy statement. Therefore, with each planning application you would not have to decide, as we did with Heathrow airport, whether extra capacity was needed. That would be done in the policy statement, and then you would look at whether the planning application was the appropriate one for that particular site. If we are now going to have a major infrastructure route for schemes where there is no national policy statement, is that not a fundamental change of policy?

Nick Boles: The question is: how would you go about doing a national policy statement for all commercial and business activity?

Q22 Chair: Or whether those activities should be part of this route for major infrastructure projects.

Nick Boles: No, because what everybody has to recognise—indeed, Chairman, your party spends a lot of time pointing it out to us—is that the economy is having a difficult time and we need to get growth going. Like the Government of which you were a supporter, we believe in rebalancing the economy away from excessive reliance on the financial services industry based in the south-east. It is a very clear priority for this Government, and has been for a very long time, to try to encourage industrial and commercial developments of a broad kind away from a narrow concentration on one industry in one part of the country. That has been clear ever since this Government came into office, but we need to take further steps to ensure that planning is not holding that up.

Q23 Chair: Does it come back to the issue that planning is really the obstacle to growth, in your view?

Nick Boles: It is not an obstacle to growth when it is working well. Just a few weeks ago I had a meeting on a very major scheme, in that case a residential one, where the local planning authority were saying to me informally that it was of such a scale that it would completely overwhelm their planning department. It was the sort of scheme that they might deal with only once in every 20 years. Of course, no authority will staff up to be able to deal with something like that permanently when it comes along so rarely. They were asking what they could do because they thought they might not be able to do it; and, if they did do it, either all of their other planning work would gum up or they would end up doing it very slowly. There are certain very big and complex schemes that involve all sorts of broader issues and it is right that those are not delayed, thereby delaying growth and employment creation, just because local authorities are not in a position to deal with them expeditiously.

Mr Prisk: I think that is a very good point. In looking at stalled sites in the last three or four weeks, one of the things I have discovered is the issue of capacity.

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We were talking about how we encourage local authorities. One issue I have found is the ability of local authorities to try to be positive about a scheme which is very substantial and their planning departments may face only once in a lifetime. Very often they are struggling in capacity, skill base and so on. It is quite important that we give consideration to that.

Q24 Chair: When you determine which schemes are going to go the major infrastructure route will one of the criteria be an authority's capacity to deal with it? Some authorities would be perfectly capable of dealing with major projects; others might not be. Is that one of the criteria you are going to use?

Nick Boles: I am sorry; I hope you do not mind, but I will come back to you with details of the suggested criteria when we have concluded discussions inside government as to what they should be. It would be a mistake and unfair to other Government Departments to jump the gun, but we will come back to you as soon as we have further details.²

Q25 Chair: But that is a planning issue rather than a departmental one, is it not?

Nick Boles: Nevertheless, it would be wrong of us to charge straight in on the hoof without having reached agreement across Government.

Q26 Chair: We will be interested to see your response in writing, perhaps in due course.

Nick Boles: Absolutely.

Q27 Mark Pawsey: I wonder if I might ask some questions about housing development where numbers have lagged substantially behind those that need to be built to meet household demand. We heard in our report that one of the big issues is that the availability of finance is holding things up. There are 400,000 unbuilt consents. Isn't that evidence that planning is not the problem?

Mr Prisk: I think we have to be slightly careful about the 400,000. Having looked at this both before I came into politics and now as a Minister, the 400,000 is a cumulative number. Many of the schemes that make it up will include projects that have a four or five-year, sometimes seven or eight-year, programme. You can look at the numbers and say that we need, roughly speaking, household formations of 232,000, and therefore we want to see that sort of pattern of development each year, and therefore 400,000 sounds like a useful back-stock. However, actually, when you look at the schemes that make that up, and recognise that they very often reach out over four, five, six or seven years, you begin to realise that 400,000 is quite a small proportion. My own view would be that the 400,000 is welcome. It would be difficult for commercial reasons, either for the builder or for the site, to get all of those into action, and that is why we need to think further about both demand and supply issues.

Q28 Mark Pawsey: Do you have a view about the number of consents that you would like to see within

the system in order to be able to meet this built-up demand?

Mr Prisk: I am always wary of trying to name a magic number. The reality is that for the last 20 or 30 years as a country we have been building at roughly half the rate of housing need, so we have a cumulative build up. My view is to look at the programmes in place, recognise the state of the market—this is one of the issues particularly in the owner-occupied market—and then to look at how we can best maximise the numbers, so, whether it is using public land to get that up and running, whether it is helping first-time buyers, whether it is looking particularly at the sector that is often forgotten, which is the private rented sector, or looking at the investment programmes, it is thinking in the round about supply and demand rather than trying to pluck out a magic number. We are trying to avoid the top-down numbers that we have perhaps assumed previously.

Q29 Mark Pawsey: You referred earlier to stalled sites. Are there any measures that can be taken to bring forward sites that have been stalled more quickly?

Mr Prisk: The crucial issue, certainly in my experience over the last four or five weeks in getting into a number of the very substantial sites around the country, is to look at the capability of that site where there are, frankly, bureaucratic conflicts and challenges around infrastructure, and, on a site-by-site basis, trying to unlock those. We have been able to make some quite important progress in that regard. When it comes to public sector land, there are some other important issues; that is, making sure that we bring forward such land. We have now been able to sell land which will release 33,000 units. For the first time—I find this slightly extraordinary—we have got the Ministry of Defence, the Department of Health, Department for Transport and so on to put their strategies in the public domain for all to see. We said on 6 September that we needed to accelerate this. We see an important role for the Homes and Communities Agency in accelerating transfers to it. I suspect that members across the Committee will recognise that very often a town centre is trapped because two or three agencies in the public sector have different interests, and trying to assemble that site to be able to unlock the whole thing becomes hideously complicated. On 6 September our view was that we needed to accelerate the public sector land side particularly by using the Homes and Communities Agency and by developing what Tony Pidgley has suggested in his report, which is a stronger one-stop-shop approach, so we can be more holistic in the way we deal with this.

Q30 Mark Pawsey: Nick, the NPPF has a clear brownfield first policy. It is quite right that previously developed land should come forward for housing first, but in order to achieve the kind of housing numbers that we need to deliver, are you content for greenfield and even green-belt land to be used for housing?

Nick Boles: I think it is incredibly important to draw a clear distinction between greenfield and green belt. Green belt is land that is protected through local

² See supplementary written evidence

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authority decisions in their local plans. The continuing protection for green belt was restated very clearly in the NPPF and, if I may say so, was restated even more clearly by the Secretary of State in his speech to the Conservative Party Conference last week. It is not in doubt. It has always been the case that local authorities can vary their own green belts but only if they do so through local consultation and the local planning process. Green space is not necessarily protected. Obviously, there is certain other non-green-belt land that is protected: AONBs, SSSIs, national parks and the rest.

Q31 Mark Pawsey: There is a preference for brownfield sites.

Nick Boles: There is a preference for brown field, but, quite simply, given our housing needs and our persistent failure as a country over 20 years to build enough houses to satisfy those needs, there is not enough brownfield land that is economically viable. That is the critical point. It is not just enough to say there is brownfield land, you can build on it. If there is no way it can ever be economically viable to do so, obviously that land is not really going to be a solution. There is no way that we will be able to meet our needs with brownfield land that is economically viable. The good news is that it is a very small proportion of the overall amount of green space in the country—even a very small proportion of the overall amount of green space in the south-east—that is needed to be able to meet our housing needs. We are not, as so many people try to suggest, a hugely developed country. Well under 10% of our land is developed in any way at all. Even in counties in the south-east, it is still very low, so we do not have to do much, but we are going to have to do some on green space.

Q32 Mark Pawsey: So you do foresee some circumstances in which green belt could be used for housing development on the assumption that there is other land that goes into the green belt.

Nick Boles: It is important to be clear about this: there is absolutely no change in green-belt policy as a result of the announcements made at the beginning of September, or indeed anything that has been said or done since the NPPF was brought in. It has always been the case that local authorities have been able to alter green-belt boundaries if there are very strong reasons for it, but they have to go through a proper process in doing so. It has always been the case that there are lots of brownfield sites inside the green belt. Obviously, it is a good thing to develop it because that is brownfield land and there is a presumption in favour of brownfield land. There is nothing new and different here. That is not, frankly, up to us. We are standing behind local authorities' protection of green-belt land. They individually can decide with local people what they want to do to maintain that protection consistently with fulfilling their housing needs.

Q33 Mark Pawsey: This Committee was quite interested in the idea of self-build land. In our report on financing we saw some interesting examples of that when we visited the Netherlands. It is important to say that self-build is not people physically building

the houses themselves but acting as an individual developer on an individual site. Do you see that as a solution to some of our housing difficulty, or is it very peripheral?

Mr Prisk: I think it is crucial. The numbers in the last year we have got are about 13,800 for the period 2010–11, and that is one of the lowest proportions of any modern economy when you look around other countries. We have tried to understand this issue. My predecessor was, quite rightly, very passionate about this issue, and I share that view. There are at least 100,000 people currently looking for plots to be able to build themselves or—perhaps slightly broader than that—custom-build homes. This is a really important addition to the melting pot.

Therefore what we are looking to do is build on the work that my predecessor did in getting an action plan led by the sector itself as to how it can be grown in the UK. We then put up a £30 million fund to try to unlock some of those early custom-build ideas. We put that fund in place in July, and my understanding is that we have two schemes involving 20 units already approved. Of course, this is for multiple units in that sense; that is what the fund is there for.

Tomorrow, I will be part of the Government's self-build workshop where we are looking at not only drawing on the expertise of our Dutch colleagues but also how local authorities can participate in this along with local people, community groups and developers. This is a very exciting aspect because it allows people, first, to be able to build their own homes and, second, it starts to inject a degree of innovation and new ideas into the design of family homes, and that is something to be strongly welcomed.

Q34 Mark Pawsey: Flexibilities in planning requirements need to go hand in hand with that.

Mr Prisk: The NPPF already recognises, in many ways, how that self-build community can develop, but we are also thinking about what else we could do, and hopefully I will be able to come back to the Committee in the next few weeks with further details on that.

Q35 Bill Esterson: Coming back to Mr Boles's comments about brownfield and green belt, you were the director of Policy Exchange when it published a report saying that the green belt should be abolished.

Nick Boles: I am absolutely certain I was not the director then. I was the founder of Policy Exchange and was its director until 2007.

Q36 Bill Esterson: That was when the report was published.

Nick Boles: I can promise you I had nothing to do with any report that said that thing. I should also point out that Policy Exchange published many proposals that I did not agree with. If you are the director of a think-tank you are not an intellectual dictator; you just hold the ring and encourage an intellectual ferment, but I promise you that that one was nothing to do with me.

Q37 Bill Esterson: That is an interesting concept. There is a perceived difficulty in the development of

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brownfield and an attraction in the development of green belt, which is at the heart of a lot of the debate on the issue about whether brownfield or green belt should be developed. Do you think there is a role for you in levelling the playing field between brownfield and green belt to ensure that perhaps some of these sites which are potentially very difficult can be brought forward earlier so that green belt is not built on?

Nick Boles: I do not think there is much more of a role for Ministers than has already been expressed through the NPPF in suggesting there is a presumption in favour of trying to develop brownfield if you can and a protection for green belt. One thing I observe—it is not a matter for Ministers—is that we are slowly and gently moving towards the introduction of the community infrastructure levy. Local authorities that are introducing this are enabled to specify different rates for different kinds of development. So far relatively few authorities have developed this. Many of them specify different rates for residential and commercial.

A question I ask of the local authority community is whether they might think about whether another kind of category could be to set a different rate of community infrastructure levy for greenfield as opposed to brownfield. If, as is often the case, developing a brownfield site is more expensive than trying to develop a greenfield site, and the local authority would prefer—as most of them do because they have to be elected by local people every few years—to develop brownfield sites, maybe one way of nudging development into brownfield and making up for some of its economic problems would be to set a different CIL rate, to use the jargon, from that used for green belt. I should probably have checked but I did not anticipate this question; I do not know whether anybody has done that yet. I would be interested to see if they have, but I do not think it is the role of Ministers to intervene in that. The whole point of CIL is that it is up to local authorities. They have to get it examined and everything else, but it is nothing to do with me.

Q38 Bill Esterson: The point that has been put to me is that at the moment you have a lot of brownfield sites that are already in local plans, or could be, and as a result of some of the announcements on 6 September developers may well challenge whether or not they are viable. Mr Prisk has already made the point that some of the 400,000 notional housing developments might not be viable. That might allow developers to challenge and overturn local plans and, therefore, argue that they can build where they like because the local plans are not robust. How do you get around that problem?

Nick Boles: Even if people were able to demonstrate that a particular brownfield site that may have been included in a local plan that was drawn up at the height of the boom in 2006 was no longer viable, they would not be able just to go anywhere; they still have to look at other sites in the plan. Equally, we need to be realistic. The fact is that there are millions of people in this country who cannot get a home, whether to rent or buy, of their own. There are

millions of people with young kids who cannot get a place with any green space at all for those kids as they grow up. Frankly, it is not good enough for a government of any stripe just to say, “Well, you could always get a flat or house on a brownfield site, if it ever becomes economic to develop it.” If it is not economic to develop it, it is not available and it is not an option, in no way will it meet those people’s aspirations. Our responsibility as government and local authorities’ responsibility as local government is to come up with solutions that are viable and meet those people’s housing needs, because their housing needs will remain whatever.

Q39 Bill Esterson: I completely accept that point, but the point is that if it leads to a development free-for-all there will be other consequences. I hope you agree that is not desirable either.

Nick Boles: Absolutely not, but it would not lead to a development free-for-all because they would still have to look at other sites that had been allocated in the local plan. It becomes a problem, which has happened and is happening in relatively few examples, where authorities are not bringing forward a full five-year allocation of sites. Where they think they can get away with two or three years, that is a real problem. That makes the free-for-all that you and I do not want to see more likely, if they are not properly putting together a plan with a proper available and viable supply of sites.

Q40 Heather Wheeler: I am very interested in the NewBuy scheme, and also the differences between smaller builders and the fact that their sites tend to be exponentially more expensive because they have not got the economies of scale of large sites. Have you begun discussions on this with the Local Developers’ Forum? We all have constituents and talk to people. It is absolutely fascinating how the smaller builders are ready to go but they are just much more expensive sites to get on with, and the extra 5% for NewBuy just does not seem to be enough.

Mr Prisk: The NewBuy scheme in terms of providing a mortgage indemnity underpin for those looking at the higher loan-to-value ratio kicked off only in March. The Home Builders Federation tell me that in the seven months they have got some 1,500 reservations. That is an encouraging start. The point about smaller builders is an interesting one. Inevitably, as a mortgage indemnity insurance scheme it is looking to be able to help, and it is easier for the larger builder, when looking to provide that support, to offer what the lenders regard as single cells. There is a challenge. I am talking both to builders and particularly lenders about what is termed multi-cells; in other words, essentially where lenders are looking to a series of smaller builders who will be part of a single element of that mortgage scheme. Although at the moment we have got 30 builders and the six principal lenders, so they represent about 75% of the mortgage market in play, the Home Builders Federation tell me that they have now got quite a long queue of the smaller builders wanting to come into the scheme; that is encouraging. However, you are right to flag this up with lenders. It is something on which I

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want to work with them and impress upon them. We want to see a wider number of multi-cells, and it is an important aspect of growing what has been a reasonably successful programme, even though it has been in play for six or seven months.

Q41 Heather Wheeler: That answer is really helpful. The multi-cell element is the key to this; it really is. As regards the aspiration of 100,000 new homes, 1,500 is a little small. We have to start somewhere, but I am just wondering at what stage it absolutely kicks in and will kick on.

Mr Prisk: As to the game plan for the NewBuy scheme, we put in place a contingency fund for a maximum of £1 billion. We reckoned that could support up to 100,000. We have talked to the Home Builders Federation in the first year. Quite understandably, they feel that in the current market environment, starting the scheme, 25,000 is a reasonable target. I understand that. That does not mean that if new opportunities come forward and we can go further than that—we will be looking for those—we will ignore them. I am keen to build on that, but the 100,000 is, if you like, the Government quite rightly saying that they know the Home Builders Federation are saying they are going to do 25,000, and that they may well do more than that, but we need to make sure we have a proper contingency liability here. We have put that in place for up to £1 billion.

Even a year ago, many of the estimates of where the housing market would be now were radically different from where they are, and I suspect it will be the same again in another year's time. I think that in this instance we have chosen to take some care and put that additional funding in place, but do I want to see more than the current number? Absolutely.

Q42 James Morris: Mark, I want to ask you about the private rented sector to which you referred earlier. Clearly, there are projections of increasing demand for the private rented sector in the UK over the next few years. The Montague review, which was published in August, made some recommendations about how we can try to unlock institutional investment in the private rented sector. What is the timetable for implementation of the recommendations, and how do you see us unlocking the potential in the private rented sector?

Mr Prisk: This is a really important opportunity. Over the last 30 or 40 years there has been an awful lot of conversation about what I would call social and owner-occupied housing. We can identify which governments or political parties tended to talk more about one or the other, but often the one in the middle—private rented—has tended not to attract the same level of interest, particularly in terms of investment. The work that Sir Adrian Montague and his team have done is crucial.

As to the three elements of 6 September that I would suggest to the Committee are crucial, the first and numerically most obvious one is the £10 billion debt guarantee designed to underpin institutional investment in private and affordable housing. What we have learnt—and Sir Adrian Montague's report has suggested—is that, when you look at Germany,

Sweden and some of the other countries with a strong private rented sector, it is a matter of drawing in the key institutional investors, particularly those looking for long-term return who very often have developed an effective brand and product. I do not mean that in a superficial way; I mean someone who has identified a quality service that prospective tenants can identify with; they know what they are going to get. If we are to change private rented this is the way to go. The £10 billion debt guarantee is crucial to that role. It is allied to what Adrian Montague suggested, which is putting in place an equity fund of £200 million and making sure we get together a task force of experts to be able to push this forward.

Q43 James Morris: Even if this was successful and we went down that route, the reality is that the market is still dominated by smaller players. I wonder what the Government's thoughts are about continuing to help smaller players, because the characteristics of the private rented market in the UK are lots of small landlords.

Mr Prisk: Yes.

Q44 James Morris: What can the Government do to improve the market at that level as well as improve it at the macro level?

Mr Prisk: I have asked some of the existing residential landlord organisations to bring forward their thoughts about some practical changes both in operation and investment. It is both aspects. You cannot look just at the investment criteria or tax regime around this. It is important that we think about some of the smaller players. Some of those are looking to come together to be able to attract finance. I do not think the £10 billion guarantee is solely for the super-large funds. We are wanting to make sure that it is a broader base, so I take your point.

As to the task force, one of the challenges is how we accelerate this. One of my concerns is to make sure that, alongside the fund and debt guarantee, there is a team of experts who draw on established practice and can start to progress this. You asked about timetables. We have already invited expressions of interest in the fund of £200 million; similarly, we have already invited expressions of interest from the major players and others in the debt guarantee, so those are in train. We would expect to be able to publish the details in November.

Q45 Heidi Alexander: I want to ask a very general question about your views of the private rented sector. It strikes me that that sector is second choice for lots of people. Many people who live in the private rented sector would ideally like to own their own home. In my constituency many people in the private rented sector want to live in social housing because of the disparity between the rents. In terms of your own views, would you agree that the private rented sector is the second choice for many people? Therefore, is it right to be focusing such efforts on enhancing it and making it even bigger?

Mr Prisk: I have always taken the view that owner-occupied, private rented and social housing need to be looked at holistically. One of the dangers

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is that we have tended in politics to look at one or the other and forget that if there is a problem with one it has an immediate knock-on effect on the other. Your question highlights the point that very often the fact we have not built enough housing generally means that some of your constituents regard this as a second choice sub-sector. My view of private rented is that we do need to invest in more homes generally. Some of the problems we see, whether it is private rented or otherwise—overcrowding and so on—are an expression of lack of supply. That is why it is important we get investment into that sector, alongside the affordable homes programme and what we are trying to do to encourage demand and supply in owner-occupied housing. We need to see the three together because, as you rightly say, there is an overlap between them all.

Q46 Simon Danczuk: Mr Boles, what evidence do you have that section 106 requirements are holding up development?

Nick Boles: As Mr Prisk has said, there are a number of stalled sites. While many authorities, including yours in Rochdale, have been incredibly progressive in having very constructive negotiations with developers to renegotiate the affordable housing element of section 106, there are some authorities that are more resistant to that who sometimes seem to get hung up on percentages rather than actual buildings. It is in those cases that we want to create an opportunity for developers to do a renegotiation with the inspectorate in which they would have to justify that the previous agreement was not viable. They cannot just ask; they have got to be able to demonstrate that it is not viable. We would much prefer that most local authorities do what Rochdale has done and be very forthcoming in having negotiation with any developers in that situation.

Q47 Simon Danczuk: The Homes and Communities Agency suggests there is very little evidence that section 106 requirements are holding up development. Is there any evidence that those requirements are holding up development?

Nick Boles: We know that there are about 1,400 stalled housing sites and that they account for about 75,000 units.

Q48 Simon Danczuk: How many of those are due to section 106 requirements?

Nick Boles: It is very difficult to say. It is quite hard to say why nothing is happening. You do not always have clear reasons attached, but nevertheless the development community has made it very clear that one of the issues is that certain local authorities are not good at coming forward and entering into renegotiations. We want them to do that. The truth is that, if you are right, the change we will be putting in place will not be needed. Yippee—nobody would be happier than me if the inspectorate does not have to renegotiate any 106 agreements because all local authorities understand their responsibilities and are as proactive as your local authority, but at the moment there are some indications that that is not the case and

this is, as it were, a shot across the bows of those who are being more recalcitrant.

Q49 Simon Danczuk: So there is no evidence; it is based on ad hoc information.

Nick Boles: There is evidence. We have been told by the various representative organisations in the development community that this is an issue with some local authorities, so we are trying to flush them out and make them behave as your local authority is behaving.

Q50 Simon Danczuk: Let us come to the developer community. They have sponsored and funded your political party, the Conservative Party, in a big way. People out there think that that is why you are bailing out developers who have paid inflated prices for land. What would you say to the people out there about that?

Nick Boles: The Government that you used to support—I believe that, like me, you were elected in 2010, but presumably you supported it from the outside—agreed with us that house building is too low and has been too low for a very long time. There are many people in your constituency, and the constituency of every member of the Committee, who are faced with housing situations that, frankly, we should be ashamed of. The only people who will build houses are house builders, and the only people who will pay to build houses are developers and housing associations. Of course, they have a profit interest; all private companies have a profit interest, but it does not mean that they are not also doing a social good by building houses.

Nobody gets housed by a section 106 agreement; nobody can keep out the rain by waving that piece of paper. You get housed and keep out the rain only by having a roof over your head, and you build a house only if it is economically viable to do so. The same would apply to housing associations. They cannot build houses if it is not economically viable to do so, and the same applies to developers. We are trying to get houses built, which I believe is our responsibility, not to worry too much about whether somebody is making a profit by building them.

Q51 Simon Danczuk: Developers are making a profit. The point I am putting to you is that the public out there think you are now helping them by renegotiating section 106 moneys. You are attempting to help your mates who have sponsored your political party. What do you say to the people who think that?

Nick Boles: What I would say is that you might think that.

Q52 Simon Danczuk: The public think it.

Nick Boles: You may think the public think that. Nobody has written me to suggest so; nobody has shown me an opinion poll that suggests that is the case. If you would like to provide the evidence I will be happy to write to every single member of the public to explain to them that houses get built by people who have an interest to build them. That can be housing associations and it can be private developers, and I welcome all house building, whatever the motive.

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Q53 Simon Danczuk: You said earlier that the whole point of CIL is for local authorities to decide how they use it. Why do you not let that apply to section 106 moneys? Why do you not let local authorities renegotiate? You are proposing to legislate on this. Why do you not leave it to local authorities and have some localism in that?

Nick Boles: What I find extraordinary, Mr Danczuk, is that your local authority in Rochdale is an absolute example to the rest. It has renegotiated two major schemes, one on the Akzo Nobel site, where there was a 106 agreement that they had previously negotiated at a different economic time. They recognised it was simply not possible for the developer to fulfil it. They very intelligently renegotiated that scheme, and as a result buildings are going to be built. Your constituents will have roofs over their heads as a result of the renegotiation of the section 106 agreement. If local authorities are willing to do it off their own bat, they need have nothing to fear from this proposal or the Planning Inspectorate. It is only in those cases, fortunately few, where local authorities refuse to do this that they will have to understand that there is going to be another route available to developers, but only if those developers can demonstrate that the scheme is not viable with its existing agreement.

Q54 Simon Danczuk: I am more than happy to dedicate this meeting to the Akzo Nobel site in Littleborough in my constituency, but I will not do so because it will take a considerable amount of time. As to the legislation you are proposing, this will delay development, because, as happens with the planning system, any interference, some with the right intentions, will slow down and stop development from taking place. Developers will come forward in an attempt to increase their profits and reduce the section 106 contributions they have to make. There could be an intention that results in a reduction in the building of social and affordable housing.

Nick Boles: Mr Danczuk, I look forward to receiving your full support and that of your party colleagues in the House of Commons, so that we get these changes through the House of Commons and House of Lords as quickly as possible and there will not be any excuse for anyone to delay. The truth is that in most cases developers are negotiating perfectly happily with local authorities, and in a very few cases they cannot make any mileage or headway, and we are coming to the aid of the people who will be housed by those developments going ahead.

Q55 Simon Danczuk: You do not believe there will be any reduction in the number of social houses that are built as a consequence of this.

Nick Boles: No, my colleague has just announced very substantial financial support on top of the extremely large programme we already have that will build far more affordable housing than any that might be lost. Do remember, please, that, as the Secretary of State keeps on saying, 50% of nothing is nothing. It sounds better when he says it, but it remains true even when I say it.

Q56 Simon Danczuk: What is an acceptable reduction in the proportion of social housing on a particular site? I ask that because Mr Prisk as Housing Minister visited the Saffron site in Croydon. That reduced from 35% to 5% the proportion of social housing on that site. Are you comfortable with that sort of reduction?

Mr Prisk: Perhaps I ought to answer that. The Saffron Square development in Croydon was stuck in the system for three years, and not a single home was being built. What the developers did in Croydon—I pay tribute to Croydon's officers for recognising that they were getting nothing out of this—was to sit down and renegotiate. The result of that change is 114 additional affordable homes as part of the package when there were none. That is an important change. It underlines the point Mr Boles is making that, much as we might like to think that some of the section 106 agreements were viable three or four years ago and we would love to see them happen, if they are not happening we would far rather make sure we get a sensible negotiation so we get some of those happening and under way. I do not think it is about us trying to prejudge contract by contract what percentage should be involved. What matters is to get the proportion under way. There are some very good examples of where those negotiations are bringing forward housing, and Saffron Square is one of them.

Q57 Simon Danczuk: In terms of the Planning Inspectorate's role in all of this, you have talked about their need to examine the affordable housing element of section 106 moneys. Will they have any remit in regard to the use of that money for other purposes, whether it is building a school, road or something like that?

Nick Boles: The only aspect of 106 agreements to which this new provision is going to apply is affordable housing. The Planning Inspectorate are already expert in looking at the viability of these things. People are currently able to go to the Planning Inspectorate to appeal 106 arrangements after five years have elapsed to check their viability. We hope this will catch very few authorities because those who are perhaps being a little backward in coming forward will see there is another route becoming available and will decide to start negotiating themselves in good faith.

Q58 Simon Danczuk: The Government announced on 6 September that, "Building on the success of the Affordable Homes Programme, [they] will invite bids to provide up to an additional 15,000 affordable homes through the use of loan guarantees, asset management flexibilities and capital funding." Speaking to some housing associations, they are still concerned that no meat has been put on the bone; they are unclear about how to go about that; there is no guidance in terms of being able to pull that money down. Five weeks on, what is the reason for the delay?

Mr Prisk: One of my first jobs was to make sure I talked to the National Housing Federation, which was exactly what I did. They have all been very positive about the additional funds. We are talking to them at the moment about the specific details, but there is no

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delay in terms of them being able to implement their programme.

Q59 Simon Danczuk: But as yet there is no guidance in terms of being able to draw down that money.

Mr Prisk: They are perfectly clear about what they need to do. It is fair to flag up as well that a number of them have asked where they go after 2015. I do understand that issue. I said to them then, and I will say it to the Committee now, that we are mindful of that fact; what I do not want to find is that 18 months out from that period they are not quite sure what the pattern will be. I will want to address that issue; otherwise, there is a danger that you get into the last year or so when programmes are identified for the last 12 months and the worry is what happens at the end. That is the bit I am concerned about. The National Housing Federation have, understandably, raised that and I want to talk to them about it in more detail.

Q60 Heidi Alexander: In densely populated urban areas there will be few sites of a certain size where you can deliver a significant number of new homes. Do both of you accept that realistically you can develop that land only once in the next 50 years? Therefore, if you are reducing the contribution of affordable housing on those big sites—it might be for 3,000 homes—in effect different people will have access to housing, and people who need genuinely affordable housing will not have access to those homes on those big sites in inner-city areas? I can think of a number in Lewisham where it is absolutely imperative to get genuinely affordable homes built. My fear is that what you are proposing means that the council has less ability to negotiate on those big sites that perhaps come along only once every 30 or 40 years.

Mr Prisk: There is always a challenge in urban areas. I am a great believer in reusing and renewing land, the existing housing stock and the built environment. One of the issues we have not reflected on is necessarily how we make better use of mixed use development, because that is an area where there is opportunity, especially in boroughs like Lewisham, which is in a constrained urban area, as it were. Therefore, its ability to be able to make the very best use of its land and buildings is a challenge. The fact that we are leveraging £15 billion additional private money into the Affordable Homes Programme is really important, because it is starting to bring in other players who are very strong, not just in terms of development but also how you make the best use of land. There is sometimes a debate about how densely you should build. If you look at, dare I say, the leafy suburbs of other parts of London, or even the Pimlicos and Belgravias, they often have some of the highest housing densities. It is not so much about that aspect but how you best use your existing land and building stock. Our view would be that the Affordable Homes Programme, alongside the other roles, should enable boroughs to make good progress. Lewisham has done rather well in terms of affordable homes; it has built 870 in the last full year. That is encouraging, but there is pressure there and we are very sensitive to that fact.

Q61 Heidi Alexander: In Lewisham we could do with 10 times that number of affordable homes and the land is not available. When that land does become available you have to make sure you are not selling your residents short in terms of securing affordable homes through it. You talked about mixed communities and the desire to see developments of a mixed nature, but, surely, what you are proposing here, through the changes to section 106, will mean a reduction in mixed sustainable communities and developments coming forward, because you will be building a greater amount of one particular type of housing.

Mr Prisk: No; I would differ. To give you a slightly different geography, I was looking at a deal done in Newquay where a site was to be developed. There was a push for 45% affordable homes, and nothing happened for three years. Now it has gone for 31%. It has got that affordable housing in the stock. 31% is still a very good rate, but what has happened is that we have got the site being developed, and that is the crucial bit. People say, “Hang on. Does section 106 mean zero?” No, it does not. It means recognising the market conditions and asking the authority and developer to sit down to see what is realistic and viable now. That is an important shift, because we have to recognise that it has been pretty tough in the market out there in the last three or four years. Some deals that might have stacked up and looked sensible and were viable three or four years ago are not now. The question is: do we stand on ceremony and say we must absolutely have a rigid percentage, or do we try to make sure we get the best deal that is available? The latter is probably the more pragmatic approach.

Q62 James Morris: Nick, those of us who follow these things are intrigued by the fact that your predecessor went by the title of Minister for Planning and Decentralisation. Some of us have noted that the word “decentralisation” has somehow been erased from the CLG’s nomenclature. I wondered whether that reflected a sense that the Government started with a philosophy of wanting to push localised planning and that localism was the heart of the planning reforms, giving communities more power and devolving power from the centre. The Secretary of State recently used the term “muscular localism”. Is there not here a policy retreat away from localism?

Nick Boles: I am grateful for the question because I want to be able to reassure you that, while I am certainly not as muscular as the Secretary of State, I am definitely as much of a localist. Indeed, Policy Exchange and Localis, the two think-tanks where both you and I have worked in the past, have been at the forefront of spreading the ideas of localism in the Tory Party and the centre-right more broadly—a place where those ideas have not always flourished in the last 20 or 30 years. There is no retreat. The specific change in the word “decentralisation” was because of a feeling that people wanted titles of jobs to be about the powers for which you had responsibility and “decentralisation” was a rather nebulous word. In addition, although Greg Clark has moved to the Treasury, he has kept his responsibility for the cities programme. He is very passionate about that. Given

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that much of that is about city deals, having a Treasury Minister negotiating them is probably a good thing. The reason you should not be concerned is that, having spent a few weeks looking at all of the different things on my plate, for every brand new baby Minister it is a process of huge euphoric excitement at the beginning—you have a box of tricks—and then a steady realisation of how little room for manoeuvre you have. The area where I am most excited about the potential is neighbourhood plans. I think that neighbourhood plans, which in planning is bar none the most decentralised and localised innovation we have brought in, will be the thing that really transforms the rate of development in this country but also its acceptance by local people. Much more than the other things we are doing, that is where the future lies. Unfortunately, it takes a while and it is complicated and difficult, and it is only when we have got a feel for it—

Q63 James Morris: I hear what you say, Nick, but is not the reality that there is a tension here? At the same time as we are talking about neighbourhood plans we are giving the Secretary of State a significant amount of power to call in planning applications. We are strengthening the Planning Inspectorate and putting more power into the hands of a non-democratically accountable body away from local authorities. Should we not be encouraging local authorities to formulate these local plans and get the kind of localist organic development we are seeking, rather than conceding, if I may put it this way, to Treasury pressure to impose more central control when we need to decentralise a lot further?

Nick Boles: I should take responsibility for the fact that I have so spectacularly failed to communicate to you the true intention behind these proposals. It is absolutely not to go back into a centralising mode. The point is that we want local authorities to take the lead, but they have to take responsibility when they do so. They cannot just abdicate. When I say I am a localist, I do not mean that local government should be the most powerful thing in the land, but that decisions should be made as close as possible to the people they affect so those people feel as though they really have a stake in those decisions. There are times when some local authorities, frankly, abdicate their responsibility. In education we have liberated schools through the academy programme, building on one of the best reforms of the last Labour Government. We have extended those freedoms to a huge range of schools, but if they fail their students there is a category of special measures that schools can go in and then there will be central intervention to make sure those schools are handled responsibly. Exactly the same regime applies to foundation trust hospitals, which is another good reform of the last Labour Government—one from which they seem, curiously, to be backing away—where hospitals are allowed to run themselves, be free and autonomous, and stand on their own two feet, but if they fail there is intervention until they can stand on their own two feet again.

Be very clear that in the very few cases we will be saying to local authorities, “Because you have consistently failed to make decisions in a timely

fashion, or in accordance with your policies, we are effectively giving developers a route to the inspectorate.” That will be for a very short time. Just as with schools the focus will be to find a new approach that means they can have autonomy again, similarly we will be working intensively with local authorities to help them get to a point where they can resume their responsibilities as soon as possible. This is a very important point. This is not recentralisation; this is making sure people understand that with more power comes more responsibility.

Q64 James Morris: How are you going to achieve your goal of getting local authorities to create these local plans? Are you providing them with new incentives? How is the Department going to ensure that we have consistent local plans across the country, because they do form a very important basis of what we need to achieve?

Nick Boles: It is a combination of the bully pulpit and carrots and sticks. The truth is that we are already having great success. The rate of plan-making is probably higher than it has ever been. We have every reason to be optimistic, but no doubt there will be a few laggards, and we will be finding different ways—I do not want to reveal all of my hand at this stage—to make being a long-term laggard painful.

Q65 Heather Wheeler: I want to move to a slightly different area: the award of costs in planning inquiries. On 6 September the Government announced some changes on the basis on which costs would be awarded in planning appeals. I wonder whether you could flesh that out a bit more.

Nick Boles: I want to be clear what you are asking about. Currently, the Planning Inspectorate can award costs only where the developer asks them to. We have heard from a number of developers that sometimes they are reluctant to ask because they have an ongoing relationship with the particular local authority; they are going to have other fish to fry with that local authority in terms of further applications. Therefore, they are disinclined to ask for those costs to be awarded. It is certainly true that it is a relatively small number. The number of cost awards equates to only 3.7% of total appeal decisions.

We are saying that in certain cases—again, used sparingly—where an authority has, we feel, been egregious in its failure to make decisions according to its own policies, the inspectorate will have an independent ability to award costs, even if the developer has not asked. This is part of the hand of carrots and sticks. We want to be able to back off. I would love to put the inspectorate out of business because all local authorities were always making decisions quickly in accordance with their policies and with a much reduced level of national policy, but where they do not we need to find ways of making it worth their while to change their behaviour.

Q66 Heather Wheeler: As this is in effect a penalty for poor performance, are you thinking that that cost would be passed, say, to the Environment Agency if it had been very slow in coming up with any advice, rather than the local authority itself?

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Nick Boles: It is an extremely good question. I am not even going to pretend to know whether what we are currently proposing relates just to that. I thought it related just to failures by local authorities, but I will check. I am going to the inspectorate next week, but I will check before then and write to the Committee with a specific answer about whether it relates to any other statutory agency. That is an extremely good question but I am afraid I cannot pretend to know the answer.

Q67 Mark Pawsey: Nick, I want to stick with the inspectorate. A view was expressed in the 6 September statement that sometimes the inspectorate did not deal with things fast enough, and one objective was for the inspectorate to get on with things more quickly. Does that not mean that some other things that the inspectorate is going to do will be done less quickly? How will you prioritise it and work out what the inspectorate should be speeding up and deal with that opportunity-cost problem?

Nick Boles: You are right. There is always a balance between asking an institution to take on responsibilities and their ability to fulfil all of their existing functions. I think that partly people's concerns derive from a feeling that somehow huge numbers of authorities would be in special measures and all of their applications will go to the inspectorate. That is absolutely not our intention, and we will be publishing the thresholds and criteria for when an authority is perceived to have failed. It will make clear that it will be very few.

Q68 Mark Pawsey: At the moment people do not know what the thresholds are; that information is going to come forward.

Nick Boles: It is going to come forward; we are looking at the precise details of how we measure it and how to construct it in such a way that not too many people are caught by it, but equally that a clear message is being sent. I would point out that in the case where the inspectorate is dealing, for a very short period of time, with an authority's applications they will be receiving the fee income for those applications. Certainly, when we spoke to the chief executive of the inspectorate he was very confident of their ability to match resources to the priorities we are putting forward.

Q69 Mark Pawsey: One of the reasons for the inspectorate intervening is that the local authority is acting too slowly, but in this instance we are criticising the inspectorate itself for acting too slowly. Is there not a certain inconsistency there?

Nick Boles: I certainly have not criticised the inspectorate for acting slowly. We are all aware of instances. It would be a fairly miraculous government agency that did not sometimes fail or take a bit longer. That would be true of every business in the country, but I am certainly not criticising them for taking too long about things, but it is true they will have to plan resources against these priorities. If they have a particular issue and they think we are asking them to do too much, I hope and expect they will come to me and send me off to the Treasury armed with the

message that, if the Chancellor wants us to assist growth, we must resource the exercise properly. I have no sense that there will be any problem on that, and if there is we will deal with it.

Q70 Mark Pawsey: You do not have any sense that the Planning Inspectorate requires more resources to do the work that it is being asked to do.

Nick Boles: Certainly not more resources that are currently not resourced. If they are taking on the task of dealing with applications they will receive the fee income that currently funds the process in local authorities.

Q71 Chair: James referred to localism. We started off with localism. Then we moved on to something the Secretary of State called "guided localism". The next stage was "muscular localism". We now seem to have got "monitored localism" where the powers are being given to local authorities and somebody will sit and consider whether they use them properly. If not, they will intervene. Minister, you described how that happens with schools. Criteria are laid down. An Ofsted inspector goes in, and they are scored. If they do not conform to the standard, eventually someone can intervene and deal with them. In the case of planning authorities, who is going to lay down the criteria? Who will assess against the criteria? Who will make the decision to intervene?

Nick Boles: It will be very simple. As I think we have already made plain, we are looking at only two measures: timeliness—whether they are dealing with applications within the guide periods for different major and minor applications—and effectively the quality of their decisions. If you are consistently having decisions overturned by the inspectorate on appeal, the implication is that your decisions are consistently not in accordance with either your policies in the local plan or the relatively small set of national policies in the NPPF. We will be looking at two things: timeliness and the number of appeals as a proportion, because some people have a relatively small number and others have a huge number of applications. We will be looking at those two things. We have not yet finally concluded—as soon as we do we will publish it—exactly the level of both, but the intention is that it will catch very few; that it will be an entirely objective measure of whether something is or is not acceptable; that they will remain in special measures for a very short period of time; and that we will work very hard to make sure they are able to resume their independent responsibilities as soon as possible.

Q72 Chair: In terms of the timeframe—presumably there will have to be legislation and then some period of assessment of a local authority's performance—when do you expect that the first authority could be put into special measures?

Nick Boles: That is a very good question, and I do not know exactly what month that works out at. We are looking at last year's measures, so there will have to be a year's measure to go on. That data is already collected. The reason I am being a bit vague is that there is a wrinkle. Currently, the data on timeliness of

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decision-making does not take into account the fact that many authorities—we are encouraging them to do this—agree planning performance agreements on certain major schemes. It might be that they are taking a long time by full agreement upfront with the developer. The data we currently collect does not exclude that. We are going through a process of trying to work out what we can do on the existing data and what we can do once that data does take into account planning performance agreements. That is why I cannot be absolutely specific about when it will bite, but I will come back to you once that is clear.³ There is that change, which I hope the Committee would recognise is right, to exclude planning performance agreements from the denominator, as it were; otherwise, you are penalising people.

Q73 Chair: If you have not got a way of taking account of planning performance agreements on past criteria it would be very difficult to do it.

Nick Boles: We have not collected the same data set.

Q74 Chair: Basically, any data is usable only from the current time, is it?

Nick Boles: No. There will be criteria that say an authority is regularly too late in its decision-making, but there will be an ability to look closely and to take representations. If they say, “Half those applications were under PPAs”, we are not foolish; we are not going to force somebody into special measures.

Q75 Chair: It is not totally quantitative then, is it, because there is a qualitative judgment that comes in?

Nick Boles: It will be totally quantitative once the PPAs are taken into account.

Q76 Chair: When decisions start to be taken on data that does not separate out those particular issues of planning performance agreements there is a qualitative element in the judgment of the Secretary of State to intervene.

Nick Boles: But in the sense of a qualitative review after a quantitative trigger, so you will be looked at only if you have failed on the quantitative measure, which will be published and will be very clear. But if you say, “We had a load of PPAs in there and we are performing perfectly normally”, there will be a qualitative review to say, “Okay, we see that you’re not failing; the data just caught you in that one year.” We want to get this started; we do not want to wait until the new data is available. Equally, the whole point of this is to be doing it to a very few authorities and for only when there is very good reason. Obviously, if they can make clear there is not a good reason and the objective data has not provided a complete picture, for that time we will take that into account.

Q77 Chair: As to what the Planning Inspectorate may do, currently they are not used to dealing with applications at first instance by and large. A local authority with good practice would be expected to put out proper notices; maybe write to people who will be affected; to listen to their representations; to hold

public meetings in an area; to put on exhibitions in conjunction with the developer; to hold a meeting in the town or city hall; and to listen to people’s views at the planning board. Would the Planning Inspectorate be expected to follow all of those stages and steps and the full range of consultation measures in which a local authority now engages?

Nick Boles: Some of those steps we will continue to require local planning authorities to fulfil, for instance the putting up of notices. Clearly, the Planning Inspectorate in Bristol are not going to be able to organise that. There will be certain of the slightly more administrative processes that will continue to be conducted by the planning authority, and the more qualitative decision-making processes will be conducted by the inspectorate. We are working out the full details of this; they will be published and there will be plenty of time for people to comment on them. I would rather not anticipate decisions that I might think I have made but I suspect have not been approved by my elders and betters.

Q78 Chair: It is a fairly fundamental principle. Will local communities and individuals in those communities get as much consultation when the Planning Inspectorate takes these decisions as they do currently with the local authority?

Nick Boles: Yes.

Q79 Chair: So anything that the local authority does now as part of its arrangements—

Nick Boles: It will get the statutorily required level of consultation.

Q80 Chair: That was not the question I asked. Many authorities go well beyond the statutory requirements.

Nick Boles: But remember: we are dealing with authorities that are failing and are doing things too slowly.

Q81 Chair: Maybe there is too much consultation.

Nick Boles: I do not know, but I suspect that the overlap between authorities that are doing things too slowly and are having their decisions regularly overturned or appealed and those who go overboard on consultation and talk to everyone will be vanishingly small—possibly zero—because by and large doing more proactive consultation is a sign of good conduct by a local authority; it is a progressive approach that we support. I do not think it will be a problem. I accept that theoretically there might be a situation where an authority that is used to doing a certain level of consultation over and above the statutory requirement will not be doing it because the inspectorate will be doing it, but I think that will be a Venn diagram in which there is no overlap.

Q82 Chair: But in the cases in which there are—

Nick Boles: I do not think there will be, but, if there are, we will look carefully at them.

Q83 Chair: One of the categories you are looking at is where local authorities have a lot of decisions overturned on appeal. When the Planning Inspectorate

³ See supplementary written evidence

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take the decision at first instance, who hears the appeal?

Nick Boles: There will not be an appeal process.

Q84 Chair: There will not be an appeal process?

Nick Boles: No. The whole point is that this is intended to be an extremely temporary, exceptional period. Of course, there is always an appeal process: you can go to court. That is true of everything. You can JR it, but there will not be a process of appeal of the inspectorate's decision, because this is not how it is meant to operate. This is a last resort while we make the authority take the steps it needs to take to become a proper planning authority.

Q85 Chair: So we now have two fundamental changes to the planning system in this country. We are taking away the right of local elected councils to take the decision at first instance and taking away the right of appeal from the applicant. Does this not go absolutely to the heart of the whole planning system in this country in one fell swoop?

Nick Boles: I disagree, because it will happen in a very small number of authorities for an extremely limited amount of time—a maximum of a year. It is going to be a reflection of those authorities' failure to discharge their responsibilities. Localism does not mean local authorities doing what the hell they like; it means them fulfilling their responsibilities towards the people who put them there and exercising their powers responsibly. If, as a planning authority, you are consistently failing to take decisions on time and consistently failing to take decisions according to your policies, you are failing. This route is a temporary exception that will be applied to very few and will revert to the normal situation, which is what we want for everyone, where local planning authorities do their job and make decisions according to their plan and those few national policies that we have in place.

Q86 Chair: Could I suggest, Minister, that a change of fundamental principle is a change of fundamental principle, whether it applies on a permanent basis or on a temporary basis for a day, a week or a year?

Nick Boles: That may well be your view, but I do not recognise that as what we are doing.

Q87 Bob Blackman: Moving to a less controversial area, regarding the new announced policy on permitted development, could you explain the rationale for a three-year free-for-all?

Nick Boles: Firstly, it is not a free-for-all. We are not in favour of free-for-alls. The suggested change on permitted development for extensions is certainly not a free-for-all; the limits are very precise. We are extending the size of permitted extensions, but under very strict limits. We are maintaining that all building regulations will have to apply; the right to light will still have to be respected; the Party Wall etc. Act will remain in place; and local authorities will, as now, have an ability, through Article 4 directions, to be able to make a case for why this permitted development should not apply to their area. It is, then, quite a limited proposal. The reason why we want to bring it

in initially for three years is two-fold: firstly, we have a growth problem.

If I might just make an observation, Mr Chairman, it is that the economic situation, which is ultimately what planning and development is linked to, has not been a subject that we have discussed much in this Committee, but we have an urgent need to support growth. There are members of your Committee who believe that the way you support growth is by spending and borrowing more money. That is not the view of this Government. The view of this Government is that another way that you support growth is by cutting regulations in order to encourage entrepreneurial activity and householder investment, and the rest.

The reason why we have said three years is because we want to encourage people to do these extensions in the next three years, because the construction industry is having a miserable time, and traders who have been, as it were, taken in by the construction industry are having a miserable time, and we want to support them. If, at the end of the three years, it has, as I fully expect, become completely accepted—just like the last lot of permitted development on extensions is now completely accepted—and everybody is happy with it, we may look at keeping it in place. For the moment, however, we are proposing to have it for three years, because that will stimulate activity in those three years, when we really need construction activity in local areas.

Q88 Bob Blackman: Let us examine that statement in some detail. The LGA say that just under 90% of homebuilder extensions are granted anyway, so we are talking now about just over 10% of applications that would not be accepted by a planning authority, which would now be allowed, because most of these would be gross distortions, particularly in the urban and suburban areas. I can speak for London here, where the position is that, in both semi-detached and even detached areas that are in very close proximity to one another, the proposed extensions under permitted development will be unwieldy, have huge light issues, and will be a blight on the individuals who live either side of them. You are then proposing, for the urban and suburban areas, that people will just be able to get on with it, and tough on the neighbours. What is your reaction to that?

Nick Boles: What I find curious about that position and, indeed, the LGA's position, is that, on the one hand, they are saying that 90% get passed anyway, and what that means is that you are requiring 90% of all people who want to do this very reasonable thing—which is to put a little bit on their house so that they can cater for a growing family—to go through an entirely unnecessary bureaucratic process, which is expensive. Although the planning fee may not seem very much, most of the time, if you are going to put in a planning application, you tend to then engage a level of design, architectural and other advice, which tends to cost you rather more, so the estimates that you see are of around £2,000 being spent on that process.

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Q89 Bob Blackman: Sorry, could I just cut across you there? Would you not accept that part and parcel of that is to make sure that the design fits in with the existing housing, rather than being a jerry-built function?

Nick Boles: Building regulations will apply. We have never said anything about building regulations. We have one of the most constraining set of building regulations of any modern country, and those regulations will remain thoroughly in force for this. You made a point in your initial question that there would be severe effects on light. The extensions, as now, will only be able to be single-storey, will be subject to the right to the light, will have limits on how much of a property garden or backyard they can take up, and will have restrictions on the heights at the boundaries. There are some very clear restrictions that will mean that they will not have a huge effect on the enjoyment of light by neighbouring properties and, if they do, all of the remedies under the right to light will pertain.

If I could just return to the point you made about the percentage, firstly, my question is whether it is reasonable to ask people to spend that amount of money for something when 90% were going to do something entirely reasonable in the first place. Secondly, there is the question of how many people are being put off by the fact that they have to go through that process. How many people cannot afford to move now, because there is no credit out there for a larger mortgage? Stamp duty is high and there is no particular prospect of it coming down, because we inherited the worst budget deficit in our peacetime history from the last Government. There is a lot of constraint on moving to a large property; therefore, is it not right for us to be backing those people who have that aspiration to stay in their home and have a little bit of extra room, using the property that they acquired, over which they have ownership rights, within limits that respect the rights of their neighbours?

Q90 Bob Blackman: Fine, I accept that position. The clear point here, though, is that some 11–12% of planning applications are rightly refused by local authorities at the present time. If the individuals go to appeal, the vast majority of those planning decisions are supported and, therefore, we are now saying that many of those—some 22,000 a year, probably, across the country—would now be allowed under this new proposed permitted development.

Nick Boles: Sorry, it is not clear that all of those that were refused would now be allowed under this, because there are very strict limits on this proposal too. Many of them are probably for two or three-storey extensions. People will lob in an application for the most ridiculous things and, quite rightly, they get batted back. I completely accept that many people have a different view than the Government on this, and that many local authority leaders, particularly in outer London, have a different view. I have met with Lord True from Richmond, I have met with the leader of Sutton Council, and I am meeting with the leader of Bromley Council, I think, tomorrow. I am happy to meet with anybody who has those concerns. The

simple question is: is it really such an appalling thing to take a permitted extension right on a terraced house from three metres to six metres, when it is single-storey and it cannot use up more than half the garden—so, if the garden is not 12 metres, it cannot be six metres; it has to be no more than 50% of the garden. I can see it is a liberalisation; that is what we intend. We came into Government to do things like that, but I do not see it as a crime against humanity.

Q91 Bob Blackman: We had better agree to disagree on that particular issue, certainly in outer London. The other impact on this, of course, is that local authorities across the country already have quite strong schemes of what is allowed under permitted development rights, but local authorities have slightly different views about what is permitted and what is not under an existing localism view. This policy seems to cut across that now and will have a severe impact, particularly in areas where, let us say, people have failed to put planning applications in and done extensions that go beyond the permitted development areas, and local authorities then enforce against those decisions and take action. How would the new policy impact on those positions in the future?

Nick Boles: Enforcement will remain important where people have done things that are outside the state of the law, so that will be the case. In terms of the variations that local authorities make to permitted development, currently they can have variations over and above the basic minimum, which is the existing permitted development rights, which are universal, unless they have gone through an Article 4 process.

Q92 Bob Blackman: We are going to come on to Article 4 in a moment.

Nick Boles: It remains the case that local authorities can go through the Article 4 process if they want to put in place a slightly more restricted or particular permitted development regime locally. It is not a simple process and it is not meant to be a simple process, but it is a process that local authorities have used and, no doubt, they will use it, in some cases, to do this. The policy that we are putting in place cannot be tailor-made for Richmond; it is a policy for all of the people living in houses in the country, knowing that we are giving them the chance to extend a little bit more to be able to cater for their family needs.

Q93 Bob Blackman: Can I cover Article 4, then, at this point? One of the issues that occurred, certainly under the previous Government, was an encouragement of reducing the number of conservation areas and keeping them to be proper conservation areas, where there was an architectural reason to do so, and of reducing Article 4 areas as well, for the simple reason of saying that there was to be no discouragement of development. Are you now suggesting that local authorities should enhance the number of Article 4 areas and enhance the number of conservation areas to protect against unreasonable development?

Nick Boles: I do not want them to. Personally, I would like every local authority to embrace this very reasonable liberalisation in the interests of their

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residents. I think that they should, but they have a right, under the law, to go through a process of Article 4. That right will remain, but I am certainly not encouraging anyone to go down that route, because I would hope that they would, if nothing else, try this for six months or a year, see how it operates—does the world come to an end, to which the answer, I suspect, would be that it will not—and then probably decide that they can live with it after all.

Q94 Bob Blackman: Finally from me, at the moment, people who carry out work under permitted development are encouraged to get a certificate of lawful development following that work. That, of course, safeguards them in terms of selling the property and, indeed, makes sure that the local authority properly registers the development that has taken place. Is there any change in policy to that?

Nick Boles: There is no intention to change that.

Q95 Bob Blackman: Are there any proposals about charging for those certificates and for the impact that the local authority will then have on the work that they may have to do?

Nick Boles: We are not proposing any changes to that at all. It is something that is sensible, as you say, so that the householder or the property-owner has protected themselves for the future, and that will remain the case.

Q96 Heidi Alexander: I have found this exchange quite fascinating, to be honest. Are you honestly saying that you think that people are put off from building extensions and conservatories because of the cost of the planning fee, and not the cost of the £2,000 conservatory or the £5,000 extension? Do you think that the reason why people are not doing this at the moment is because of the planning fee?

Nick Boles: No. I think, Ms Alexander, you will note what I said, which was that it is, of course, not just the planning fee, because the planning fee is an amount but it is not an enormous amount; it is the fact that, if you are going through a planning application process, you then feel that you need to get a whole lot of technical, architectural and design advice, and maybe even a planning consultant, to help you get it through, because you know that you have to tick various boxes and jump through various hoops. The estimate is that the total cost of the advice that people get when they are submitting these applications averages out at around £2,000, which, as a proportion of the cost of your extension, is quite a lot. Therefore, if it is a reasonable thing to do, I think certainly some people have been held back by the fact that they are going to have to spend £2,000 on a process that does not pay for a pane of glass.

Q97 Heidi Alexander: Personally, I think it is the cost of doing the work itself that is prohibitive, and not the planning process and fee, but we probably disagree there. I just wonder what impact you think this is going to have on the amount of enforcement work that local authorities are going to have to do retrospectively after all these conservatories and extensions have sprung up?

Nick Boles: I think there will be dramatically less enforcement work because, of course, most of the reasonable extensions that most reasonable people want to make will now be permitted, so there will be no need for enforcement work. Because there was a very tight constraint on permitted development and extensions previously, enforcement work was required to enforce against extensions that I think most people would feel were perfectly reasonable. We are trying to bring the law into line with common sense, and that should mean that there is less enforcement work.

Q98 Heidi Alexander: How is anyone going to know? I have quite a small terraced house and I certainly have a small garden in my terraced house in London. If I were to extend it six metres, it would cover the whole garden.

Nick Boles: You could not, because the law is very clear that it will be six metres or 50% of your garden—no more than 50%.

Q99 Heidi Alexander: Who is going to know that I have not—

Nick Boles: You have neighbours, presumably. If you do not have neighbours, to some extent why are we worrying? The whole point is that I thought that we were going to be blighting your neighbours. You cannot have it both ways. If your neighbours are not going to notice, then probably it has not been that bad.

Q100 Heidi Alexander: My point is: who, from the local authority, then goes round to look at what the problem is?

Nick Boles: Neighbours, presumably, will call, if they feel that there is a problem.

Q101 Heidi Alexander: In respect of enforcement, there is more retrospective enforcement.

Nick Boles: No, I disagree, because much more will be permitted. I think one of the interesting political differences is in this presumption that, generally, most people are reasonable and try to do the right thing, and do not try to go war with their neighbours, and then some very few people, unfortunately, do try to go to war with all of their neighbours. Most people will find that a six-metre or 50%-of-garden permitted development right will be ample for all of their needs and, therefore, there will be no question of an enforcement notice being required. At the moment, because the regime is quite constrictive, many more people push it to the limit, and that is what creates an industry for the enforcement people.

Chair: We still have one or two more questions to raise with you, Minister. I realise we have been here for a quite a long time, so if colleagues could just concentrate on the key issues now, that will be helpful.

Q102 Mark Pawsey: I am afraid I want to stick with permitted development rights and the issue of change of use from commercial to residential. We can all agree that it makes sense, if there are vacant commercial properties and there is the possibility of conversion to residential at a time of housing shortage. That makes sense. The first point to ask you is: in the proposal of change, is this is a temporary change

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along the lines that you have just spoken about, or is this a more permanent change?

Nick Boles: The proposal is one that we have been looking at for a number of months—actually, before I came into the post. We have not yet reached any final decisions on the specific question of whether it is just for a period of time or for longer. When we have made all those decisions, we will then be putting out proposals and will share them with the Committee before anyone else. We do not, however, have a clear position that I can share with you now on that.

Q103 Mark Pawsey: Could I ask you why it is felt necessary at all, given that, in the NPPF, there is a statement that says, “Local planning authorities should normally approve planning applications for change to residential use [...] from commercial [...] where there is an identified need for additional housing in that area”. If that presumption exists in the NPPF, why the relaxation?

Mr Prisk: Can I weigh in here slightly, partly because this is very important in my brief as well and also partly just to give Mr Boles a break. Teamwork is slowly building. What I would say is there is a really serious issue here about our town and city centres around empty space. I think what we felt was that, if you change the default position, in which the PDR in this circumstance says that there shall be a change of use but you keep the opportunity for the local authority to set out why they feel there should be an exemption, it will really help in a particular regard. One of the things I have been struck by in the last four or five weeks, but I have seen it previously when I was wearing my professional hat, is, where someone, for example, is thinking about a hotel that has become derelict, is in long-term decline or is empty in the middle of a town centre, if they are going to think about whether they can get that back into constructive and profitable use in residential, the big risk for them is whether they will get planning change. This helps by removing that planning risk for that developer and for the investor, and will accelerate the ability to get some of those projects back into use in town centres.

Q104 Mark Pawsey: We accept that there could be many units. Hotels might have 300 bedrooms. You could have a pretty substantial office building. Is that not, however, going to have an impact on local facilities that ought to be taken into account by the local authority in determining whether or not this kind of change of use should go through? Are we not in danger of having some unforeseen consequences, which are substantial use of residential accommodation in areas that are really not intended to have them?

Mr Prisk: That is exactly why it is a PDR that allows a local authority exemption. Most local authorities are very alert to those areas where an office building has been sitting there as a blight for far too long and they want to get it back into use. There will, however, be other areas—you are quite right—that they will feel are quite sensitive and that are critical to the development of how they establish their new local plan or whatever. The change here, then, is a shift in the default position, but it still allows the local

authority to be able to turn round and say, “We would still like to have an exemption in this part of the area”.

Q105 Mark Pawsey: We are, then, intending a permitted development right that has restrictions attached to it.

Mr Prisk: It is allowing them to make sure that the permitted development rights allows a change of use, unless the local authority has come forward wishing to seek an exemption. Some will and some will not. Some will for certain parts of their district; that is the other point.

Q106 Mark Pawsey: I think we would have concerns about where the presumption lies. Can I also ask you about the change of use for out-of-town warehouses, and the possibility that some of those might be transferred to retail use? There are some concerns from the British Council of Shopping Centres that that might lead to adverse pressure on our town centres, and we have just had the Portas review arguing that we should be making strenuous efforts to defend our town centres. Is there not a concern that this policy might go in the opposite direction?

Nick Boles: The only things we are looking at are changes of use from a variety of commercial uses to residential. We are not looking at the possibility of changes of use from commercial uses to retail.

Q107 Mark Pawsey: So, are the concerns of the British Council of Shopping Centres unfounded?

Nick Boles: I have stated the position. If they have concerns about something else, that is not for me to say. The position is clear: we are only looking at this change of use from commercial uses to residential.

Q108 Heidi Alexander: Are your proposals around permitted development going to apply also to houses in multiple occupation?

Nick Boles: Yes, they are. The only reason why I am hesitating is because, literally just before I came here, I was introduced to the concept of different levels of houses of multiple occupation. There is one under six and there is one above six. My understanding—I think I can remember this—is that, currently, if we were to permit the development from a commercial use to an HMO of under six, that would be included, but there would not be a permitted development from a commercial use to an HMO of over six.

Q109 Heidi Alexander: Sorry, I should have explained myself more clearly. I was talking about permitted development in terms of extensions and conservatories. I have moved on from commercial to residential.

Nick Boles: I am sorry—I was muddling up.

Q110 Heidi Alexander: In terms of permitted development around conservatories and extensions, is that going to apply to HMOs?

Nick Boles: My understanding is yes, but, if I may, rather than put it absolutely 100% definitively on the record, I will come back to you with a very clear answer. However, I think the answer is yes.

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Q111 Heidi Alexander: We had a number of submissions, particularly from residents in Southampton, who are very concerned about HMOs in that city, and the nuisance and problems that those properties cause. They are very fearful that extensions and additional people living in extra rooms could cause real problems.

Nick Boles: I will confirm the position, but if I could also just make clear, if I did not earlier, that we are going to start—I hope within a matter of a week or two—a consultation process in which it is exactly these points of view that we will be hoping to get, so there will be an opportunity, if the position is as I think it is.

Q112 Heidi Alexander: My last point on permitted development is that I do not have people speaking to me who are concerned about the planning process in respect of extensions and conservatories, but I do have lots of people who contact me around the permitted development that is allowed to change estate agents to betting shops, and that goes on in terms of changing pubs to retail. Will you or will you not introduce a separate Use Classes Order for betting shops and pubs?

Nick Boles: I am not responsible for the particular decisions about that area of policy, but we are happy to take any representations from you on that. It is not currently part of our plans and it is not part of a package. I know that there are many concerns, shared widely, about betting shops, and the proliferation of them in certain places, but we are not currently planning to do anything through the Use Classes Order on that.⁴

Q113 Simon Danczuk: Just returning to the issue of green belts, in the statement that the Government made on 6 December, it was said, “There is considerable previously developed land in many green-belt areas, which could be put to more productive use. We encourage councils to make best use of this land.” Does the Department have a list of these sites in terms of where this land is?

Nick Boles: I do not think so, and the truth is that one knows, just from what happens, that there are many such sites. Just to give you an example: in 2010, 2% of dwellings that were built in that year were built on green belt. Not all of them but the bulk of them will have been on previously developed sites—quarries and other such things—but I do not think we have a national list. We are not great believers in keeping centralised, nationalised lists of everything.

Q114 Simon Danczuk: No, I learned that from the previous question that I asked. In terms of these sites, I am just concerned about the cost of infrastructure to open them up for them to be able to be used, and weighing that against the cost of reusing brownfield sites.

Mr Prisk: I think the point is that what we are talking about here very often is something that was a previously developed site within the green belt—an old scrap-yard or whatever. Therefore, of course, having already been developed, it already has road

access and it will very often have water and electricity, so, although I understand the practical concerns, I suspect they are far less than may be feared.

Q115 Simon Danczuk: My second question is very much about the Chancellor’s statement on 2 September on the BBC, which you will be familiar with, because it attracted quite a lot of attention. He said that, “Swapping some bits of the green belt for other bits” was a good thing. He said, “Those powers already exist but are not widely used. I would like to see more.” What did the Chancellor mean by that?

Nick Boles: He is right that those powers do exist, because remember that, although we have a national policy that the green-belt protection should remain, they are defined by local authorities, and local authorities have always been able to vary them. Some do and some do not, and that is a position that has not changed. We are not changing that in any way, but the Chancellor is interested in economic growth, as I hope everybody in the Committee is, and I am sure he is keen for everybody, not just local authorities, to do everything in their power to support economic growth.

Q116 Simon Danczuk: Are we going to see more of this swapping? He wants to see more, but will we see more?

Nick Boles: It is very important, Mr Danczuk. Even though some members of the Committee have concluded that we have reverted to being centralising types, some things are not for us. Some things are not for Ministers. Local authorities will decide what they want to do with their green-belt protections. The only thing I would say to reassure you is that the amount of green belt now is substantially more than it was in 1997, so the rate of green-belt classification is faster than the rate of development on any kind of land. I do not think that the somewhat hysterical concerns that some people express about the threat to the green belt are borne out by the figures. Some 13% of land in England is green belt; only 8% or 9% is developed in any way at all.

Q117 Simon Danczuk: Sure, but you would describe him, as you did earlier, as one of your elders and betters. The Chancellor—

Nick Boles: He is actually five years younger than me, which is always rather galling, but better he certainly is.

Q118 Simon Danczuk: He said, “I would like to see more”. He is pressing the point. He is a very important person in Government. It is not me saying it is about centralising; it is your Chancellor saying this. What is going to change? That is what I am asking you.

Nick Boles: Can I just say: there are lots of things I would like to see more of that, as Ministers, we do not have the power to bring about, nor do I believe we should have the power to bring about. Local authorities are the ones who decide what they do with their green-belt protections, but we all want to see local authorities finding ways to meet their housing need and finding ways to support growth in our economy.

⁴ See supplementary written evidence

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Q119 Simon Danczuk: You said in answer to a question from Stuart Andrew MP on 21 September, “I can reassure him, for now, that there is nothing to stop Leeds City Council maintaining the protection of green-belt land in its local plan”. What changes are you planning then?

Nick Boles: I knew, Mr Danczuk, it would be you. Can I just say that that was just a revelation to me, because normally I do not write the answers to questions, which you can probably tell, and which is why I walk into so many headlong traps. Because it was my first time ever at PQs, I had written out that answer, and I had not written “for now” in there. I did not believe it. I asked my Private Secretary to check the tape, because I did not believe I had said it, but I did say it and I accept that I said it. There are no plans. I have no plans. There are no plans. My Secretary of State, who is a muscular localist and a muscular boss, let me assure you, has made it very clear and plain that there will be no change to this policy.

Q120 Chair: Just to be very clear, a local authority, therefore, can give approval for a development in a green belt—indeed, do a swap—without triggering a review of its total green belt or in any way weakening the protection given to every other site in its green belt.

Nick Boles: Certainly the latter, but it has to go through the proper processes. Local authorities cannot just run things without consultation. There is not a free-for-all for them either; they have to go through their process of consultation of the local plan. If they are going to deviate from the local plan, there is—

Q121 Chair: That is the point I am trying to get at. It may not be quite as simple, as has been portrayed, as saying, “There is a bit of brownfield land in the green belt there. It would be good to develop that and put something else in the green belt.” That would require a complete review of the whole green belt in an authority, which would be quite a lengthy process.

Nick Boles: You are much more experienced in this, Mr Chairman, than I am, but my sense is that, because development sites are so hard to find, particularly for those authorities that are operating in an area which has a lot of green-belt land, they are all pretty alive to those relatively few sites in their green belt that are previously developed or, in some way, lend themselves to further development. Most of them, then, are thinking about those pretty proactively, but of course they cannot just suddenly decide; they too have to follow a plan.

Q122 Bob Blackman: Can you just explain the rationale behind the review on both local and national standards being brought together? There are some misunderstandings about this, and I think it would be very helpful if you clarified this issue.

Nick Boles: I am going to ask Mark to do that bit because I do not have responsibility for local and national standards, but I will talk, if you want me to, about planning guidance.

Mr Prisk: I think the thing is that most people who work in the field will know that, over the years, very often with the best of intentions, a series of different

codes and standards—some local and some national, so, in London, you have the London Housing Design Guide, for example, but you also have the Code for Sustainable Homes, which is a national code—have been built up in a series of layers. The difficulty is that, very often, when you look at them, there are both gaps and conflicts. The feeling was that what we wanted to try to do was to rationalise this, so that there is something that is coherent and simpler but also, I think, easier to both enforce and to easy to understand as an applicant. The intention, then, is to deal with that, rather than changing any policy. It will, however, be quite wide. It will be national and local standards, and it will incorporate building regulations and the framework that they create, to try to get something that is coherent and simple.

Q123 Bob Blackman: Will it learn from best practice and, therefore, be an improvement as opposed to removing some of the safeguards and design principles that were put into those codes?

Mr Prisk: Yes, and I am a big fan of good quality design principles. I think our view is that, on the one hand, we have asked the stakeholder groups—those who are directly involved and have an interest—to steer this process, but we have then asked a separate, independent expert panel to try to look at some of the aspects of this, and very often to bring that independent judgment, so the steering group can develop a proposal. I think it is also important to stress that this is something that we have set out we want to see ready for the spring of next year. I do not want to have another 18 months examining our navel on this one. As you know, Mr Blackman, there are a lot of interweaving elements to this, and I think, if we could get to a simple, more coherent approach, given that some of the quite well intentioned different codes sometimes do not work together, that would be a real bonus.

Q124 Bob Blackman: In certain places—Nick, you may well come on to this—there is guidance on what happens at a local authority level, and local authorities have their particular codes. The key concern here is whether there is going to be an attempt to override them.

Nick Boles: Certainly not overriding, but we do want to slim down guidance. The guidance has just proliferated. We now have, apparently, about 6,000 pages, and the irony is that, if you have 6,000 pages of guidance, it is bloody hard to know where to be guided. It is only if you have a relatively clear, simple and restricted number of guidance materials that they will have an impact on people’s decision and policies. We have asked Lord Taylor to conduct this review with the Department, with the clear aim of trying to reduce the amount of guidance by 60–80%, but we will see where he gets to. I think you will end up with clearer, more effective guidance, which will genuinely make people’s behaviour change, than we have at the present.

Q125 Bob Blackman: One specific area that I think will be helpful is the separation distance between properties and wind turbines, which certain local

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authorities have introduced and has been warmly welcomed by local people. Is there going to be an attempt to change that position?

Nick Boles: I do not have any particular intention to change that position, but I am aware that the Minister for Energy, Mr Hayes, has started a consultation to look into the effect of wind turbines on local communities. It may be that, as a result of that consultation, there will be new policies and new positions that the planning authorities and the Planning Inspectorate will want to take into account. At the moment, however, I think he has just announced that consultation.

Q126 Chair: Just one brief follow-up: in terms of the guidance, isn't one of the issues that, if it can be shorter and more effective, that is certainly welcome, but this guidance has to cover a lot of eventualities. Particularly for smaller authorities, and the case you mentioned before, which may have a development put in front of them that they have not seen in the last 10 years, having guidance to fall back on is often extremely helpful and can shorten the process in which they are able to determine properly the application. Should that not be a factor that should be taken into account when we are looking to all of this?

Mr Prisk: Yes, but if you have a series of layers that have built up over a period, that can be incredibly confusing for a local authority, so I think our view is that local authorities will still, as they do, set their standards; what we are trying to do is to make it easier for them to know what the key benchmarks are.

Q127 Chair: Are the LGA and the professional planning organisations going to be thoroughly involved in this rewriting of the guidance?

Nick Boles: Absolutely. The LGA's councillor Mike Jones, who is their lead member on this, is on Lord Taylor's panel in a personal capacity, as is Trudi Elliott from the Institute, so there is some good professional input, plus they will then be going out and talking to a whole load of people—planners and others.

Q128 Mark Pawsey: Chairman, I just wanted to ask a couple of questions about public land and empty homes. Mark, you referred to surplus public land being used for housing. Different Governments have been talking about that for 30 years; why should your approach succeed?

Mr Prisk: I think what we are trying to do is not only put in place a mechanism—for example, additional funding for this—but also look at how we create incentives. Mr Boles mentioned earlier the importance of sticks and carrots. I am generally, on the whole, a carrots man, and what I mean by that in this context—it may not necessarily be immediately obvious visually, I appreciate—is that I generally take the view that carrots are important. That is why I think the new homes bonus is a really important change here, because it is not just about new homes that we build as new; it includes empty homes, which is a really important shift. I think, for a lot of local authorities, it is quite awkward and quite difficult in their locality to deal with those long-term empty homes, but if there

is a clear bonus for it, that is encouraging them to recognise the impact of empty homes over a long period.

Q129 Mark Pawsey: That would certainly act as a driver for local authority-owned land, but how about MOD land? How are you going to make some of these Government bodies that are sitting on land release it in the way that we all know is necessary?

Mr Prisk: As I said earlier, Government have already managed to sell land which will provide 33,000 units. For the first time, we have got the MOD and others to publish what their proposals are in terms of public land. We have now set out the proposal that the Homes and Communities Agency take the lead. Also, one of the things I am doing is working site-by-site with those opportunities that are perhaps stuck by some of the major agencies, to work directly with the Secretaries of State to make sure we unlock them. I think that combination of incentives, a change in the arrangements and also making sure there is a Minister driving this should help bump up that number from 33,000 houses.

Q130 Mark Pawsey: On empty homes, a large chunk of them are owned by local authorities and housing authorities. The private rented sector is growing—it is a bigger sector of our housing market than it has been for many, many years—and it is more professional. What about letting private residential landlords bid at auction for vacant local-authority-owned homes?

Mr Prisk: It is a very interesting idea. I have not heard that one before and I would like to have further consideration of it. My view with empty homes is we have 279,000 longer-term empty homes. We need to be slightly careful not to look at the full picture, because that can be more of a temporary situation. The new homes bonus is important because it incentivises the local authorities you are talking about, but I am more than happy to look at other innovative ideas to see what can usefully trigger people to bring them back into use.

Q131 Chair: Just in terms of the sell-off of public land, is the Government going to make sure that, where it sells off in the current economic climate, which is probably at a relatively low market price historically, developers are going to have to build on that land quickly and not sit on it until the price of that land rises at some stage in the future?

Mr Prisk: My view on this has always been that, where we get that land released, one of the first things I am going to be looking at right from the start is how many homes are going to be built and when are they going to be built. That is what is certainly motivating me. That means making sure that we look at these sites one by one, and making sure that it is not, as you have suggested, Chairman, something that is simply a long-term punt. I think that is important.

Q132 Chair: Would that go for land other than CLG land? Would your Department take an overview of all the sales?

Mr Prisk: Yes. The point about having the Homes and Communities Agency draw in some of the MOD sites

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and Health sites and so on—challenging as that will be, I suspect, for me with various Secretaries of State, but nevertheless very important—is that we can start to drive that forward. It has been very encouraging, and I have had full support from the Chancellor and other Cabinet Ministers to make sure that we make that happen.

Q133 Chair: Finally, on a slightly lower scale, the Department for Culture, Media and Sport announced that, where broadband street cabinets and other infrastructure are installed currently and need some prior approval from councils, in the future they will not need it, except in Sites of Special Scientific Interest. My understanding is that currently councils cannot refuse permission for these cabinets simply on aesthetic grounds or because they think there are too many in an area; they can only do so where they cause an obstruction or where there is a health and safety issue involved. Why are we taking away the power from councils to refuse something for which there is a health and safety risk in putting them in a particular location?

Nick Boles: There are two levels of answer. There is the philosophical level, which is, “Does one think that the only legitimate decisions are the decisions that are taken by elected authorities, or do you sometimes think that some decisions can be left up to businesses and local people to take for themselves?” The truth is that there is a balance and a dividing line. We already have some things. We already have permitted development rights for many things, and that is because we think that, by and large, actors will behave responsibly and the impact on their neighbours will be sufficiently slim. There are others for which we do require a process.

What we are saying is that, given that there is an urgent need—no aspect of infrastructure would have a greater transformative effect on growth potential,

particularly in rural areas than a wide roll-out of broadband—it is right to shift the boundary a little in favour of this. We are doing it, again, for five years, so it is something that we can look at in five years’ time as to whether we want to continue it, but at the moment it is only for five years. It does, however, seem to me to be a reasonable moving of the balance.

Q134 Chair: If one of these cabinets causes a health and safety problem or causes an obstruction; the local authority is going to have no power to deal with it.

Nick Boles: There are powers that they have outside the planning system. There are regulations that exist outside the planning system. They will not require planning permission but that does not mean that you can put them anywhere. They will not require planning permission, but if you do something that is clearly a danger to the public, the enforcement authorities will come down on you.

Q135 Chair: What powers of enforcement will the authority have?

Nick Boles: There are rules that exist beyond the planning system. They will not require planning permission is the point.

Q136 Chair: It would be helpful to just drop a note to us about what those rules might be, because I think, without any planning enforcement powers, I am just not sure what they are.

Nick Boles: I would be happy to do that.

Chair: On that small but very important point at the end, thank you very much indeed to both of you for coming. We had a long session, and thank you for coming and answering our questions so fully.

Nick Boles: Thank you very much.

Mr Prisk: Thank you.

Written evidence

Supplementary written evidence from DCLG

1. 6 SEPTEMBER PACKAGE—CONSULTATIONS

- There will be a consultation this autumn on our proposed approach to very *poor performing planning authorities*, so that it is clear how the proposals on this in the Growth and Infrastructure Bill are intended to operate.
- We will be consulting later in the autumn on proposals to expand the “one stop shop” approach for *major infrastructure* and on the detail of the new ‘business and commercial’ category which will be added to the major infrastructure regime.
- We will shortly be consulting on proposals to extend the existing *permitted development rights* for homeowners and businesses. Full details of the period of consultation will be set out in the consultation document.
- The *Housing Standards Review* Group, and the Challenge Panel will be submitting their results to Ministers in April 2013. Ministers will consider both sets of findings and will publish a clear plan of action and a consultation, about the policy framework by the late Spring.

The Committee will wish to note that on broadband cabinets, changes will be delivered by amendments to secondary legislation. As such, in November, there will be consultation on changes to the Electronic Communications Code (Conditions & Restrictions) Regulations 2003 (2003 Code) and the General Permitted Development Order.

2. INFRASTRUCTURE—CRITERIA FOR TREATING SCHEMES AS MAJOR INFRASTRUCTURE

The Secretary of State will take decisions on a case by case basis, depending on the proposal before him and the information provided by the applicant. We will be consulting soon on the types of business and commercial development that may be covered and on what the Secretary of State is likely to consider as nationally significant.

3. AWARD OF COSTS/POOR PERFORMANCE

Statutory consultees, such as the Environment Agency and English Heritage, play an important role in the planning system, and the Government is committed to improving their performance in making comments swiftly and effectively on applications for planning permission. We expect all statutory consultees to be ready to substantiate their evidence at appeals where they have advised refusal of an application and this evidence is central to the appeal. Statutory consultees are not automatically a party to the appeal, but where they are then they could be liable to have costs awarded against them if their advice does not stand up to scrutiny, and this leads to unnecessary expense.

4. VERY POOR LOCAL AUTHORITY PERFORMANCE

The Committee was interested in the approach that we will be taking to identifying authorities that are performing very poorly. As indicated at the Committee session, we want to ensure that the approach is objective and fair and we intend to target the small number of authorities that are clearly not operating effectively, while sending a wider message to all councils that this really matters. There are a lot of considerations to work through in getting this right, and we will be consulting alongside the Growth and Infrastructure Bill—before it enters the Lords—on the issues and our preferred approach. This will include the measures, the thresholds, when and how these will bite and the way in which we support and assess improved performance. But we are clear that the speed with which decisions are made and the extent to which decisions are overturned at appeal are central to our thinking. Once we have consulted, the final approach will be set out in policy rather than legislation.

The Committee will wish to note that the way that Planning Performance Agreements are reflected in the current statistics is that those agreed before an application is submitted are accounted for already, but not agreements that are reached post-submission. That is an area where we think a change may be justified, and that we will want to ask about through the consultation.

5. PERMITTED DEVELOPMENT RIGHTS FOR HOME EXTENSIONS—HOUSES IN MULTIPLE OCCUPATION

The proposals to increase the permitted development rights to allow homeowners to build larger extensions will apply to dwelling houses, in the same way as existing permitted development rights. Full details of our proposals will be set out in the consultation document which we will be issuing shortly. The applicability of these changes to houses in multiple occupation (HMOs)¹ is a matter for decision by local planning authorities

¹ Smaller HMOs are dwelling houses, but defined by their use in the Use Classes Order. Change is permitted (in both directions) between dwelling houses (C3) and these smaller HMOs (C4). Whether permitted development right apply would be a matter for local interpretation in individual cases.

and may depend on the particular circumstances of each case. Moreover, further to planning changes made in 2010, council have powers to issue Article 4 directions to tackle local problems relating to HMOs.

6. BROADBAND CABINETS

The existing planning regime for broadband cabinets (under 2.5 cubic metres) on non-protected land operates well. We are proposing to extend these arrangements to protected areas (except Sites of Special Scientific Interest) for a period of five years. Communications providers will still be required to consult with planning authorities on the siting of apparatus and consider any requests for changes to be made, under Regulation 5 of the 2003 Code.

As part of the proposed package of changes broadband operators have agreed to work with local government to establish a code of best siting practice.

Finally, the proposed package of changes do not negate broadband operators' responsibilities eg health and safety requirements. In addition, Regulation 3(3) of the 2003 Code will continue to apply under which operators when installing any electronic communications apparatus, shall as far as is reasonably practical: minimise: (i) the visual impact, (ii) any potential hazards posed by the work during and post installation and (iii) interference with traffic.

7. EMPTY HOMES

The vast majority of empty homes are privately owned. Only around 10% of empty homes are owned by local authorities and housing associations, and a large number of those will be empty as they are undergoing repairs or are being refurbished between tenants.

Where homes are empty in the long term, we are clear that it is the responsibility of landlords to make the best use of their assets—either through letting them or, disposing of them. To assist this, earlier this year, we removed restrictions on disposing of empty council homes at market value, especially for home ownership, while ensuring that the receipt is reinvested in the community or used to pay down debt. For registered providers, increased flexibility on asset management is playing a key part in the provision of more than 170,000 affordable homes between 2011 and 2015.

It is right that Local Authorities make these decisions and that those decisions are based on local people's priorities. If communities or businesses are unhappy with any decision their local authority makes they should hold their elected representatives to account.

The Government has put in place a series of practical measures and initiatives to help get empty homes back into productive use.

October 2012

Written evidence submitted by the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

This response has been agreed by the LGA's cross-party Environment and Housing Programme Board. The Environment and Housing Programme Board has responsibility for LGA activity in the area of the sustainability of the environment, including issues of planning, waste and housing.

SUMMARY

The planning system is undeniably playing its role in promoting growth and Councils are overwhelming saying "yes" to much needed housing development and economic growth.

The past 18 months has seen significant reform across the planning system. The LGA has been broadly supportive of the National Planning Policy Framework (NPPF) which now needs time to take effect; further wide scale reform will increase and prolong uncertainty in the system and will therefore be counter productive.

Councils have a strong track record in using the planning system to bring forward much needed homes and development, hitting a 10 year high last year for the proportion of residential applications accepted. This trend has looked even more promising since the implementation of the National Planning Policy Framework.² There is a building backlog of 400,000 homes with planning permission that haven't yet been built. That's an

² <http://www.glenigan.com/construction-market-analysis/news/telegraph-exclusive-2000-new-building-projects-approved-every>

estimated three and a quarter years worth of housebuilding³ which demonstrates clearly that planning is not the problem.

The stalled economy is stifling demand and much needed development is being held up because buyers can't buy and developers can't sell. The number one priority has to be improving access to mortgages and finance for development. The Government's stimulus package for house building and support for first time buyers recognises that in part. However, the LGA does not support the proposals which take decision making away from localities (on planning applications and affordable housing provision) and place it with the Government's unelected Planning Inspectorate. Announcements which extend permitted development rights over householder extensions are also likely to cause significant unintended consequences in localities.

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

The LGA is concerned that the package of measures includes a significant expansion of the Government's Planning Inspectorate's role and function at the expense of local decision making. We have concerns of the capacity of the Inspectorate to be able to respond to this significant increase in workload which may have a knock on impact on the speed and efficiency of its core role to process appeals and examine local plans.

The proposals to allow the Planning Inspectorate to re-negotiate the affordable housing element of Section 106 agreements (S 106) and planning applications takes decision making away from the local level and places it with a government body. This is not only contrary to the spirit of localism, it is unnecessary. Councils are being flexible and, where appropriate, have renegotiated some deals which would otherwise have stalled. Those local renegotiations are the best way of sorting out problems where developers are in difficulty. Further examples are attached at Annex A.

Bristol City Council regard Finzel's Reach (a £200 million mixed-use development site in central Bristol), as a high quality regeneration scheme. Within this context, Bristol negotiated a revised section 106 package that met some, although not all, of the demands put forward by the developer. Broadly, the council agreed to reduce the section 106 package by around a third (£4.5 million).

Walsall Council has an established process for S 106 proposals that are deemed by the applicant to render the development unviable. This includes recourse to independent financial appraisal (at the applicant's cost). This appraisal in addition to the planning case officers views are then presented to the planning committee for further deliberation and decision.

Councillors report that the provision of appropriate infrastructure is crucial—not only to ensure that the development is sustainable in line with the National Planning Policy Framework but also in mitigating opposition from residents to new housing development. For example; 42% of respondent councillors thought that local residents were generally opposed to housing development in their local area, but this proportion fell to 12% if development came with appropriate infrastructure, and to 11% if the quality of the design met local needs.⁴

The proposals to allow the Inspectorate to renegotiate crucial S106 contributions without regard to local need or views may undermine work at the community level to unlock barriers to new development. There is a danger that removing benefits will make communities more reluctant to give consent to development in future, as they'll have less trust in promises from developers. The Government has to be careful to avoid creating a situation which could mire future planning decisions in acrimonious challenges and judicial reviews which could slow the planning approval process.

Proposals to extend permitted development rights will mean that the opportunity will no longer exist for councils to protect the amenity of neighbouring properties or the character of residential areas. Planning applications currently determined by local authorities, carefully taking account of the views of neighbours and neighbourhoods, will be determined by Parliamentary Order without any consultation or negotiations.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

Development is held up by buyers' inability to buy at current prices, and developers' inability to sell at less than current prices. Changes to Section 106 will not make it easier for developers to sell houses more cheaply, so will not help. The wider market issues relate to demand and access to mortgage and development finance.

Nor can it be assumed that it is affordable housing that is causing the problem in unlocking stalled sites. Registered providers are working closely with developers to make this section of the development viable. Building market housing at a cost people can afford (and access mortgages for) which also deliver an acceptable rate of return for the developer is the crucial issue which needs to be addressed.

³ The estimated three and a quarter years worth of units that could be constructed is calculated by taking the total number of unimplemented planning permissions on 31 December 2011 (399,816) and dividing by data from the most recent CLG housing statistics (see table 209: http://www.local.gov.uk/web/guest/research-housing/-/journal_content/56/10171/3700057/ARTICLE-TEMPLATE)

⁴ http://www.local.gov.uk/web/guest/research-housing/-/journal_content/56/10171/3592914/ARTICLE-TEMPLATE

Any perception that councils are asking for unaffordable “nice to have’s” through planning which in these difficult times is rendering development unviable is wrong. In addition to much needed affordable housing, Section 106 agreements also fund roads, street lights, new schools, and other facilities needed to support new development, access jobs and unlock further economic activity.

Councils set local policies for S 106 agreements which are based on statutory tests that the obligations should be reasonable, necessary and related to the development—they must be convinced that the development should not receive planning permission if the conditions are not met.

Assessing viability is not straightforward and must be based on evidence. Under any renegotiation model the onus must be on developers to produce a viability statement for the site to underpin both initial and renegotiations of S 106 agreements. Developers can seek renegotiation at any point under the existing system and evidence from local authorities (in Annex A) demonstrates that local authorities are responding positively to requests—where underpinned by evidence of viability issues.

Councils are being flexible and, where appropriate, have renegotiated some deals which would otherwise have stalled (see Bristol and Walsall examples above and in Annex A). Those local renegotiations are the best way of sorting out problems where developers are in difficulty.

Demand for affordable homes is growing: councils’ waiting lists now stand at 1.84 million in 2011⁵ and the number of extra units envisaged by the government needs to be set in that context and in concert with the announcements which may see crucial affordable housing removed through amended Section 106 agreements.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

These proposals are intended to be taken forward via legislation to be put in place early in 2013. There is a clear risk that this may delay developments being brought forward or implemented until the new regime is in place.

There is a paradox in suggesting that the government’s Planning Inspectorate (PINs) should intervene to speed up some council decisions and simultaneously announcing that PINS’ own appeals process is too slow.

We would query the current capacity of the PINS quango to be able to undertake this role currently in a way that speeds up decision making overall. It is important that measures which will see the PINs quango prioritise all major and housing related appeals does not divert limited capacity away from their role examining local plans.

Councils currently decide 82% of applications within eight weeks and 93% within 13 weeks. At the same time council budgets have been cut by at least 28% in real terms over the course of the spending review. Importantly, planning fees are capped at less than the cost of providing the service.

Councils are also using the planning system effectively to bring forward much needed growth. Last year councils hit a 10 year high in the percentage of applications approved for all types of development (with 87% of applications receiving approval).⁶ In 2011–12 this equated to an estimated 2,536 residential schemes granted planning permission.⁷ There are an estimated three and a quarter years worth of homes in unimplemented units, based on the number of completed dwellings in England and Wales in 2011–12.⁸ This shows local authorities are overwhelmingly saying “yes” to viable and sustainable residential development through the planning system.

It makes more sense to prioritise proper funding for swift decisions than expanding a quango to run appeals and take away decision making from democratically elected councillors and communities and increase the cost of appeals. We would query the current capacity of the PINS quango to be able to undertake this role currently in a way that speeds up decision making overall. We are seeking clarification from government on the performance targets they are considering and will also work through the LGA’s Planning Advisory Service⁹ (PAS) to provide support to local authorities.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

The opportunity will no longer exist for councils to protect the amenity of neighbouring properties or the character of residential areas. This could result in a loss of garden and amenity space as well as having potential damaging impacts on the management of drainage and flood risk. Although the relaxation of permitted

⁵ <http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/rentslettings/livetables/>

⁶ www.communities.gov.uk/planningandbuilding/planningbuilding/planningstatistics/livetables/livetablesdevelopmentcontrol/

⁷ Taken from Glenigan research, commissioned by the LGA “*An analysis of unimplemented planning permissions for residential dwellings*”.

⁸ The estimated three and a quarter years worth of units that could be constructed is calculated by taking the total number of unimplemented planning permissions on 31 December 2011 (399,816) and dividing by data from the most recent CLG housing statistics (see table 209: <http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/housebuilding/livetables/>) for permanent dwellings completed in England and Wales in 2011/12 (123,770 units)

⁹ www.pas.gov.uk

development rights is temporary the impact will not be; poorly designed development and the loss of amenity space will have a long legacy in local areas.

Eight metre extensions close to boundaries may in a significant number of cases affect the amenities of rear patios and rear rooms because of overlooking bulk and mass, and impact on light. This will be particularly important in high density housing area. There will also be an impact on drainage in flood risk areas—the changes will remove the possibility of objection and mediation via the local authority and Environment Agency.

Local Planning Authorities currently receive approximately 200,000 applications from householders per year—about a third of all planning applications received. Nearly 90% of all applications are approved once negotiations have resolved any unacceptable amenity impacts.

The performance of councils on this issue demonstrates that local authorities present no barrier to appropriate and well designed household applications. They do however play an important role in mitigating any unacceptable impacts on the amenity of the area under the current system. Where this role has been disregarded it can have a significant impact on the quality, design and amenity of the development and local area. Please see examples in Annex B.

Planning applications currently determined by local authorities, carefully taking account of the views of neighbours and neighbourhoods, will be determined by Parliamentary Order without any consultation or negotiations. The opportunity will no longer exist for councils to protect the amenities of neighbouring properties or the character of residential areas.

Article 4 directions are available to local authorities to restrict permitted development rights. These tools however are time consuming, expensive and cumbersome and as a result are not well used by local authorities. The LGA has long lobbied for reforms to Article 4 directions to allow greater flexibility (to be used within use classes, reduce the notice required and the compensation provisions).

Permitted development rights for house extensions can often be extremely controversial and cause real problems for neighbours. Local councillors get drawn into these disputes and play an important role to try and facilitate a compromise by negotiating changes to the proposed scheme. There is likely to be significant frustration and anger in communities that the ability of councils to protect the amenity of the area has been lost.

There are also resource implications for local authorities. Councils currently receive a nationally determined fee—£150 for such applications. Our work with over 250 councils has demonstrated that the actual costs incurred by councils to process and deal with these applications are more than double the nationally set fee. If 100,000 applications were to become permitted development for three years the loss of income to Local Authorities would be in the order of £15 million pa. In reality local authorities will still need to undertake checks on extensions to ensure that they do not exceed the amended permitted development rights—this may include site visits.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

Planning Performance Agreements (PPAs) are often used for contentious and complex planning applications. PPAs are about improving the quality of the decision making process, not the speed of decision making but to allow applicants and local authorities to negotiate a flexible timescale. They are not however the answer in every case and local authorities make use of them as one option when dealing with complex applications.

The LGA's Planning Advisory Service have previously undertaken support work to encourage local authorities to use PPAs and is taking this work forward through the benchmarking club of 250 authorities which allows authorities to compare costs and the quality of service in a transparent and robust way.

How planning authorities should be able to adjust Green Belt land?

The existing planning framework allows green belt designation or re-designation through the Local Plan process. If after due diligence the case for an amendment to boundaries is accepted, it published as an amendment to an adopted Local Plan.¹⁰

The past 18 months have seen significant changes to the planning system. What is needed now is a period for the new system to bed in, rather than yet more change. We believe that greater local discretion over the approach to Green Belt land would be helpful in a number of circumstances as long as this was discretionary for LPAs and clearly rooted within the democratically accountable local planning structure

How the Government's review of national and local standards should be carried out and what focus should it have?

Unnecessarily onerous and complex regulation is no more in councils' interests than developers. It is expensive and difficult to enforce, and likely to deter desirable development and growth. Local plan policies

¹⁰ The Local Planning regulations require environmental assessment, consultation and publicity, consideration of representations received for and against the proposal, submission of the amended Plan for independent examination including testing the proposal conforms to national policies, consideration of an inspectors report and recommendations, and adoption.

should always be evidence-based and tested at independent examination. This is the sufficient and appropriate safeguard against them being too onerous or undermining development viability.

However, the quality of new homes cannot just be left to the market. Failing to tackle issues like carbon reduction, the resilience of new building to extreme weather and the ability of older and disabled people to occupy homes without costly care services imposes costs on wider society.

We are not in favour of councils pointlessly reinventing the wheel, and there could be scope for dissemination of good practice. The review should aim to assist stakeholders in determining a suitable approach. However, it is not the role of any review group to seek to bind or mandate approaches on local authorities, which may not fit local circumstances. This approach would not be reconcilable with localism.

What the impact is of the proposal to get empty commercial buildings into use?

A strong steer to accept change of use from commercial to residential already exists in the NPPF and many local planning authorities encourage change of use in their area. Such changes need to be considered through the existing plan led system. Information received from our membership suggests councils overwhelmingly accept reasonable applications for changes of use to residential accommodation subject to important conditions to ensure that risks such as overlooking to other neighbours, lack of refuse provision etc are mitigated.

The proposals will result in the loss of industrial and other commercial land to employment purposes; which may impact on maintaining a diverse economic base locally. The opportunities afforded by the proposals will increase uncertainty for commercial occupiers with the possibility that landlords will seek eviction in order to realise windfall gains from housing.

This will impact variably on areas. For example, some industrial towns such as Walsall have a shortage of readily available land to accommodate the expansion of manufacturing. In rural areas there will be pressure to convert existing business premises to residential use. Equally, cities such as Oxford where future development is constrained by both administrative and green belt boundaries will experience similar issues with land shortage. This may also lead to both a loss of rural employment sites and buildings and an unregulated addition to windfall housing development in unsuitable and unsustainable rural locations.

The introduction of new residential accommodation into mainly commercial areas due to the change of use of existing commercial buildings will have wider effects. For example:

- On surrounding businesses; the current requirement for planning permission for conversion of Class B1 uses to residential allows local planning authorities to consider in detail the implications for surrounding businesses.

A scheme to provide 11 flats in existing office accommodation in Westminster led to concerns that the operation of an adjacent late night opening bar and restaurant could be curtailed under environmental health legislation because of noise complaints from future residents. The system currently allows for conditions to mitigate the impact in such cases. Permission was granted in this case with conditions imposed to require the installation of a high performance secondary glazing system to the bedrooms and living rooms of the flats to provide noise insulation while allowing adequate ventilation of the flats without the need for residents to open the windows.

- For areas of high flood risk; commercial uses can usually be accommodated satisfactorily in areas of high flood risk, this is not the case with residential uses because of the safety hazards involved. The current requirement to obtain planning permission for change of use from business use to residential means that this issue can be properly considered with advice obtained from the Environment Agency as necessary.

Rather than giving permitted development rights to allow the change of use from commercial to residential, the need to provide for such changes of use would best be addressed locally, by local development orders issued by local planning authorities.

Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

The private rented sector has a key role to play in providing new homes and it is helpful that the government is providing funding to encourage institutional investment in this area. Councils are keen to support the sector in providing good quality homes which meet housing demand as well as the expectations of tenants. Many local authorities are developing schemes to ensure the availability of high quality rental properties.

New rented homes are needed both in the market rent and affordable sectors and councils will seek to ensure more homes are available in both parts of the market. Different areas are in need of different types of new housing which is why it will remain crucial that local authorities have the flexibility to use the planning system to encourage growth while ensuring areas get the type of new homes needed.

Any strategy to boost the number of new rental homes should not come at the expense of new affordable housing, and councils will, in consultation with their residents, always seek to ensure a suitable balance between the need for private rental property and new affordable homes.

It will be important that the government's £10bn guarantee delivers additionality rather than supporting schemes that would have gone ahead under current market conditions.

Crucially, Government needs to address the lack of liquidity in the finance market and limited availability of mortgages which are the real obstacles standing in the way of a resurgence in new house building and helping people to secure finance to purchase a home.

New rented homes are needed both in the market rent and affordable sectors and councils will seek to ensure more homes are available in both parts of the market.

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

The stalled economy is stifling demand and much needed development is being held up because buyers can't buy and developers can't sell. The number one priority has to be improving access to mortgages and finance for development. The Government's stimulus package for house building and support for first time buyers recognises that and the extension of the First Buy Scheme is helpful.

The announcement must be viewed however against the significant challenges to get on the property ladder, for example the average deposit for a first-time buyer is over £26,000, doubling since 2007 in a period when the average first time buyer income has declined.¹¹ We would like to see a greater focus in this area.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

It is helpful that the Government is seeking to remove barriers to the delivery of major housing sites. This could involve removing centrally set bureaucratic blockages and encouraging an enabling approach from statutory bodies.

The Government's stimulus package for house building and support for first time buyers recognises that access to mortgage and development finance are the main barriers to house building—it is clear that a focus on these wider strategic issues will have a greater overall impact than site specific interventions.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

It is helpful that the government is moving to a coordinated mechanism to accelerate the release of its land holdings. It is crucial that local authorities are closely involved in discussions concerning the release and use of land so that the public sector estate as a whole can be used to best effect.

It's not just about new construction—putting existing homes to good use is a huge issue facing councils and can often help address housing shortages quicker than building new properties. Councils need the ability to act quickly on empty homes, swiftly and simply bringing them back into use in whatever fashion possible.

To help with this, the LGA has been lobbying Government to give councils the power to set higher local charges for long-term empty dwellings, improve the tools councils have to take control of empty homes, and generally reduce the bureaucratic hurdles they face. Specifically:

- Bringing in the empty homes premium through the Local Government Finance Bill, by introducing the power to set higher amount for long-term empty dwellings.
- Reforming tools such as Empty Dwelling Management Orders in order that councils can quickly and efficiently bring empty stock back into use.
- Taking positive action to streamline and reduce unnecessary bureaucracy as part of its Red Tape Challenge.

Annex A

CASE STUDIES—RENEGOTIATING S 106 AGREEMENTS

1. *Ashford Borough Council.* Ashford was approached by the developers of a key site which has permission for a development of 1,100 dwellings. The original section 106 obligation stipulated that the development include a new junction to connect it to the southern orbital road prior to the occupation of 50 dwellings—in effect, at the start of building. However, the cost of the junction was £9 million and the developer couldn't make the payment. Because the junction is a critical piece of infrastructure without which the development could not proceed, the council still required it. However, it agreed to an interim upgrade that would provide sufficient capacity for the first 500–700 dwellings, at a much lower cost of £1.5 million for implementation, and supported a bid by the developer to the Get Britain Building fund to finance the full junction. In February the scheme was awarded pre-commissioned status

The Council has been surprised by how much help developers need with proposing deferred contributions. To assist them Officers have built up knowledge about when an infrastructure provider needs a cash injection,

¹¹ <http://www.cml.org.uk/cml/publications/newsandviews/104?complete=true>

and why. For example, a section 106 may include a financial contribution to the local education authority. But the authority may not need all the contribution at once and, provided a site is identified, may have a long planning lead-in time before it actually spends money on building a new school. By understanding that process it is possible to ease the financial burden for a developer without losing any financial contribution over the longer term.

2. *Bristol City Council* have an “open for business” policy in relation to bringing forward development and investment in the city. Last year the Council received just over 3,000 planning applications, saying “yes” to over 80% of these (89% of major schemes).

Bristol has a good record of housing delivery. Its adopted Core Strategy target is for a minimum of 26,400 dwellings to be delivered between 2006 and 2026, and in the six years since 2006 over 12,700 (approximately 48%) of these dwellings have been constructed. In addition, there are around 7,000 residential units currently with planning consent in the city—a significant proportion of which are yet to be commenced. In order to ensure this much needed development is brought forward, Bristol proactively seeks requests from developers to renegotiate Section 106 agreements on schemes that have become unviable since planning consent was granted. Requests are considered by the planning committee in a process that includes an open book appraisal of viability by the developer.

This approach is proving successful. Examples include Finzel’s Reach (a £200 million mixed-use development site in central Bristol), which is a high quality regeneration scheme on a strategically important site.

Within this context, Bristol negotiated a revised Section 106 package that met some, although not all, of the demands put forward by the developer. The revised position incentivised the developer to deliver the development to their timescale by reducing the Section 106 package by around a third (£4.5 million) if various triggers were reached.

3. Planners at *Cheshire West and Chester* are clear that the Winnington Urban Village proposal “ticks all the boxes” for what it wants to achieve in Northwich, where the proposal is located. It includes 1,200 new homes on a large brownfield site close to the centre of the town, which would contribute to meeting housing demand, help implement a policy to support retail-led regeneration of Northwich town centre, stimulate the wider local economy and promote sustainable locations in preference to edge-of-town greenfield sites.

In January 2012 its Strategic Planning Committee authorised planners to negotiate a revised section 106 package for the Winnington Urban Village. Although not yet finalised the outcome is likely to include a waiving of the affordable housing requirements, and education and some transport contributions. Even with these concessions the development has viability challenges, but the developer consortium has agreed to proceed. The development will come forward through a number of phases over the next decade, and the consortium looks likely to agree to make payments to the local authority if it achieves certain levels of profit. It remains a scheme that the Council are comfortable with and want to see built out.

4. *Exeter City Council*. At a time of financial challenge and limited housing starts on site, the Council has adopted a fair and flexible approach to their S 106 negotiations ensuring that the maximum amount of affordable homes are delivered in context to the constraints associated with each and every individual development. Examples of ways in which Officers have been flexible include:

- Back loading affordable housing to later development phases.
- Assessing viability in-house and helping developers to deliver affordable housing by being flexible with the amount, mix, tenure and phasing.

In respect of historic Section 106 Agreements and changes in financial circumstances for developers, the Council has been pro-active in working closely with them to deliver as much affordable housing as possible without prejudicing the overall development viability. In the last 12 months the Council has varied S 106 terms to change the mix, tenure and number of affordable homes on two large developments to enable them to proceed to completion. In one instance it involved the transfer of 11 of the affordable homes direct to the Council for £1 each including four wheelchair homes. This was instead of the house builder providing 26 affordable homes on site to be transferred to a Registered Provider which they could not economically afford to deliver.

5. *The London Borough of Haringey* accepted that with Hale Village, a large residential-led mixed-use redevelopment, a weakened housing market made it reasonable to rethink the mix of tenures on the site, and the S 106 obligations. Planning permission (with s 106) was granted in October 2007, just before the housing market stalled. The original obligation made provision for a range of contributions including £7.7 million towards local infrastructure.

The Planning Committee approved a revised package that reflected the changed economic circumstances, while also allowing the council to capture contributions should the market circumstances change. Apart from an initial payment of £3.1 million, future payments are tied to the development achieving agreed sales values, once other debts are paid. Data to monitor performance is being certified by the Homes and Communities Agency. The officer report acknowledges that while the revised obligation could mean that the council

potentially receives a total of £10.2 million in section 106 payments, it is “unlikely to receive this full sum... unless the private housing market picks up substantially”.

The Council believes that planners should be trying to find ways other than section 106 contributions to get the same outcomes. For example, planners have, in the past, sought contributions to help fund council training and employment programmes. An alternative could be to get developers to write in procurement requirements for using local people and supply chains to increase the amount of employment the development stimulates locally.

6. *Wealden District Council* has been working with developers for the past two and a half years to unblock stalled developments, by negotiating s 106 agreements on a viability basis. To do this, Wealden enables developers to pay for an independent viability assessment. This has been taken up by many developers and has allowed 20+ small to large schemes progress.

Wealden has renegotiated on:

- The level of affordable housing.
- The mix of affordable housing.
- Periphery requirements, for example library contributions and early learning contributions.
- Highways infrastructure.

It also allowed developers to use a viability assessment during initial negotiations, with a view to *preventing* stalled developments. Any application to re-negotiate goes back to the planning committee.

Wealden has also brought forward affordable housing by re-evaluating where houses are positioned within a site. For example, although as standard the affordable housing is scattered through a development, Wealden has sometimes relaxed this requirement in order for development to go ahead.

Hellingly Hospital involved redevelopment of brownfield hospital site for residential development and associated uses, local community facilities, commercial floorspace and Community Park. Outline planning permission was granted on 17 November 2006 and Reserved Matters pursuant to outline planning approval on 19 February 2009.

The Council renegotiated amendments to trigger points for financial contributions to delay up front costs to developer; and deletion of financial contributions towards the acquisition of land for primary and secondary schools and provision of additional secondary school places in July 2011.

This has provided 400 homes in total. Phase 4 of the site is currently under construction.

Annex B

EXAMPLES OF UNAUTHORISED HOUSEHOLDER EXTENSIONS SUBJECT TO LOCAL AUTHORITY ENFORCEMENT ACTION



London Borough of Hillingdon

A ground floor extension overlooking the garden of a neighbouring property. The London Borough of Hillingdon served an enforcement notice which was ignored by the owner. The court subsequently ruled in favour of the council, issuing a significant fine and ordering the extension to be demolished.



York City Council

A first floor conservatory built without planning permission. York City Council received complaints from the owners of neighbouring properties because it compromised their privacy. A retrospective planning application was refused on the grounds that the structure overlooked several adjacent homes and gardens. York Council served an enforcement notice to dismantle the conservatory which was ultimately removed three months later.

LGA

October 2012

Written evidence submitted by Charles Robinson

To date the Government's announcements and changes to the planning system (both actual and real) have done nothing to aid the development process or even the planning system itself. This tinkering has been all sound bytes without substance and, I'm afraid, has achieved nothing except to falsely raise communities' expectations.

The facts are that Local Planning Authorities in areas where development could take place are still resisting development where as Local Planning Authorities in areas where there is no pressure for development are very development friendly. This is precisely why there are unimplemented planning permissions for 400,000 residential units. These are mostly in areas where people do *not* want to move to. Therefore, in terms of pump priming development, these consents are pointless other than being another statistics for the Planning Officer's Society to use to justify doing nothing to stimulate development through the planning system.

The planning system is broken and not fit for purpose. It needs a new engine if it is to be the driver for growth that it can and should be. Unfortunately, all we have had to date is "Fettling"; even the National Planning Policy Framework is an opportunity missed.

The planning system is not yet in a state of absolute crisis *simply* because there is not enough cash in the system to stimulate any real demand for development. However, latent development pressures are huge and increasing. Therefore, when the economy does get round to actually injecting some cash and confidence into the system the latent demand for housing and commercial property will translate into real demand—a demand that the planning system simply will not be able to cope with. This will depress any recovery for years to come.

The Government should use this time to implement a true root and branch reform of the planning system as follows:

- It should be honest about the Greenbelt. Greenbelts are a blunt instrument which have been drawn too tightly and not reviewed properly. Areas of the Greenbelt which are no longer fit for purpose should be released for development and perhaps allow developers to put forward alternative areas for protection.
- There should be a blatant and explicitly stated pro growth agenda. Local Planning Authorities should adhere to this—those that do not should loose appeals with costs.

- Planning application should be simplified. At present there is a plethora of unnecessary reports which are required to support any development. This is a huge burden, particularly where developers are seeking to establish the principal of development, which leads to unnecessary costs, delays and prohibits a number of otherwise sound schemes.

In short, politicians from all sides should be honest and accept that this country needs property development, as it always has done. We should embrace that fact. Our planning system has been revered—quite rightly—but it grew out of *promoting* development (Ebenezer Howard) not preventing it. It is time we rediscovered that spirit!

Charles Robinson
Director—Planning
BNP Paribas Real Estate

Written evidence submitted by the Residential Landlords Association

ABOUT THE RESIDENTIAL LANDLORDS ASSOCIATION

The Residential Landlords Association (RLA) represents 15,000 small and medium-sized landlords in the private rented sector (PRS) which manage over 150,000 properties across the UK. It seeks to promote and maintain standards in the sector, provide training for its members, promote the implementation of local landlord accreditation schemes and drive out those landlords who bring the sector into disrepute.

MORE RENTED HOMES ARE NEEDED

In the period between 1999 and 2010–11 the number of households in the private rented sector has increased from 2 million to 3.62 million, equivalent now to 17% of English households. In a joint report published earlier this year, Savills and Rightmove estimated that by 2016 one in five households—or 5.9 million households in England, will be renting in the private sector. The question is how do we secure the supply of enough rented accommodation in such a way that contributes to a net increase in overall housing stock.

As part of efforts to boost the construction industry, the Government, in the wake of the Montague Review, is placing a significant emphasis on institutional investment in the private rented sector to deliver an additional 5,000 homes for rent. Whilst the RLA supports such moves, significant growth in the supply of rented homes can only be achieved through supporting smaller scale landlords who constitute some 90% of the sector.

In his report for the RLA, Professor Michael Ball of Reading University noted that almost 90% of English landlords are private individuals and couples; about 5% are property companies and the rest a mix of other organisations.

The CLG Select Committee asserted in its report on financing new housing supply:

“While it is right to consider the potential for large institutions to invest in the private rented sector, it is also important to remember that the sector is, and will continue to be, dominated by small companies and individual landlords. Although these smaller landlords tend to invest in existing property, they do make an indirect contribution to new housing supply, and in the past have provided upfront funding for development by buying property ‘off-plan’.”

Professor Ball further notes that every £1 invested in the PRS provides a return to the economy of £3.50 through expenditure on building work and furniture. Furthermore, he calculates that annual tax on rental income paid by England’s market tenancies totals £3.5 billion—equivalent to £1,000 per tenancy or 17% of tenants average annual rent costs. Capital Gains Tax is also payable by landlords, typically at the rate of 28% at the point of sale. The private rented sector therefore provides a unique vehicle to both grow the housing market and the wider economy.

FINANCE

Securing adequate finance is crucial to enabling the sector to expand. In a joint report published earlier this year, Savills and Rightmove, estimated that £200 billion of investment is required over the next five years to meet the predicted demand for accommodation. However, only one quarter of this is expected to come from buy-to-let lending and a recent survey of RLA members has shown that almost half have found it either very difficult or impossible to obtain a new buy-to-let mortgage.

In light of the on-going difficulties being faced in encouraging many banks to bring lending to more desirable levels, we would welcome an opportunity to consider the potential for landlords to be able to access finance through the recently announced small business bank.

Furthermore, in line with the select committee’s recommendations, Self-Invested Pension Plans should be allowed to buy residential accommodation for letting. To avoid possible abuse, the letting would have to be via a recognised agent; the property would have to be retained and let for a certain number of years; and it would only apply to lower value properties. The RLA suggests a single property limit of £300,000 inside

London and £200,000 outside. This would help the less well-off obtain accommodation. This could be a short-term measure to stimulate the market. There is over £1 billion invested in over 800,000 SIPPs, of which 200,000 could potentially invest in the PRS.

EMPTY HOMES

The RLA supports the Government's efforts to bring empty homes back into use. To support these efforts, the RLA proposes that all publicly owned, empty housing should be subject to an auction, in which landlords in the PRS could participate. We are concerned that on occasions, landlords are not given the opportunity to buy and refurbish these properties.

Landlords are good at recycling old property and redeveloping, playing an important part in reviving often deprived areas.

A one-year deadline should be imposed for the property to be let again to encourage swift investment, combined with tax incentives. We would further argue that empty properties should not be exempt from Council Tax unless planning and building permissions are current for either improvements to, or the redevelopment of, such housing.

A survey of members of the Residential Landlords Association has revealed that 82% would be prepared to purchase empty social homes that were put up for auction in this way.

TAXATION

Given that, in reality it is often the tenant that pays the taxes uniquely imposed on the private rented sector as opposed to any other form of housing tenure, a fairer tax regime would assist tenants. The RLA proposes the following, which would meet the CLG Select Committee's recommendation to "*bring forward a set of proposals to simplify the tax and regulatory structures that apply to private landlords*".

Roll-over Relief for Capital Gains When Sold to a First Time Buyer—To help first time buyers and free up rental property, roll-over capital gains tax should be allowed where the sale is to a first time buyer with suitable controls to prevent abuse, such as an upper limit on price.

LESA—An expanded landlord's energy saving allowance (LESA) needs to be incorporated into the general allowance for improvements to cover a wide range of energy efficiency improvements. The current limit of £1,500 is not adequate for hard-to-treat properties, particularly older ones which comprise a high percentage of rented accommodation—40% constructed prior to 1919. The RLA is calling for the limit to be increased to £14,500, spread over four years.

FREING UP PUBLIC LAND

The Government is in a drive to sell off unused public sector land, but the focus has been on large plots. The RLA would like to see a sell-off of small plots or redundant buildings which small scale landlords could purchase to use for the development of rented accommodation.

Sites of, for example, no more than a quarter of an acre are not likely to appeal to corporate developers but are ideal for landlords, given the right environment, to develop. These would be either for houses or small blocks of multiple units of accommodation with accompanying green space and car parking if required. Such development could also play a vital role in regenerating pockets of communities that can often become focal points for anti-social behaviour or fly tipping.

Residential Landlords Association

October 2012

Written evidence submitted by Ian O'Reilly

Current laws state access to daylight should not be denied but daylight is only derived from the sun (the south side) and hence building to the north of a property does not infringe on daylight, yet councils stop development based on this.

People cannot extend properly and in the current climate cannot afford to move so I applaud the government for this temporary measure which will unlock these wishes.

People who oppose obviously live in houses that are already too big or are jealous of neighbours' development.

As long as the garden is large enough then no problems will be had.

Ian O'Reilly

October 2012

Written evidence submitted by Marina Lewycka

I am writing to ask you to reconsider and back away from these hasty and ill-thought-through proposals.

While the extension of permission to add extensions and conservatories to residential property seems on the surface of it a good idea, in areas like this, where a majority of the housing is HMO converted for student use, the effect of uncontrolled extensions built by landlords in the gardens of previous family homes would have a devastating effect on their neighbours, like myself, who already have to tolerate overcrowding, nuisance, refuse thrown around, noise in the small hours, which affects the quality of life in once pleasant and leafy neighbourhoods. There is actually no shortage of student accommodation, and purpose-built residences are often part-empty, because they are rather expensive and often a walk or a bike ride away from the Uni. While there is no shortage of purpose built student accommodation, there is indeed a shortage of real family housing in the centres of many of our university towns. Allowing such unchecked development will just exacerbate the imbalance, rather than helping to solve the problem, it will actually add to the problem by displacing families and converting existing family homes into “dorms” or bedsits which are empty for half the year. I hope you will think carefully before extending this ruling to HMOs.

Marina Lewycka

October 2012

Written evidence submitted by the Highfield Residents Association

The Highfield Residents Association comprises over 600 households and represents over 2,000 local residents in this area of Southampton.

Large numbers of residents from the local community could be affected by this proposal which has therefore attracted intense interest. The issues at stake are not restricted to the immediate impact of unregulated extensions upon ones neighbours, but include the wider implication of a persistent erosion of the character of the area by the relentless expansion in particular of Houses in Multiple Occupation (HMOs—C4 or sui generis Use) to serve the local student demand.

This erosion would also be greatly exacerbated by selfish, inconsiderate or aggressive neighbours who would be able to create extensions of the equivalent size of two bedrooms, without any thought of the consequences upon their fellow residents such as loss of light, overlooking, character and amenity and would in all probability encourage over-intensive developments. It would also presumably allow the “shoeing in” of caravans or Portacabins of an equivalent size, wholly inappropriate and unsightly for most residential areas.

Social and environmental problems which this would facilitate, are felt very keenly by the local community and this proposal would have the potential to create an untold number. The problem of overdevelopment, is regularly raised by objectors to planning applications, which include Local Ward Councillors and Local Residents Groups in their attempt to maintain a balanced and sustainable community, which this proposal only serves to undermine.

- This proposal is also directly contrary to the Governments Localism agenda and would have exactly the opposite effect of allowing communities and LAs to decide on how their areas should be developed.
- We can not see that this would have any effect on existing Permitted Development rights as proposals that exceed PDRs are normally swiftly dealt with under existing Planning rules, including delegated authority.

It seems to me that if the Govt wishes to stimulate development or growth in this sector of the economy, a more immediate and well received proposal would be to cancel or reduce VAT on building extensions but still leave them subject to Planning approval where they might exceed PDRs dimensions.

Finally, would the Minister PLEASE consider allowing the introduction of Stop Orders against unregulated or illegal domestic development and remove the right to compensation where development has taken place without PP. In spite of what the DCLG have repeatedly said, there is *no adequate or effective mechanism* for dealing with these types of abuses, which often taker years to resolve in some cases. The feelings of injustice and inequity this flagrant abuse causes neighbours and residents can not be overestimated and the cost of dealing with cases *after* the event, are disproportionately expensive in terms of time, effort, expense and social cohesion.

Highfield Residents Association

October 2012

Written evidence submitted by Residents Action

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions:

The answer is simple, it will be an absolute disaster, especially in areas dominated 80–90% by Houses in Multiple Occupation, particularly when the HMO occupiers are students.

Diaries and statistics kept by Residents Action in Polygon Southampton student ghetto show conclusively that each week or sometimes daily there are complaints about noise, mainly loud music from such abodes, noise from drunken homegoers entering their HMOs at any time through the night and high levels of anti social behaviour/criminal damage etc.

Due to the HMOs being in long rows, often the whole side of one road and most of the opposite side, the Noise Nuisance service is no longer suitable for the purpose, and we long term residents suffer noise/go out to deal with the noisemakers ourselves at some personal danger during the past 20 years of student colonisation.

Next door but one from my home there is a conservatory on the back of a student HMO, this serves as a lounge and several times recently students have kept me awake all night by being in this glass extension drinking and shouting, playing loud music until morning.

It has been proven beyond any reasonable doubt that HMOs and the bad behaviour of some occupiers blight once quiet residential areas and the opportunity for landlords to pack in more tenants/householders will drive even more citizens away, therefore even if this plan goes ahead, HMOs must be exempt and not allowed to have extensions or conservatories without planning applications being submitted to the Local Planning Authority.

Student nuisance in Polygon features on local TV, radio and in the press every year, it is quite likely the most notorious student ghetto in the whole country.

Residents Action

October 2012

Written evidence submitted by the Monks Orchard Residents' Association

1. We refer to the statement by the Rt Hon Eric Pickles MP Secretary of State for Communities and Local Government on the 6 September 2012 which, if enacted, would relax the Permitted Development rules allowing residents to extend their properties to double the current allowable depth and 50% of a garden area without necessitating planning permission by the Local Planning Authority (LPA). These developments would not need to comply with the requirements of the Unitary Development Plan (UDP) or local or national planning policies.

2. This memorandum presents our reasons why we believe the relaxation of permitted development rules will be unacceptable.

3. Our opposition to the proposed relaxation of permitted development rule is summarised as follows:

3.1 Relaxation of planning controls will leave many people powerless to maintain a decent quality of their environment.

3.2 Extensions or developments could be detrimental to the character of the locality.

3.3 Extensions or developments could result in inappropriate unsuitable extensions being built which may deny adjacent residents any consultation or representation.

3.4 The host resident might appreciate an extension covering 50% of their garden but adjoining neighbours on each side and within the surrounding area could be appalled and not able to have any input into the decision.

3.5 Developments are unlikely to meet the Unitary Development Plans (UDP) Requirements or the requirements of the London Plan or the Local and National Planning Framework.

3.6 Large developments have been given Local Development Certificates (LDC's) under current Permitted Development Rules against adjacent local residents' wishes and without their representation.

3.7 Relaxation of the Permitted Development Rules will exacerbate these occurrences. It is likely to cause acrimony between neighbours if uncontrolled developments are allowed.

3.8 The proposal completely contradicts the statement in the Conservative Party's 2010 election manifesto and the Communities & Local Government Mission statements as written on their websites.

3.9 We understand that Article 4 of the Town and Country Planning (General Permitted Development) Order: 1995 gives Local Planning Authorities some limited scope for restricting permitted development orders but use of this is very rare and not well known to the general public. The rules are either so complex that no-one understands them or so wide that they can be interpreted in any way. As far as we are aware Croydon LPA have never used Article 4.

3.10 Croydon Local Planning Authority have decided that they will not inform local neighbours by letter of a proposed development other than to put public notices in the vicinity and therefore local residents may not be aware of a proposal.

STATEMENT

4. We are a Residents' Association representing 2,000+ local residents from the Ashburton, Heathfield and Shirley Wards within the London Borough of Croydon. We and our predecessors have represented this area since 1924 and we have a long history and experience of involvement in monitoring and engagement with the Croydon Local Planning Authority (LPA) with respect to developments in our locality.

5. We have embraced the new Localism Act and have joined other Residents' Associations in the surrounding vicinity to form "The Shirley Planning Forum" which has been approved by the LPA

6. Local Planning Authorities have an extremely important role in monitoring developments in the locality and preventing objectionable and inappropriate developments wrecking the character of the area. Historically, Britain has evolved with character and a pleasant mixture of properties which is envied the world over. Local residents do not wish to see their locality spoilt by untrammelled development which could cause friction and disputes between households and wreck the pleasant character of tree-lined villages, suburbs, gardens and estates.

7. We understand the Rt. Hon. Eric Pickles MP, Secretary of State for Communities and Local Government has proposed new relaxations to permitted development rights which will come into force on 1 October 2012; allowing even larger extensions (up to 26ft) or 50% of a garden without planning consent or approval.

8. The current Permitted Development rules (General Permitted Development) Order 1995 (amended in 2008) has already resulted in Local Development Certificates (LDC's) allowing large gymnasiums and such like monstrosities, within small gardens, overlooking adjacent properties and destroying amenity space. The developments once built can easily be converted to living accommodation and may be rented out or sold as separate dwellings. This additional unplanned occupation increases the residential and housing density of an area which not only degrades the character of the area but puts unplanned additional strain on the support services for the area such as gas, water & sewage, electric supplies, schools, hospitals, on-street parking and public transport.

9. The detrimental effect on adjacent properties of large extension developments will result in a cramped and closed environment with an outlook onto a vast brick wall halfway down their gardens. The loss of sunlight can be significant and extremely objectionable. It can change a neighbour's quality of life without any possibility of objection or representation.

10. The proposed relaxation of Permitted Development Planning Rules will allow extensions to be built which do not meet any agreed requirements of local Unitary Development Plans, The London Plan or The Local and National Planning Policy Framework.

11. Even though the proposed relaxations of the planning laws are for three years, the results, once built, will never be removed and could therefore blight an area for the rest of the local resident's lives and for future generations.

12. There is a strong ground swell of public opinion against these proposals and many are questioning their voting allegiance if such proposals are enacted.

13. The Localism Act does not correspond with the proposed relaxations of permitted development policies. The proposals will undermine all efforts by local Planning Authorities and Residents' Associations to contribute to local planning decisions to retain the character of an area.

14. We now understand that local planning authorities and communities won't actually be able to insist on reasonable developments of appropriate character and design to fit in with the existing locality—and if they refuse a development, the Department for Communities and Local Government have indicated that they will ride roughshod over local authorities and allow developers to do whatever they like anyway.

15. Many recent or previously refused applications—refused as a result of not meeting current planning law—will be presented as new permitted development applications which would not require planning permission resulting in developments going ahead which were previously refused on good grounds.

16. The average time for the LPA to make a decision on a planning application is around 8 weeks. If the LPA has the authority to ensure applications meet the agreed UDP and Local and National Development Framework requirements then such extension proposals which meet those objectives could be agreed. This would also allow any neighbours affected to have the opportunity to comment on the proposals before planning is approved and that objectionable proposals could be refused.

17. The Department for Communities and Local Governments Mission Statement states:

"We are helping to create a free, fair and responsible Big Society by putting power in the hands of citizens, neighbourhoods and councils."

The proposals are doing the exact opposite in removing any involvement by the citizens, neighbourhoods, Residents' Associations, the local community or the LPA.

18. Also the Communities and Local Government website states:

“Planning, building and the environment:

We are working to ensure that communities are at the heart of the planning system and that buildings are safe, accessible and sustainable for current and future generations...”

Again, the proposals are doing the exact opposite, removing communities from the heart of the planning system.

19. The Coalition talks about the Big Society and getting central Government out of local decision making, but these changes to planning law is exactly the opposite.

20. Can we draw your attention to the Conservative Party's manifesto for the 2010 election?

20.1 *The Conservative Manifesto 2010.*

20.1.1 Page 38 of the Conservative Manifesto 2010:

“Neighbourhood groups

Our reform agenda is designed to empower communities to come together to address local issues. For example, we will enable parents to start new schools, empower communities to take over local amenities such as parks and libraries that are under threat, give neighbourhoods greater control of the planning system, and enable residents to hold the police to account in neighbourhood beat meetings. These policies will give new powers and rights to neighbourhood groups: the “little platoons of civil society—and the institutional building blocks of the Big Society.”

20.1.2 Page 73 of the Conservative Manifesto 2010:

“Put communities in charge of planning

The planning system is vital for a strong economy, for an attractive and sustainable environment, and for a successful democracy. A Conservative Government will introduce a new ‘open source’ planning system. This will mean that people in each neighbourhood will be able to specify what kind of development they want to see in their area. These neighbourhood plans will be consolidated into a local plan.”

20.1.3 Page 74 of the Conservative Manifesto 2010:

“allow neighbourhoods to stop the practice of “garden grabbing”.”

21. The proposed relaxation of Permitted Development rules are in direct conflict with your 2010 election manifesto.

CONCLUSIONS

22. We have provided conclusive evidence why these proposals should be rejected.

23. The proposals would destroy the character of the localities.

24. By scrapping planning controls the Government will leave many people powerless to maintain a decent quality of their environment.

25. The likely consequences will be neighbourhood disputes without any form of arbitration. The potential and political consequences of the loss of democratic rights if central Government were to take over local Government responsibilities and enact these proposals would be devastating to local residents.

26. Residents' Associations would be powerless to represent their members in neighbourhood disputes.

27. We believe the objectives set out in the Communities and Local Governments proposals will not be met as significant numbers of single storey extensions which would not require planning permission would be designed by unqualified planners, built by unqualified builders and mostly funded in the black economy; thus denying receipts for the exchequer.

28. If enacted, house extensions could be built which do not meet the agreed the Local Unitary Development Plans, the London Plan or Local and National Development Framework requirements..

29. Please reject these proposals for the detailed compelling reasons stated in our memorandum above.

Monks Orchard Residents' Association

October 2012

Written evidence submitted by Stewart Morris

As a long term, long suffering resident of student HMO ghetto Polygon, Southampton I deplore the concept of unfettered extensions and conservatories there and in similar areas.

Since the rise in Houses in Multiple Occupation use, from 1990 onwards the number of noise nuisance, anti-social behaviour and criminal damage complaints has increased alarmingly, every week and sometimes daily September to Christmas when students take up residence and another bad period in winter/spring.

The Council Noise Nuisance service is no longer adequate to deal with student ghetto complaints.

The prospect of even more people being crammed into HMOs, the extensions bordering on other gardens, is grossly horrific in terms of community neighbourliness and good relationships (if there are any) in HMO dominated streets.

Furthermore the covering of yet more ground in back gardens is bad for the environment, no water drainage into natural earth, or flowers for bees, berries for wild birds, and habitats for hedgehogs, moles, worms, slugs and snails.

Even rats serve their purpose in HMO ghetto areas, the many feral cats in such places need them for food supply.

This city wildlife must be protected as does the privacy of the non HMO citizens in their homes without fear of encroachment or yet more nuisance from student neighbours.

Please do not allow this Planning change to go ahead, or at least make HMOs exempt from it.

September 2012

Written evidence from the London Forum of Amenity and Civic Societies (London Forum)

The London Forum of Amenity and Civic Societies (London Forum) is an umbrella organisation for over 130 resident, conservation, civic and community organisations and other affiliated bodies in Greater London, with an aggregate membership of over 100,000.

The London Forum has commented on the draft NPPF and various consultations on changes to the Use Classes Order. We have played a major part in London Plan and various Mayoral planning and transport documents.

Our response focuses, as requested on the proposals announced by the Government on 6 September.

To inform the questions raised during this session the Committee invites stakeholders to submit limited written evidence addressing any of the following topics.

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

The proposed measures in the Secretary of State's announcement fall into six groups:

- *Intervention in the housing market*—increasing investment in the private rented sector, affordable housing guarantees, tackling empty homes and helping first-time buyers—none of these would enable communities to have a greater say in shaping the development of their area.
- *Bringing forward housing proposals more quickly*—accelerating large housing schemes and getting public sector land back into use—neither of these are locally-driven nor subject to local control.

In London these are likely to be driven through the Mayor's London Plan Opportunity Areas and the Mayor's Development Corporation. The opportunity for local people to influence these is very slight. The Opportunity Area Planning Frameworks (OAPFs) are proposing a very large quantity of development at densities in excess of London Plan policies and include tall buildings that are out of place with their surroundings. The consultation on the OAPFs fail to address these issues. Local people are powerless to influence the proposed scale of development.

- *Reducing delay and red tape*—these proposals threaten to take decision making away from the local level and handing it over to the Planning Inspectorate. The emphasis seems to be on speed of decision making. London Boroughs, considering the complexity of their operating environment have tended to take longer to make decisions than rural areas. A combination of conservation areas and closer proximity to neighbours have meant that the task is more complex.

Whilst we support greater efficiency, the principle of decisions being made at the local level has to be maintained. Recovering jurisdiction over cases purely on the basis of their size is the antithesis of localism. Major developments should be brought through the Local Plan. Effectively "calling in" major schemes to push them through—something done by State Governments in Australia—brings the planning system into disrepute and cuts out local people. It risks the system becoming driven by "cronyism" and lobbying by developers keen to take schemes out of local control.

The proposal to introduce an “appeal” process for S 106 agreements is the negation of localism, asking a planning inspector to arbitrate a revised S 106 agreement. Local planning authorities are capable of negotiating revised agreements and are better placed to strike the right balance.

- *Supporting locally-led, large-scale housing developments*—the use of call-in powers—taking decisions out of the hands of the local planning authority—needs to be retained as a reserve power to be used in the last resort, rather than the first resort, for large housing projects. The sophistry of reserve powers is just that. The risk—as indicated above—is the use of call-in powers not to test the proposals, but to push them through. This risks charges of “favouritism”.
- *Helping homeowners improve their homes*—the three-year “freedom” to build large conservatories will not create additional housing, but is likely to revive proposals that were previously refused due to their likely impact on neighbours. This “freedom” will appeal to those previously refused, but would greatly reduce local control. The potential impact of such large extensions—not just conservatories—is that it could cut out a considerable amount of light for neighbours. It would also reduce the size of gardens by allowing up to half the garden to be taken for an extension without requiring consent.
- Getting empty offices into use.

See below.

- Remove broadband cabinets from planning control.

See below.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

See above.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

See above.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

See above.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

Planning Performance Agreements can already be used. If there are to be greater power to award costs this should apply equally to appellants and third parties should also be able to apply for costs.

How planning authorities should be able to adjust Green Belt land?

The power to adjust Green Belt boundaries already exists through local plans, but this would require local planning authorities to co-operate more fully than at present. However, we do not think that current duty to co-operate is fit for purpose.

How the Government’s review of national and local standards should be carried out and what focus should it have?

The NPPF is largely silent or indeterminate about how to plan for sustainable development and, in particular, how to plan for more sustainable patterns of development. In particular, it gives no guidance on where and how best to develop our towns and cities, particularly housing.

The main sources of guidance are the previous PPSs and PPGs and the various guidance documents. Local planning authorities, rather than reinvent the wheel, should use these documents to inform their local choices for their local plan strategy and policies. In particular, PPG13 contains useful guidance which is largely lost by the sketchy and incoherent coverage in the NPPF.

There is, however, a need for new guidance to illustrate more sustainable patterns of development, whether to guide urban growth into smarter patterns or to promote town centres as the major drivers of the local economy through exploiting the economic benefits of agglomeration, synergy and choice of jobs, goods and services.

What the impact is of the proposal to get empty commercial buildings into use?

This proposal would do nothing of the sort. Empty, derelict and poorly-located commercial buildings are less interesting to the market than those that are occupied, in good condition and well located. The proposal

could, in areas of high housing values, result in the change of use of the more attractive office buildings, reduce the stock of such buildings and undermine the local economy.

This is particularly the case in London, where the price differential would drive out many commercial uses, especially offices. Paragraph 51 of the National Planning Policy Framework already provides a “presumption” in favour of change of use to housing, especially in areas with a shortage of housing, unless there are strong economic reasons for retaining these economic activities. This approach at least provides the local authority with the opportunity to justify retaining the most suitable offices in the most sustainable locations and to retain and promote economic clusters. Changing the Use Classes Order would remove the last vestige of local control or ability to plan for economic development.

This is an ill-conceived, top-down imposed national change in legislation regardless of its appropriateness locally, with the suggestion that local authorities can “opt out” by using Article 4 Directions. The proposal does not understand or has wilfully misunderstood both the procedural and financial implications of using Article 4 Directions.

The proposal removes entirely the possibility of planning for economic development by ensuring a supply of the right premises in the right place, by enabling the market free-rein to drive out economic uses which are required by the local economy and should be retained in town centres or close to public transport interchanges—in line with the NPPF.

Whether the Government’s financial incentives to increase investment in private rented housing provide is the most effective solution to delivering housing in this sector?

No comment.

Whether the Government’s proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

No comment.

What is the feasibility and what will be the impacts of the Government’s plans to accelerate the delivery of major housing sites?

No comment.

How feasible are the Government’s measures to release surplus public sector land to developers and how might they influence the supply of housing?

No comment.

What are the implications for local authorities and for the planning system of the Government’s proposal to make it easier for communications providers to install equipment to provide broadband services?

The proposals by the Government to remove all controls, except on Sites of Special Scientific Interest, would be very damaging to our townscape generally and particularly in conservation areas. Local planning authorities currently assess broadband cabinets on the basis of their impact on amenity and their siting. Problems have arisen where the broadband service provider has been unwilling to establish basic ground rules for the roll-out of their cabinets, as they have not adapted their strategy to fit local conditions. Some operators, such as BT, have been totally intransigent.

Previous controls for telecoms equipment, bus shelters and advertisements have always recognised “special areas” such as National Parks and conservation areas where a different approach is needed.

BOTTOM LINE

Many of the proposed planning changes are unnecessary and potentially very damaging to local economies (eg the commercial to housing change of use—as well as the current hotels to housing proposal) or the local environment (extensions and broadband cabinets).

These are top-down imposed changes and the antithesis of localism—they remove the opportunity for the adoption of locally-specific policies which shape the local environment and maintain, support and promote the local economy. The suggestion that local authorities can “opt out” of the centrally-imposed policy changes through the use of Article 4 Directions is deluded—it takes a year to establish such safeguards and could involve a huge amount of compensation.

The NPPF (particularly para 51) has already made it difficult to retain key economic uses—but at least it enables local planning authorities to justify their policy. An across-the-board legislative change negates any possibility of planning policy being tailored to local circumstances. There is currently nothing stopping local authorities adopting policies to encourage conversions of offices or hotels.

Michael Bach

Chairman: Planning and Transport Committee
London Forum of Amenity and Civic Societies

September 2012

Further written evidence from the London Forum of Amenity and Civic Societies

Further to the London Forum's submission yesterday, please treat this as a further submission.

This article demonstrates that the Secretary of State knows that Article 4 Directions take a long time to come into effect and until the 12 months' notice is up, compensation is payable for the loss of permitted development rights.

The suggestion that local planning authorities could use Article 4 Directions to overcome any adverse effects of the proposed changes to the Use Classes Order, such as enabling offices or hotels to turn into housing without requiring planning consent, are clearly disingenuous. Local authorities would be totally unable to retain offices or hotels in the face of compensation claims. This could have a major impact on England's town centres—the main drivers of local economies—where offices and hotels could be displaced by housing in areas where housing land values considerably exceed those for offices and hotels.

September 2012

Written evidence from the Tower Gardens Neighbourhood Watch Area Residents Association

EXECUTIVE SUMMARY

1. This Residents' Association notes that the Committee is to take evidence from Ministers for Planning and Housing on 15 October 2012. It welcomes the opportunity to comment and notes that the Committee is seeking views on the following:

- (a) Impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions.
- (b) How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area.

2. In respect of (a) it is argued that Ministers have failed to recognise that the suggested relaxation of planning restrictions would not just apply to householders and their families. In our City they would be exploited by unscrupulous landlords seizing opportunity to extend existing houses in multiple occupation (HMO). There is no doubt that the proposed relaxation would also lead to the acquisition of further properties for conversion to HMO. In towns and cities such as ours this would act against the interests and social cohesion of the settled populations.

3. In respect of (b) it is argued below that as the proposal runs counter to our City Council's new arrangements for approval and policing of HMO our communities would have a lessened not greater say about developments in our areas.

THE CASE

4. Press comment and reports have said that revising some current planning restrictions and procedures will benefit householders and their families.

5. Seemingly Ministers have failed to realise that changes to the rules would provide opportunities for landlords to extend properties currently acting as HMO. Similarly landlords would make steps to acquire properties and to create further HMO.

6. This is especially concerning to us as Southampton has seen mostly unregulated expansion of HMO in recent years.

7. The City Council recognises that the ratio of HMO to family homes is excessive and in a recent report points to concerns over parking, anti-social behaviour, neglect of gardens and fabric of properties together with overload of service and infrastructure.

8. Earlier this year the City Council after widespread consultation approved procedures for tighter regulation of HMO, including planning controls and supervision. We welcome and support these new arrangements which have been admitted to the Local Development Framework.

9. We assert that amending current planning rules regarding house extensions will not contribute to our having a greater say about development, far from it—they would run counter to this City's new approval and supervision arrangements for HMO which were after all devised in the light of the Government's agenda for localism.

RECOMMENDATION

10. The Association invites the Committee to advise Ministers to withdraw their proposal to ease current rules on permitted development for house extensions.

September 2012

Written evidence from the North Southampton Community Forum

The North Southampton Community Forum is an umbrella group made up of nineteen (19) separate Residents Associations and Neighbourhood Groups across the northern part of the city, representing a population of some 75,000 residents.

The area is served by three different Members of Parliament.

Within this area lies the main University of Southampton with a student population of some 30,000, most of whom study and live in this part of the city, which creates its own dynamics, particularly with Houses of Multiple Occupation.

These proposals have caused considerable alarm and dismay and seem entirely contrary to the Governments Localism policy, with little thought being given to the adverse impact on immediate neighbours where houses are close together and the impact of any development would be clearly visible; an environment not experienced by the proposer of this policy perhaps?

The issues at stake are not restricted to the immediate impact of unregulated extensions upon ones neighbours, but include the wider implication of a persistent erosion of the character of the area by the relentless expansion in particular of Houses in Multiple Occupation (HMOs—C4 or sui generis Use) to serve the local student demand.

This erosion would also be greatly exacerbated by selfish, inconsiderate or aggressive neighbours who would be able to create extensions of the equivalent size of two bedrooms, without any thought of the consequences upon their fellow residents such as loss of light, overlooking, character and amenity and would in all probability encourage over-intensive developments. It would also presumably allow the “shoeing in” of caravans or Portacabins of an equivalent size, wholly inappropriate and unsightly for most residential areas.

Social and environmental problems which this would facilitate, are felt very keenly by the local community and this proposal would have the potential to create an untold number. The problem of overdevelopment, is regularly raised by objectors to planning applications, which include Local Ward Councillors and Local Residents Groups in their attempt to maintain a balanced and sustainable community, which this proposal only serves to undermine.

I would also like to take this opportunity to raise the issues of the inadequacies of Enforcement and the inability to issue Stop Orders on Domestic development, which these proposals would serve to make even worse. At a meeting with the DCLG in May this year as part of a wider delegation, convened at the invitation of the previous Localism Minister Bob Neil, we were told *Ministers were considering Stop Notices for dwellings* and that *full cognisance would be given to the problems of Enforcement*. The repeated mantra that *LAs already have adequate powers to deal with beaches of Planning*, only further illustrates the gap between the theory believed by Politicians and Civil Servants and the reality of actual experience in the community. Planning Contravention Notices have no compulsion, Enforcement procedures are after the event, time consuming, expensive and only discretionary and remedy by a High Court Injunction is prohibitively expensive and has an uncertain outcome.

To allow, if not actually facilitate, an “illegal” development by being unable to do anything about it until after the event is surely perverse? The cost of having to go through a time consuming, tortuous legal process when it could be expeditiously desalt with in the first place would in itself save the Govt millions. It must also be against the principles of equity and natural justice which causes intense anger and frustration in those who do respect and abide by the regulations.

PLANNING AND HOUSING MINISTER

Answers from the North Southampton Community Forum:

How the package of proposed measures will contribute to the Government’s ambition to provide communities with a greater say about development in their area?

1.1 None of the several planning changes proposed relate to “the Government’s ambition to provide communities with a greater say about development in their area”. In the view of NSCF members the effect of each of them is in direct conflict with the Localism agenda.

1.2 The proposals to grant more permitted development rights to individuals to build even greater extensions to their dwellings without any opportunity for the community—neighbours, local amenity organisations, local councillors, officers in the Local Planning Authority—to have any influence on development is bound to lead

to problems. These developments may result in disturbing and even ruining relationships in neighbourhoods and damaging the environment. A particular concern is the possibility that landlords of Houses of Multiple Occupancy (HMO) would be able to expand their properties without any control even in areas where there are social problems with Article 4 Directions aimed at managing HMO.

1.3 Companies providing broadband facilities would be able to develop cabling and associated cabins anywhere (except in areas of Special Scientific Interest) so that both residential and rural areas, which have been carefully managed in the past to conserve their attraction, could be seriously damaged. The omission of Conservation Areas, Listed Buildings, World Heritage Sites, and Areas of Outstanding Natural Beauty from the list of exceptions is extra-ordinary. However, just as important is that at a stroke the measure could ruin the effect of many years of careful protection of local green spaces, much valued by residents. There also appears to be no provision to avoid siting cabling or cabins where they will form a hazard to pedestrians (particularly the visually-handicapped), or produce unsightly results.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

2.1 The removal of conditions on planning consents for dwellings that oblige a significant proportion of them to be “affordable dwellings” undermines the planning policies that aim to ensure mixed developments.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

3.1 NSCF members’ concerns are with Section 106 agreements. These include off-site proposals for managing traffic and drainage and social developments, which ensure the provision of facilities such as play areas, community halls, etc., which enhance community cohesion. To lose these elements in agreements would undermine the policies of improving community facilities and sustainable development.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

4.1 As indicated above, friction between neighbours will occur, and developments could damage communities. The building of more extensions to Houses of Multiple Occupancy can hardly be described as “home improvements” especially in areas in many university towns and cities where there are already serious problems with too great a density of such premises.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

5.1 The proposal for Planning Inspectors to be able to award costs against external bodies involved in participating in the planning process if their advice is poorly supported may help to ensure that refusals of planning applications will be more fully substantiated by those external bodies.

How planning authorities should be able to adjust Green Belt land?

6.1 Members understand this proposal to be able to swap land is already available but rarely used, possibly because the swaps are usually considered not to be equitable. It should not be acceptable, for example, for developers to offer brownfield sites or poor quality green field sites in exchange for prime Green Belt land.

How the Government’s review of national and local standards should be carried out and what focus should it have?

7.1 No comment.

What the impact is of the proposal to get empty commercial buildings into use?

8.1 NSCF members offer their support for appropriate changes of use for empty commercial buildings, but the siting of many does not permit a change of use to residential dwellings because of the absence of necessary facilities such as schools, shops and health care. When these facilities are available—as in cities, towns and villages—such changes of use may be welcomed. In all situations, however, appropriate management by local planning authorities with involvement of the community is essential to ensure sustainable development.

Whether the Government’s financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

9.1 That the Government has had to consider allowing private developments to lower or delete agreed percentages of “affordable dwellings” highlights the problems faced by private developers. It must be concluded that private developers are by their very nature unable to provide “social housing”, so the burden must fall on local and central Government. It is essential for a modern society to ensure adequate accommodation for those living on lower incomes, who often provide the basic services that support the rest of society. If private

developers cannot afford to do so, then society through its elected bodies—local and central Government—must do so.

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

10.1 The current financial mess now crippling the world economies appears to have started because unsustainable financial burdens were placed on those unable to afford them. The concept that everyone should own their own dwelling is not feasible and never has been, so rented dwellings are essential both for those at the start of careers likely to lead to rising incomes and for those whose income will remain low.

10.2 The most important factor is that nowadays people's jobs and hence income can no longer be based on the assumption that they will stay with one employer for their working lives; instead many people experience periods of work interspersed with periods of unemployment, and even in employment earnings can drop on a change of job rather than rise. Thinking about mortgages still seems to assume continuous employment and rising earnings.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

11.1 By all accounts the major reason for developers deferring the implementation of major housing sites is not a consequence of delays in the planning process, but due to the lack of finance both by developers and more seriously by those wishing to purchase homes. Even developers with adequate land banks with full planning consent will not go ahead if there is no market. Possible ways of assisting house-builders to obtain suitable financing for new developments that already have the benefit of planning consent should be examined.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

12.1 We do not see any impediment to releasing surplus public sector land for development. Flooding the market with such land may reduce the cost of land, but it is not likely to encourage developers to implement existing proposals for development on land, which had been bought at a much higher price.

12.2 Possible ways of assisting house-builders to obtain suitable financing for new developments with existing valid planning consents should be examined.

September 2012

Written evidence from the Loughton Residents Association

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

Of the several planning changes proposed, none seem to meet the Government's ambition to provide communities with a "greater say about development in their area"; the effect of each of them seems in direct conflict with the Localism agenda.

The proposals to grant more permitted development rights to individuals to build even greater extensions to their dwellings without any opportunity for the community—neighbours, local amenity organisations, local councillors, officers in the Local Planning Authority—to have any influence of development is bound to lead to social problems. The changes could result in disturbing and even ruining relationships in neighbourhoods and damaging the environment.

We find it outrageous that companies providing broadband facilities would be able to develop cabling and associated cabins anywhere (with few exceptions).

Here in Loughton we are fortunate to have a mixture of housing and green spaces, which local residents take great pride in and try to defend against encroachments, such as street cabinets.

Planning rules are intended to perform the often-difficult task of balancing conflicting interests. Under these proposals this balancing mechanism would be removed, apparently leaving providers free to site cabinets without concern for their visual impact or for their effect in reducing the space available on pavements, particularly at busy points. Similar points apply to overhead lines.

Proposals to extend the right to extend houses to up to 8 metres without planning permission will do nothing for community cohesion. These kinds of un-neighbourly additions will build resentment between neighbours from valid complaints about loss of light and outlook, particularly where the lie of the land means the new extension overlooks the neighbour's property. Again, the change would remove the protection of the planning rules, which are intended to perform the often-difficult task of balancing conflicting interests.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

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What the impact is of the proposal to get empty commercial buildings into use?

The impact of loosening controls on the conversion of empty buildings is likely to be unsuitable developments, situated without regard to amenities such as public transport or local shopping facilities. Again, the change would remove the protection of the planning rules, which are intended to perform the often-difficult task of balancing conflicting interests, and ensuring that short-term gain for the developer is not allowed to outweigh the suitability of the development, and the impact on the local community.

The change would also conflict with the requirement of the NPPF for councils to safeguard local employment land (and to provide a supply for future uses).

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

The most important factor is that people's jobs, and hence income, can no longer be based on the assumption that they will stay with one employer for their working lives; instead, many people experience periods of work interspersed with periods of unemployment, and even in employment earnings can drop on a change of job rather than rise. Thinking about mortgages still seems to assume continuous employment and rising earnings.

Care therefore needs to be exercised to make sure that we do not repeat recent experience, of great personal and financial difficulties for those families who bought properties but could not sustain the mortgage payments, and who would have been better advised to stay in the rented sector.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

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Care therefore needs to be exercised to make sure that we do not repeat recent experience, of great personal and financial difficulties for those families who bought properties but could not sustain the mortgage payments, and who would have been better advised to stay in the rented sector:

- The Committee is also interested to hear about the implications for local authorities and for the planning system of the Government's proposal to make it easier for communications providers to install equipment to provide broadband services. See http://www.culture.gov.uk/news/media_releases/9331.aspx

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Planning rules are intended to perform the often-difficult task of balancing conflicting interests. Under these proposals this balancing mechanism would be removed, apparently leaving providers free to site cabinets without concern for their visual impact or for their effect in reducing the space available on pavements, particularly at busy points. Similar points apply to overhead lines.

Written evidence from the National Housing Federation

The National Housing Federation is the voice of affordable housing in England. We believe that everyone should have the home they need at a price they can afford. That's why we represent the work of housing associations and campaign for better housing. Our members provide two and a half million homes for more than five million people. Each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

The Federation largely welcomed the announcements made on 6 September 2012 as part of the Government's housing and growth package. With the announcement, the Government explicitly recognised the central role housing can play in generating economic growth.

The stimulus should be seen as a major step forward, with the potential to transform the housing market. The measures can have an important role in providing homes for millions of families on waiting lists, creating jobs and giving the economy a quick shot in the arm. It is important that these measures are combined with a ready supply of land, so that housing associations and others can really get moving to build more homes at scale.

The Federation would like to submit evidence on the following specific questions raised by the Committee:

What the economic and wider impacts—such as the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revision to section 106 (S106) agreements?

The Federation believes the announcements on S106 build on, rather than break with, the Government's recent approach towards viability: underscoring that agreements must not prohibit development but seeing their continued importance in making development acceptable to the local community. In this vein, the explicit recognition of the importance of S106 as a tool in providing affordable housing is timely and welcome. Even through the downturn this mechanism has provided over 50% of the affordable homes delivered,¹² providing vital access to land and developer contributions in a time of restricted public investment.

While some renegotiation of S106 agreements could lead to the speedier development of both affordable and market housing, there are often larger issues impeding development. In many cases, constraints and costs of development finance and mortgage availability, as well as sales risk, are more fundamental stumbling blocks. It is critical that there is a clear and transparent process for examining the viability of schemes to establish whether it is indeed S106 contributions that are impeding viability.

Where the number of affordable homes is reduced to make a site viable, we would recommend that the Government reduces the time in which the revised agreement can be used. Development under these agreements should start within 12 months rather than the three years proposed. This would help ensure economic benefits are felt much quicker and would stop developers unduly profiting from exemptions if the market improves. To further limit this, we would look for mechanisms to ensure that, if assumptions about viability prove pessimistic, that any waived or abated planning obligations are addressed.

In addition, S106 contributions continue to cover a wide range of obligations above and beyond affordable housing. To allow a proper consideration of scheme viability, the legislation will need to ensure that the appeal/renegotiation is broader than just affordable housing.

The Federation believes that if the above steps are taken the announced measures can have their desired impact, without adversely affecting the delivery of affordable housing.

Ensuring that appeals are concluded more quickly could reduce the number of communities left in long-term planning limbo by a drawn-out appeals process. It will also give developers the certainty they need to get on with building the homes we desperately need. However, this should not be done at the expense of providing both local authorities and communities the ability to reject inappropriate development. As with renegotiation, appeals should be conducted in an open book, robust and transparent fashion.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

We know that many local authorities are working hard in the face of continual planning reforms to make speedy and sound planning decisions. As recent Local Government Association (LGA) research suggests,¹³ it is often not the speed of consent but the lack of development finance and mortgage availability which hampers development. That said, we support moves to further incentivise local authorities to be good development partners and work with developers to ensure swift delivery of urgently needed homes.

In order to safeguard the impact on the delivery of affordable homes, local authorities and the Planning Inspectorate should consider planning obligations with regard to the points outlined above and ensure all assessments are conducted in an open book, robust and transparent fashion.

¹² Analysis for the Federation by the Cambridge Centre of Housing and Planning Research on HSSA statistics: <http://data.gov.uk/dataset/england-hssa-housing-strategy-statistical-appendix>

¹³ http://www.local.gov.uk/web/guest/briefings-and-responses/-/journal_content/56/10171/3706126/ARTICLE-TEMPLATE

How the Government's review of national and local standards should be carried out and what focus should it have?

We support the Government's decision to take forward the work of the Harman Review, to rationalise existing national and "local" standards. We believe that this work has the potential to cut red tape and free up home builders, for all tenures, to deliver high quality and sustainable homes in a timely fashion. In particular we would support moves to create a level playing field for all house builders. We look forward to working with Government on this important piece of work.

What the impact is of the proposal to get empty commercial buildings back into use?

We would echo the comments we and others made when proposals on getting empty offices back into use were consulted on earlier in the year. We agree that encouraging local authorities to be more flexible over change of use would help deliver some of the homes we need. We are, however, concerned that providing permitted development rights for all these types of conversions would miss the opportunity to properly plan to meet need across all housing tenures. We would support an approach that gave permitted development rights up to a gross external area without planning obligations, or permitted development rights subject to a standard condition to include a certain percentage of affordable housing.

Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in the sector?

The number of people living in a rented home has doubled in the past ten years and now one in four people rent their home from a private landlord. This growth has been fuelled by buy to let mortgages and more people buying a home to rent out. Most people living in rented homes do so because they cannot afford to buy a home and do not qualify for an affordable rented home.

With rents rising many families struggle to pay their rent, live in poor quality homes and have little security—meaning they could be evicted at short notice. We know that if nothing changes demand for homes will continue to grow and rents will continue to rise.

One way to help address these problems for families who rent is to attract new investors and landlords who can build new high quality homes that are managed to a high standard.

The Federation therefore welcomed measures in the housing and planning package as having the potential to bring forward the delivery of new homes for market rent.

We supported the provision of a debt guarantee for organisations who commit to delivering new-build rented housing. Housing associations already access debt finance at highly competitive rates, but we hope that the guarantee will give further confidence to investors and further reduce the cost of this funding. A guarantee can reduce development risk, boost returns and attract investors once the development is complete. It recognises that most institutional investors don't want to assume development risk, preferring to take on completed schemes.

If the guarantee mechanism is kept as simple as possible and free from unnecessary conditions, it will have greater potential to boost borrowing capacity, allow housing associations to seek additional funding and add to existing development programmes. By providing the guarantee to cover long-term debt, the Government will match the typical borrowing pattern of the sector.

The creation of a taskforce also has the potential to be positive and we will work to ensure that housing associations are represented. The Montague Review made special mention of the potential of housing associations to become key players in the development of market rented housing. Involving housing associations in this taskforce would allow it to benefit from their expertise as property managers, as well as the existing confidence investors already have in the sector.

Housing associations already offer thousands of homes for market rent and have the appetite to do more. However, in the midst of a recession and a rapidly changing operational environment, uncertainty and risk management constrain the extent to which housing associations can build new homes for market rent. Government therefore needs to consider how it can create greater certainty for providers. Extending the rent formula ($rpi+0.5\%$) for social rents until 2020 would give housing associations much greater revenue certainty allowing them to commit to future developments.

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

Lack of mortgage availability is one of the key factors in restricting new supply. Any measure intended to help first-time buyers onto the housing ladder at a time where house prices are out of reach of the majority and mortgage availability remains constrained is to be welcomed. We are supportive of the Funding for Lending and NewBuy mortgage indemnity guarantee scheme, which if successful have the potential to unlock mortgages for thousands of first time buyers.

It is also important that there are options for people on low-to-middle incomes that are priced out of owning their own home. The extension of FirstBuy, which has already proved popular with purchasers, is a positive

step. FirstBuy and shared ownership continues to experience high demand with increasing need for intermediate housing options.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

The Federation supports the decision to speed up the release of public sector land. It has enormous potential to bring forward new supply quickly, create jobs and boost the economy. While the Government's long-stated ambition to release public land with enough capacity to build up to 100,000 new homes by 2015 is admirable, it has delivered few homes on the ground.

We have argued for some time that there should be a targeted release of small, non-strategic parcels of previously developed public land. These sites, which can accommodate up to 100 homes, can be developed at a much quicker rate than large, complex schemes. Unlike larger sites, they do not require significant site assembly or infrastructure development and do not tend to experience lengthy planning processes. We have previously identified growth areas which could support this approach. Accelerating these sites would help deliver the growth and new homes in the next year rather than the next Parliament. We believe these sites could be fast-tracked through an innovative, open competition.

September 2012

Written evidence from the London Borough of Redbridge

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

Legislation to allow applications to be decided by the Planning Inspectorate in cases of poor performance in the speed or quality of the decision at a local level and to increase the "call in" powers for the Secretary of State will decrease the say that local communities will have about development in their area. Democratically elected local councils and the people they serve are the best judges of what development is appropriate in an area

While the proposal to increase permitted development rights for householders and businesses for a temporary three year period outside of designated areas could lead to more power for individuals to extend their properties at the local level; overall it would lead to less power for local people to object to un-neighbourly extensions. Sometimes these can be extremely controversial and cause real problems for the neighbour. Local Councillors get drawn in to these disputes and have to attempt to find a compromise by negotiating changes to the proposed scheme. Householders affected by such extensions are not going to take kindly when they are told there is nothing the Council can do to protect their amenity.

The proposal to introduce an "appeal" process for Section 106 agreements will take local power away. Local Planning Authorities are capable of negotiating revised agreements and are better placed to strike the right balance. The London Borough of Redbridge has already renegotiated some Section 106 agreements for contributions towards affordable housing and community infrastructure for existing schemes with planning permission where warranted on viability grounds and where the development would still be acceptable in planning terms.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

This could mean less affordable housing being delivered through Section 106 agreements, particularly as part of mixed market and affordable housing schemes. It is also evident that there are far more significant economic issues affecting development delivery than Section 106, like the willingness of banks to lend developers finance and the ability of buyers to access mortgages. In Redbridge there are 1,052 homes with planning permission that have not been built—very few of which have stalled due to Section 106 agreements alone.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

There would be less local control over the negotiation of Section 106 agreements and greater resource implications for the Planning Inspectorate. This may increase delays in the planning system.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

The proposed consultation on increasing permitted development rights for householders and businesses for a temporary three year period could potentially cause real problems for neighbouring properties and remove any power the Council has to protect residents from reduced amenity that can result from inappropriate extensions. This could lead to less community cohesion and an increase in neighbour conflict. There could be

an increase in Houses in Multiple Occupations and unlawful conversions if householders or landlords seek to increase the number of people their properties can accommodate. This can lead to issues with parking, refuse collection and anti social behaviour and an associated increase in overcrowding and substandard accommodation. Environmentally there may be an increase in localised surface water flooding and drainage problems due to large extensions on back gardens and a loss of habitats for local wildlife.

Furthermore, there may be negative implications for the Council's resources; including reduced fee income from Planning Applications and indirectly Building Control Applications and an increase in Planning Enforcement complaints.

Introducing an Article 4 Direction to restrict permitted development rights can be complicated and resource intensive. Furthermore, planning applications which have to be submitted due to an Article 4 Direction are currently exempt from planning application fees. Therefore, allowing Local Authorities to opt out in this way is not straightforward or cost/resource effective.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

There will be increased scrutiny of the speed and quality of the Council's planning decisions. This will have negative resource implications for Planning Departments, made worse by spending cuts necessary to balance the Council's Budget. The NPPF has only been recently implemented and there is less guidance at the national level meaning greater uncertainty for Local Authorities regarding making planning decisions before case law has been established. In the financial year 2011–12 the London Borough of Redbridge processed 80% of applications within 13 weeks.

Planning Performance Agreements can already be used by Local Planning Authorities.

How planning authorities should be able to adjust Green Belt land?

Planning Authorities should be able to adjust Green Belt land through the Local Plan process as they can currently. This gives stakeholders and local communities the opportunity to comment on changes to Green Belt land and the proposals are tested independently at an Examination in Public. Prioritising these Examinations would reinforce the Government's commitment to allow Local Planning Authorities to tailor the extent of the Green Belt to reflect local circumstances.

How the Government's review of national and local standards should be carried out and what focus should it have?

In London the Mayor's London Plan contains many planning standards for London Boroughs. This should form the starting point for the review of planning standards in these Boroughs.

The way standards relate to Building Regulations could be investigated, for example the Code for Sustainable Homes.

Clarification of the some aspects of the National Planning Policy Framework could be given, as previous government guidance included national standards.

What the impact is of the proposal to get empty commercial buildings into use?

The Council's existing planning policies are not preventing the conversion of vacant or under-utilised office buildings to residential, but they do allow the Council to control the quality of the housing thus provided. There is already a strong statement of presumption in favour of such change of use in the National Planning Policy Framework. This already gives developers confidence to bring schemes forward, while ensuring that the quality of the housing provided continued to meet acceptable standards as set out in the Local Plan.

By making the change of use from commercial to residential purposes permitted development, Local Planning Authorities would lose the ability to ensure the housing delivered was of an acceptable standard and contributed positively to the local environment. The Council believes that the danger of substandard housing development arising from the consultation proposals greatly outweighs the potential boost that might be given to housing supply. In any case the increase in housing supply may not be substantial given vacant buildings are often not cost effective to bring back into use.

Whether the Government's financial incentives to increase investment in private rented housing provide is the most effective solution to delivering housing in this sector?

No comment.

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

No comment, but the proposals are supported.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

No comment.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

No comment, although Redbridge is seeking to deliver opportunities through the review of the Local Plan.

What are the implications for local authorities and for the planning system of the Government's proposal to make it easier for communications providers to install equipment to provide broadband services?

This proposal could be very damaging to the townscape generally and particularly in conservation areas. Local Planning Authorities currently assess broadband cabinets on the basis of their impact on amenity and their siting. It is clear in conservation areas stricter controls over their position are required to maintain the character of these areas.

September 2012

Written evidence from the Royal Institute of British Architects (RIBA)

INTRODUCTION

The Royal Institute of British Architects (RIBA) champions better buildings, communities and the environment through architecture and our members. It has been promoting architecture and architects since being awarded its Royal Charter in 1837. The 40,000-strong professional institute is committed to serving the public interest through good design, and represents 85% of registered architects in the UK as well as a significant number of international members.

RIBA RESPONSE

Ahead of the Committee's session on planning and housing to take place on 15 October, RIBA would like to focus its response on the following questions:

- (1) What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?
- (2) How the Government's review of national and local standards should be carried out and what focus should it have?
- (3) Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

Proposed changes to permitted development rights for extensions

The RIBA is supportive of the measures contained within the Localism Act, to give communities a greater say in the planning system. We are therefore concerned at the potential for the proposed relaxation of permitted development rights for extensions to deny communities the rights afforded to them through the planning process. Furthermore, we believe the proposals will have unintended consequences of producing inappropriate, unsustainable extensions that will impact on the quality of the built environment.

Quality of development

The planning system plays a critical role in assessing and maintaining the quality of new extensions and developments. We appreciate the need to speed up the planning process and to explore ways in which to de-clog the system. However, we believe the proposals outlined by the Government to extend permitted development rights for extensions to homes of 8 m and 100 sqm for businesses could cause considerable harm to the quality of the built environment. By removing the checks and balances needed to avoid inappropriate development, this could also have an impact on surrounding areas.

We also believe that the government's new policy is rushed and if implemented could pave the way for poor design decisions which could damage our built environment. Furthermore, whilst there may be short term economic benefits and the desire to free up the time of planning officers is sensible, the Government should also consider the potential private cost to future home owners and businesses of poorly thought through and badly designed extensions.

A recent YouGov poll commissioned by the RIBA in September 2012 highlighted public concern over the proposals and the perceived negative impact they would, if introduced, have on the quality of their neighbourhoods. Respondents believed that local authorities had the most responsibility for overall quality of design in their local built environment, with 54% said that the Government's proposals on extensions would result in the quality of their neighbourhoods getting worse (as opposed 7% that thought it would get better).

Loss of influence

Alongside our concern over the proposals leading to poorly designed extensions, we believe that they could also lead to greater tensions within and between communities regarding extensions to existing buildings.

The planning system provides an important forum through which the views of local communities on proposed new extensions can be heard and taken into account when decisions are made. Whilst we believe it important to guard against NIMBYism, we are concerned that—as they stand—the link between decision makers and communities regarding extensions affecting their local area will be broken. The RIBA/YouGov poll confirmed those fears, with 51% of respondents being worried (31%) or very worried (21%) that they may lose influence over extensions in their area. This suggests that the Government's proposals may be counter-productive, creating tensions over small scale extensions and in our view, reinforcing negative perceptions of new development amongst communities at a time when high quality new development is so essential.

The desire of the Government—through localism—to reduce some of the tensions inherent within the planning process and involve communities in planning in a more positive way are to be applauded. We would therefore urge the Government to re-think this proposal, in order to ensure it does not undermine its agenda on localism by introducing poorly thought through policies designed to kickstart growth at any cost.

Government's review of national and local standards

The RIBA warmly welcomes this review of national and local standards as an essential activity to provide more certainty for developers, to simplify the system for designers and provide greater transparency for consumers. Furthermore, we believe that the current differentiation in terms of standards applied to different tenures need to be harmonised, in order to ensure a level playing field both for private developers, registered providers and other public bodies involved in delivering new housing.

The RIBA believes that housing standards are essential in maintaining the quality of new build housing. In our view and in keeping with the research we have undertaken, too many of the new homes built in England are of an insufficient design quality and do not meet the needs of households. The Review announced by Government must therefore avoid the removal of standards which promote good practice in housing design. We believe that the Review should be used as an opportunity for Government to re-affirm its commitment to good quality housing design (as set out in the National Planning Policy Framework) and to protect the public as well as industry interests, and to simplify conflicting and outdated standards.

Standards review process

We would urge the Government to support the upcoming review with a cost-benefit analysis to ensure that housing standards ensure long term social, environmental and economic benefits rather than short term cost-cutting to speed up the development process. There is a wealth of evidence demonstrating that consumers are not catered for in the housing market, and building poor quality homes that are not fit for contemporary households will create significant social and economic costs in the near future.

We agree with the thematic treatment of standards and the conclusions of Sir John Harman's review, which we supported through our representation on the Local Housing Standards Working Group. However, it is essential also that the next stage of the review includes space, access to daylight and noise insulation, as these are the key public concerns about homes. This is made clear by all the evidence:

- *Thousands of homes in England fail to meet basic space standards.* Lack of space in the home impacts on the educational attainments of children and their future economic potential; on public health costs; and on family relationships and wellbeing. The average three bedroom home (in a sample of over 3,000 homes in England) was missing the equivalent of a bedroom on floor area (8 sqm) compared to the space standards set in the London Plan.¹⁴
- *Our homes have a major impact on our wellbeing.* Behavioural and market research commissioned by the RIBA in 2012 reveal that private space within the home made an important contribution to participants' wellbeing and was important to participants of all ages. This was especially marked in households where a number of different generations lived together, and where a member of the household was sick or convalescing. The reduction of noise both within and between households was essential for a sense of privacy.
- *Consumers are most concerned about the space inside new homes—and also the private outside space they offer, and their lack of character.*¹⁵

¹⁴ For further information see *The Case for Space*, RIBA 2011.1 <http://www.architecture.com/Files/RIBAHoldings/PolicyAndInternationalRelations/HomeWise/CaseforSpace.pdf>

¹⁵ For further information see RIBA's YouGov poll reported in *The Case for Space*, RIBA 2011. <http://www.architecture.com/Files/RIBAHoldings/PolicyAndInternationalRelations/HomeWise/CaseforSpace.pdf>

- *Public polling reveals the most important things to people are natural light; space inside the home; and privacy (including not being overlooked by neighbouring windows, and noise insulation). This evidence comes from an online poll conducted for the RIBA's Future Homes Commission—it has not yet been published but will be publicly available in 2012.*¹⁶
- *Standards are especially important in an era in which an undersupplied market means quality suffers and people lack the information to make informed decisions when choosing a home. Market research focus groups conducted in 2012 reveal that most participants found it difficult to quantify and compare space in homes, but tended not to be aware of these difficulties—especially if they were first-time buyers. The research found that the “feel” of a home, and the importance of getting on the housing ladder were foremost for many participants. As a result, they tended to give less consideration to their practical daily needs. Some participants stated that they were content to trade off practical concerns in return for a home which “felt” right, or in order to be a homeowner rather than a tenant.*¹⁷

Government's financial incentives to increase investment in private rented housing

Whilst we welcome the Government's investment in housing, we have two concerns which should be addressed to ensure the effectiveness of the investment.

Firstly, to fully benefit from this investment the Government should consider future investors who could buy the rental homes at a later date, for higher financial returns. Evidence reviewed by the Future Homes Commission (an independent Commission set up by the RIBA) suggests there are international institutional investors wanting to invest in rental and shared ownership homes in good quality communities that have proved their economic benefits. These types of communities do not happen over night but need to be planned and developed with growth and quality at their core. The Government could hold discussions with potential investors to make sure their own investments do all they can to hit the mark for future investors, to maximise the Government's own returns.

Secondly, evidence shows that mixed communities create the best opportunities for residents and are therefore more effective for long term positive social outcomes and lower public costs. Investing in one type of tenure only could be harmful to society, and the Government should think more about how private rented housing can be integrated into a mixed tenure community. This also means that whilst a relaxation of S 106 requirements may have benefits in some locations, it will entirely depend on the makeup of the local community and market and the need for affordable homes should not be ignored altogether.

APPENDIX

RIBA/You Gov poll on proposed extensions policy, September 2012

Which ONE, if any, of the following do you think is MOST responsible for the overall quality of the design of buildings and houses in your neighbourhood?

- The Local Authority 30%.
- Central Government 1%.
- Local businesses 1%.
- The companies that build the buildings/houses 22%.
- The building owners 4%.
- The architects who design the buildings/houses 26%.
- None of these 2%.
- Don't know 14%.

If planning rules are relaxed in this way, do you think the quality of the design of buildings and houses in your neighbourhood would get better, worse or remain the same?

- Get better 7%.
- Remain the same 25%.
- Get worse 54%.
- Don't know 14%.

How worried, if at all, would you be about losing your influence over new extensions in your neighbourhood under a relaxed planning system?

- Very worried 20%.

¹⁶ ARIBA survey for the Future Homes Commission revealed that high levels of natural light (63%), space and the size of rooms (51%) and privacy/noise levels (49%) were ranked as the highest importance to respondents when choosing a home.

¹⁷ For further information see *The Way We Live Now: What people need and expect from their homes*, Ipsos MORI and RIBA, 2012. <http://www.architecture.com/Files/RIBAHoldings/PolicyAndInternationalRelations/HomeWise/TheWayWeLiveNowRIBAIpsosMORIMay2012.pdf>

- Fairly worried 31%.
- Not very worried 30%.
- Not at all worried 10%.
- Don't know 9%.

September 2012

Written evidence from the Planning Officers Society

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

The Society is concerned over the tensions between elements of the announcements in the Planning reform package and the localism agenda. Elements of this package will inevitably lead to communities having less say in what happens in their area and increasing top down direction.

Legislation to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its decisions

Underpinning this is a perception that planning delays are a significant reason why development does not come forward; we have not seen evidence to support this assumption. There is no evidence to suggest that this intervention will result in decisions will be faster and it is unclear how should the Inspectorate refuse an application where the right of appeal would rest. It may also increase the number of judicial reviews from third parties as local communities will feel excluded from the democratic process represented by the Local Planning Authority. An authority facing the loss of income from major planning applications (which make up a large percent of any LPA's fee income) will be unable to sustain their planning teams and thereby improvement will be significantly hampered.

Intention to bring new categories of commercial and business development into the Infrastructure Planning regime

It is unclear as to what is envisaged by this announcement and what the evidence is to support the assumption that projects are suffering unreasonable planning delay.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements

Renegotiation of Affordable Housing and other requirements in S106 Agreements: The Society is concerned that this could delay development coming forward whilst developers await the introduction of the legislation. Currently there exists the possibility of renegotiation by mutual agreement of any S106 during the first five years and it is also open for developers to a fresh planning permission and new agreement. Much will depend on the approach taken by the Inspectorate to viability assessment (both the model and assumptions) and the Society is concerned that this could result in significant impacts in terms of the provision of affordable housing and infrastructure necessary to mitigate the harm arising from development. It is often these provisions which are crucial to local community support for development proposals.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

The Society is aware that cuts within the Inspectorate are causing delay and lowering of the high standards normally seen from PINS. We are concerned that without additional resources the Inspectorate will be unable to cope with the expectations being placed upon it. The Society is concerned over the intention to new fast-track procedure for some small commercial, major economic and housing related appeals given the reduction of resources within the Inspectorate. This implies other appeals could face unacceptably long delay, for example small housing developments. Planning fees do not cover all costs associated with processing planning applications. How will Inspectorate make up the shortfall?

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

The Society considers the current householder fee of £150 is minimal compared to the cost of alterations and the evidence is that such applications are dealt with speedily (in parallel with building regulations which will still be required). It is envisaged that there will be an escalation of neighbour disputes and Councillors' postbags. The three years proposed will leave a legacy of enforcement issues (it will only require a modest start to maintain a permission live and there are bound to be disputes as to when works were commenced). LPAs will continue to have to visit sites to determine if certain safeguards, as envisaged by the Secretary of State, are met. With this and disputes will be as much work without the fees! Of course the worst implication will be proposals formally refused for good reason, including by appeal, could now be built.

What the impact is of the proposal to get empty commercial buildings into use?

The Society is of the view that there is little evidence of how this will result in a stimulation to the economy, it may free up resources within planning authorities to deal with larger applications but much of the work around extension applications is undertaken by junior staff. It is anticipated that the relaxation will lead to LPA's facing increased complaints regarding "unauthorised" development and staff will be diverted to investigating complaints as well as lose the income from applications. The changes to take some householder and business extensions outside of planning have potential to undermine public confidence in the planning system.

The Society is also concerned over the detail to relax change of use rules for proposal to move from commercial to residential use as well as other proposals in relation to relaxations for agricultural buildings. Planning has a role to ensure residential development occurs in locations where future residents are not subject to adverse impacts from neighbouring activities, facilities exist to meet resident's needs and locations are sustainable in terms of accessibility. The relaxation also has potential to increase the value of commercial premises and further undermine the Government's aims to encourage small business.

It is the Society's view that a greater stimulus could be achieved from a VAT reduction over a two year period as this would stimulate homeowners to bring forward increased numbers of proposals in the normal way during the period of relaxation. Increased activity could off set any loss of tax revenue to the exchequer.

How the use of Planning Performance Agreements (PPAs) and greater powers to award costs in planning appeals will affect the planning process?

Whilst the Society encourages the use of PPAs by planning authorities developers are often unwilling to enter into such agreements and there is no obligation for them to do so. The Society would welcome proposals which would lead to the lack of a PPA (where invited by the LPA) or failure to engage in pre-application discussions by either side could be taken into account in any award of costs.

How planning authorities should be able to adjust Green Belt land?

The Society recognises the commitment to Green Belt and the acknowledgement that under current arrangements for Local Plan preparation Green Belt boundaries can be reviewed.

How the Government's review of national and local standards should be carried out and what focus should it have?

The Government's announcement in respect of standards applicable to develop appears to indicate a shift from previous indications that they are moving away from nationally set guidance and standards, encouraging standards matched to local circumstances. However, the Society is happy to be involved with any review of standards and preparation of national guidance or examples of good practice.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

With a large number of planning permissions not being taken up it is crucial that a stimulus package to encourage first time buyers back into the market is considered. Without significant movement in the housing market developers are reluctant to bring forward development and are happy to continue to land bank for better times. The Government also needs to consider the possibility of taking the initiative with providing the infrastructure necessary up front to unlock many of these sites.

September 2012

Written evidence from the National Organisation of Residents Associations

This organisation has members from many parts of England and Wales, and their members in total represent nearly two million residents. Originally membership was limited to resident groups in historic towns and cities, but membership has expanded to include groups from all urban and rural environments.

Members are amazed that Government should think that these proposals would kick-start the construction industry and the economy, when it is clear to most observers that it is not the planning regime that deters house-builders and developers from building houses, but it is the lack of available funds for both those wanting to buy homes and those who wish to build them.

These particular proposals, that are the subject of this questionnaire, aroused considerable concern particularly in members living in historic towns, conservation areas and protected rural areas. They fear that in just two years the proposals would have the effect of undoing their hard work of many years to protect and improve their environment. Members living in university towns and cities, already suffering from too many houses of multiple occupancy catering for students, are disturbed that the proposals would allow landlords to add even more student accommodation without the need for planning consent in conflict with the Article 4 Directions that have been introduced to manage such housing.

Accordingly the answers to the questions are almost entirely critical, and unfortunately no positive suggestions to ameliorate the effect of the proposals have been suggested by NORA members.

ANSWERS FROM THE NATIONAL ORGANISATION OF RESIDENTS ASSOCIATIONS

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

1.1 None of the several planning changes proposed relate to “the Government’s ambition to provide communities with a greater say about development in their area”. In the view of NORA members the effect of each of them is in direct conflict with the Localism agenda.

1.2 The proposals to grant more permitted development rights to individuals to build even greater extensions to their dwellings without any opportunity for the community—neighbours, local amenity organisations, local councillors, officers in the Local Planning Authority—to have any influence on development is bound to lead to problems. These developments may result in disturbing and even ruining relationships in neighbourhoods and damaging the environment. A particular concern is the possibility that landlords of Houses of Multiple Occupancy (HMO) would be able to expand their properties without any control even in areas where there are social problems with Article 4 Directions aimed at managing HMO.

1.3 Companies providing broadband facilities would be able to develop cabling and associated cabins anywhere (except in areas of Special Scientific Interest) so that both residential and rural areas, which have been carefully managed in the past to conserve their attraction, could be seriously damaged. The omission of Conservation Areas, Listed Buildings, World Heritage Sites, and Areas of Outstanding Natural Beauty from the list of exceptions is extra-ordinary. However, just as important is that at a stroke the measure could ruin the effect of many years of careful protection of local green spaces, much valued by residents. There also appears to be no provision to avoid siting cabling or cabins where they will form a hazard to pedestrians (particularly the visually-handicapped), or produce unsightly results.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

2.1 The removal of conditions on planning consents for dwellings that oblige a significant proportion of them to be “affordable dwellings” undermines the planning policies that aim to ensure mixed developments. The separation of social classes in the past has led to the ghettos and the sink estates that blight so many of our towns and cities.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

3.1 NORA members’ concerns are with Section 106 agreements. These include off-site proposals for managing traffic and drainage and social developments, which ensure the provision of facilities such as play areas, community halls, etc., which enhance community cohesion. To lose these elements in agreements would undermine the policies of improving community facilities and sustainable development.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

4.1 As indicated above, friction between neighbours will occur, and developments could damage the “pride of place” appreciated by communities. The building of more extensions to Houses of Multiple Occupancy can hardly be described as “home improvements” especially in areas in many university towns and cities where there are already serious problems with too great a density of such premises.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

5.1 The proposal for Planning Inspectors to be able to award costs against external bodies involved in participating in the planning process if their advice is poorly supported may help to ensure that refusals of planning applications will be more fully substantiated by those external bodies.

How planning authorities should be able to adjust Green Belt land?

6.1 NORA members understand that this proposal to be able to swap land is already available but rarely used, possibly because the swaps are usually considered not to be equitable. It should not be acceptable, for example, for developers to offer brownfield sites or poor quality green field sites in exchange for prime Green Belt land.

How the Government's review of national and local standards should be carried out and what focus should it have?

7.1 NORA members have no involvement in this matter.

What the impact is of the proposal to get empty commercial buildings into use?

8.1 NORA members offer their support for appropriate changes of use for empty commercial buildings, but the siting of many does not permit a change of use to residential dwellings because of the absence of necessary facilities such as schools, shops and health care. When these facilities are available—as in cities, towns and villages—such changes of use may be welcomed. In all situations, however, appropriate management by local planning authorities with involvement of the community is essential to ensure sustainable development.

Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

9.1 That the Government has had to consider allowing private developments to lower or delete agreed percentages of “affordable dwellings” highlights the problems faced by private developers seeking to make adequate profits. It must be concluded that private developers are by their very nature unable to provide “social housing”, so the burden must fall on local and central Government. It is essential for a modern society to ensure adequate accommodation for those living on lower incomes, who often provide the basic services that support the rest of society. If private developers cannot afford to do so, then society through its elected bodies—local and central Government—must do so.

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

10.1 The current financial mess that now is crippling world economies appears to have started because unsustainable financial burdens were placed on those unable to afford them. Cheap mortgages and loans based on family income rather than the income of one individual clearly are not sustainable regimes for house purchase. The concept that everyone should own their own home is not feasible and never has been, so rented dwellings are essential both for those at the start of careers likely to lead to rising incomes and for those whose income will remain low. The Government's proposals will only repeat the errors of the recent past and prolong the economic mess.

10.2 The most important factor is that nowadays people's jobs and hence income can no longer be based on the assumption that they will stay with one employer for their working lives; instead many people experience periods of work interspersed with periods of unemployment, and even in employment earnings can drop on a change of job rather than rise. Thinking about mortgages still seems to assume continuous employment and rising earnings.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

11.1 By all accounts the major reason for developers deferring the implementation of major housing sites is not a consequence of delays in the planning process, but due to the lack of finance both by developers and more seriously by those wishing to purchase homes. Even developers with adequate land banks with full planning consent will not go ahead if there is no market. This problem affected notably Spain and Eire, where there are large housing developments lying empty for lack of purchasers. NORA members believe that this is now a feature of the UK too—even in the south-east—and that efforts to free up more land are misguided and unlikely to succeed in increasing house-building levels. Instead possible ways of assisting house-builders to obtain suitable financing for new developments that already have the benefit of planning consent should be examined.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

12.1 NORA members do not see any impediment to releasing surplus public sector land for development. Flooding the market with such land is likely to reduce the cost of land, so that development of such sites might be more profitable for private developers, but it is not likely to encourage developers to implement existing proposals for development on land, which had been bought at a much higher price.

12.2 However, as we point out above, NORA members believe that efforts to free up more land are misguided and unlikely to succeed in increasing house-building levels. Instead possible ways of assisting house-builders to obtain suitable financing for new developments with existing valid planning consents should be examined.

Written evidence from Joseph Rowntree Foundation

The Joseph Rowntree Foundation (JRF) is one of the largest social policy research and development charities in the UK. For more than a century we have been engaged with searching out the causes of social problems, investigating solutions and seeking to influence those who can make changes. JRF's purpose is to understand the root causes of social problems, to identify ways of overcoming them, and to show how social needs can be met in practice. The Joseph Rowntree Housing Trust (JRHT) shares the aims of the Foundation and engages in practical housing and care work.

SUMMARY

1. JRF's main concern with the Government's recent stimulus package is that it does not create a long-term housing finance system that is able to withstand the boom and bust of the economic cycle.

2. This submission highlights important lessons for the CLG Select Committee in relation to the Government's proposals to boost house building and the economy. In highlighting lessons from JRF's evidence base this submission draws particularly on: emerging findings from an international review of innovations in financing affordable housing (Gibb, Maclennan and Stephens, forthcoming) and on the work of the JRF Housing Market Taskforce.

3. The response is structured around the following questions:

- What are the impacts of allowing revisions to s106 agreements?
- What is the most effective solution to increasing investment in private rented housing?
- How will releasing public land influence housing supply? And
- What feasible mortgage proposals will get people onto, and moving up, the housing ladder?

4. Whilst the recent stimulus is to be welcomed as demonstrating a commitment to improving housing supply, we are concerned that the needs of vulnerable households are not sufficiently acknowledged. To be effective in addressing the chronic and long standing undersupply of housing the Government, together with housing providers, must ensure that we have a long term housing strategy framework that:

- Defines affordable housing and is explicit about the trade-off between shallow subsidy to increase supply and deeper subsidy to provide for lower income households.
- Better targets supply and demand side subsidies in order to balance the need for supply stimulus together with the need for additional subsidy for low income households.
- Recognises the crucial role of social landlords in making build to (private) rent schemes work and uses loan guarantees and other incentives as leverage to address the problems of cost and insecurity in the private rented sector;
- Releases public land with the right infrastructure in places where people want to live;
- Considers more risk sharing approaches' to mortgage provision across the market rather than focusing solely on new build.

What are the likely impacts of allowing revisions to s106 agreements?

5. This section argues that:

- Contributions to affordable housing and infrastructure could be simplified but should include a narrowly defined affordable housing contribution through s106.
- There is no "zero subsidy" solution that will provide housing for low income groups.
- A clearer strategic framework is needed to define affordable housing and make explicit the trade-off between shallow subsidy to increase supply and deeper subsidy to provide for lower income households.

6. The UK's long running shortage of housing is well documented (Stephens 2011). The impact of the recession has also been felt very strongly on the pro-cyclical nature of the S106 funding regime for new affordable housing. However prior to the recession the S106 link to market developments was delivering increasing numbers of social housing (Monk et al 2006). Housing funding or subsidy regimes must be able to weather both the upward and downward phases of the economic cycle (Hall and Gibb 2010; Oxley and Haffner 2010). It is important that we retain the S106 link between market and affordable housing outputs so that affordable housing outputs can increase when the market improves. S106 offers this certainty in an increasingly uncertain context. The viability of developments and related planning obligations, such as the level of s106 contributions, are related to prevailing market conditions rather than planning obligations per se. As such Burgess et al (2011) suggest that contributions to affordable housing and infrastructure might be simplified but would include a narrowly defined s106 contribution for affordable housing. A clear decision to retain s106 contributions would protect our ability to build more affordable housing during an upswing.

7. Efforts to stretch limited public resources and increase private finance's contribution to housing supply are necessary in such a challenging economic context. However we must be clear that there is no "zero subsidy"

solution for low income households that will bridge the gap between the cost of housing and the higher returns required by private investors (Gibb, Maclennan and Stephens, forthcoming).

8. As the Affordable Homes Programme demonstrates greater reliance on private finance leads to higher rents and in turn higher Housing Benefit bills. However, impending restrictions on Housing Benefit, and proposed changes to the way it is paid, risk prompting many housing associations to house fewer low income tenants in order to reduce their financial risks. Whilst Government has already opted to spread subsidy more thinly in an effort to produce more homes; it is notable that cost-benefit analysis found that the abandoned National Affordable Housing Programme offered better value for money over 30 years (NAO, 2012). There are clear risks that the decision to spread subsidy more thinly could be at the cost of limited access and affordability for many low-income households.

9. Housing associations have already raised more private finance since 2008 than in the previous 20 years. This reliance on private finance will accelerate further to deliver the Affordable Homes Programme. However the recent failure of the large housing association Vestia in the Netherlands showed the dangers of financial market activity both to an individual association and to the sector as a whole. In the context of the increased reliance on private finance the Government's proposed guarantee fund makes sense, but it must be structured in such a way as to avoid moral hazard.

10. Such is the level of under-supply, there is a strong case for rebalancing housing subsidies towards the supply side beyond the current stimulus package. The Spanish VPO (officially protected housing) programme suggests that this can be done in a way that retains some income targeting. Nonetheless, the issue of the much deeper subsidies that are required for low-income households remains to be addressed. This is urgent given the limited capacity of housing associations to fund a second round of the Affordable Homes Programme (Stephens and Williams, 2012) We would like to see the resolution of this question more clearly stated in national and local Government strategy, as well as within registered providers' business plans.

What is the most effective solution to increasing investment in private rented housing?

11. This section argues that:

- The Government must ensure that its stimulus package delivers additional housing supply rather than substituting one type of supply for another.
- Lessons from similar schemes in other countries show that registered providers have played a major, and greater than anticipated, role in such schemes.
- Neither has institutional investment been forthcoming at the hoped for levels.
- Government guarantees or other subsidy could be used as leverage to create more stable private sector tenancies.
- In addition to near market housing for those nearer median incomes, schemes such as the Irish Rental Accommodation Scheme may offer better value for lower income households and the state.

12. It is crucial that any stimulus package for private rented housing creates additional housing supply rather than simply substituting one type of supply for another. A range of evidence demonstrates that whilst near market rental schemes can offer interesting partnerships and provide additional housing there are key lessons for the UK context (Gibb, Maclennan and Stephens, forthcoming; Scanlon and Kochan 2012; Oxley et al 2010), namely that:

- Registered providers/social landlords play a crucial role in making such schemes work; and
- Levels of institutional investment were not as high as expected.

13. As noted in the previous section registered providers in the UK are increasingly stretching the definition of affordability and shifting their focus further up the income scale. At the same time poverty measured after housing costs have been taken into account has tended to increase over the past two decades (Tunstall et al, forthcoming). The JRF Housing Market Taskforce highlighted that as long as the combined problems of costs and insecurity related to private assured shorthold tenancies are not resolved there will be a continued need for traditional social rented housing in the long-term (Stephens 2011). However, given current waiting lists greater use will need to be made of private renting for low income and vulnerable groups, including the rising numbers of statutorily homeless households.

14. With Clapham et al (2011) predicting that there will be an extra 1.5 million households under 30 looking for private rented housing in 2020 it is not only low income households who will experience such insecurity. The additional 320,000 families who will be looking for private rented homes in 2020 will have a particular need for stable housing. If the Government is to offer guarantees to the sector these could be used to secure more favourable terms for tenants. The same principle applies to other subsidies such as deferred land payments or discounted land. Scanlon and Kochan (2012) argue that it is these enhanced terms that make renting more acceptable to middle class families. In Germany—which has the largest private rented sector in the European Union—landlord subsidies in the form of depreciation allowances were introduced to compensate landlords for security of tenure.

15. The Government could also consider greater use of private leasing by local authorities to limit housing benefit costs and provide greater security. The Irish Rental Accommodation Scheme provides an example of

how a Government private leasing scheme might provide a more cost effective route to driving down housing costs and providing more stable accommodation for vulnerable groups. Coates and Silke (2011, cited in Gibb, MacLennan and Stephens, forthcoming) note that over a 20 year period the net cost of providing rental accommodation scheme properties is significantly cheaper than rent supplement. Again this scheme offers a clear link between the supply and demand side elements of housing subsidy approaches.

16. In summary, international evidence is clear that institutional investment alone cannot deliver either sufficient additional housing or a more stable private rented sector. Social landlords are crucial to making build to (private) rent schemes work. Incentives such as loan guarantees or discounted land could also be used as leverage to enhance security of tenure and address costs.

How will releasing public land influence housing supply?

5. This section argues that:

- Land supply needs to be in the right places, public land supply is not necessarily in the places where people want to live.
- Land is not the only issue in improving housing supply—the right infrastructure must be in place to facilitate development.

17. The underlying volatility in the UK housing system inhibits house building due to its impact on land prices and credit availability for both builders and house purchasers (Stephens 2011). Land supply in the right place and with the right infrastructure is a key part of the jigsaw in making housing developments both viable and acceptable to the public (Monk and Whitehead 2011). The release of *appropriate* public land for development is therefore a welcome strategy to increase the land available for housing development. However as Monk and Whitehead (2011) note some public land is on flood plains or sites too exposed to ever get built out, regardless of its planning permission status. Thus public land is part of but not the sole solution to increasing the land available for housing.

18. Plans to improve the supply of housing through releasing public sector land must take account of local markets, the relationship to the niche products of local developers (Ball et al 2000) and the time it takes to assemble strategic sites (Monk et al 2008). Taking these factors into account would support a more realistic assessment of the impact of the Government land release proposals on housing supply.

19. The Government should also continue to explore ways of providing cheaper land such as land pooling and Community Land Trusts (Monk and Whitehead 2011).

What feasible mortgage proposals will get people onto, and moving up, the housing ladder?

20. It is clear that the supply of mortgage finance, and the terms on which it was made available, will not return to the levels seen in the 25 years that preceded the credit crunch in the foreseeable future. The downward adjustment of house prices provides is a vital part of the solution. However, mechanisms are still required to help first time buyers with deposits.

21. Equity loans, such as those in the FirstBuy scheme, have the attraction of introducing a degree of risk-sharing as well as helping to improve access to home ownership (Whitehead 2010). However they are currently limited to the purchase of new build properties which carry a price premium. If we are to get the housing market working more effectively it would be prudent to consider extending such schemes to existing properties.

Conclusion

22. Whilst the recently announced supply side stimulus is to be welcomed, demonstrating as it does a commitment to improving housing supply it is not sufficient. More explicit recognition of how more efficient links between demand and supply side subsidies might be fostered is required. In addition a clear definition of what affordable housing is and who it is for might enable better targeting of scarce public resources or at least a more explicit awareness of the trade-offs between shallow and deep housing subsidies.

September 2012

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Written evidence from Nottingham Action Group on HMOs

We hope you can accept this submission from the Nottingham Action Group on Houses in Multiple Occupation (HMOs) in relation to your forthcoming evidence session with the Ministers for Planning and Housing.

The Nottingham Action Group on HMOs is an alliance of residents groups and individuals that came together to try to address the variety of problems associated with high concentrations of HMOs in parts of the city and surrounding boroughs. Members of the NAG live in a variety of types of housing and neighbourhood, including flats and houses, older terraced properties in the inner city, interwar suburban housing, council housing estates and new "city living" style apartments. Some neighbourhoods are designated as Conservation Areas. Members are drawn together because of the disproportionate levels of problems that arose across our neighbourhoods through the unplanned conversions of a large proportion of homes into houses in multiple occupation, partly, caused by the recent expansion in private rented sector investment. As you will appreciate, HMOs represent a highly profitable part of the housing market since they rely on a model that packs ever more numbers of people into houses that were typically built for single "family style" accommodation.

The problems associated with HMOs are dealt with elsewhere, including in reports published by CLG. There are also further details on the website of the National HMO Lobby, an organisation that brings together local HMO lobby groups from around the country to campaign on this issue. With that in mind this submission reminds Committee members that HMOs are typically associated with environmental blight (noise nuisance, waste management problems etc), disproportionately high levels of crime (where occupants of the HMOs are typically the victims), high levels of residential instability caused by short term tenancies, leading to difficulties in building sustainable, balanced communities, because HMOs typically are aimed at a narrow section of the housing market. When found in concentration these problems are magnified disproportionately, resulting in the need for significant levels of intervention by agencies like the local authority and the police to tackle the problems associated with the housing type. In more balanced neighbourhoods we observe that these problems are usually reduced through "natural balance", with the intervention of public bodies being the exception rather than the norm.

When residents started to campaign on this issue it quickly became apparent that the planning powers of English local authorities were deficient when it came to dealing with HMO conversions. HMOs were a different type of property, but had no use class until recently. This meant that conversions could not be subject to proper scrutiny by neighbours or by the planning authority. Along with others we lobbied long and hard, with the support of our own MPs, to get this issue addressed. Just before the last General election the government put

in place arrangements that would at long last allow local people the chance to at least comment on conversions of properties to HMOs as local planners considered them. Whilst this was set aside by the Coalition Government, the last Minister was sympathetic to the problems caused by HMOs, but only wanted local councils with problems to take on the responsibility of putting in place the requirement for planning applications. We supported our local authority Nottingham City Council to introduce an Article 4 Direction that requires proposed HMO conversions to apply for permission. This commenced earlier this year.

As HMO letting is highly profitable, landlords regularly seek to increase occupancy rates of properties. This manifests itself in conversions of garages to bedrooms, loft and basement conversions, extensions to properties on whatever elevations are possible, large dormer extension to roofs and significant internal alterations. The cumulative impact of all these changes is often to destroy the visual character of an area, as well as to increase occupancy density to levels way over that which the houses and neighbourhood were originally designed to cope with. Much of this is carried out under permitted development rights.

We are very concerned that the proposed relaxation of permitted development rights will increase the problems of unregulated development across our neighbourhoods. The current regulations, are, when used in the way we have seen, already too relaxed. We could show plenty of inappropriately designed developments that use the maximum allowances under permitted development with disastrous result to local amenity. In addition there is no evidence whatsoever that the existence of planning regulations, that try to bring some sort of order to this situation, have ever created a block on investment. Property prices in our neighbourhoods remain high, and have become unaffordable for owner occupiers, and rents set by HMO prices are at levels too high for people seeking family accommodation to afford.

Increasing the ability for owners to carry out further property extensions without recourse to planning permission will simply serve to increase the scale of the problems already faced in our neighbourhoods. It will be used by landlords to increase household occupancy even further, exacerbating the problems caused by high levels of occupancy in small areas, and reducing the already limited powers of the local authority to do anything about this. The consequences will be disastrous for our neighbourhoods, and what is left of the communities within them.

Moreover, the proposals completely undermine any concept that local people, along with their local council, should decide what is best for the areas they live in. Taken together with proposals to remove the ability of council's to decide applications if they are deemed to be "too slow" (and hand the power to a centralised Planning Inspectorate with no level of local accountability whatsoever), makes a mockery of the rhetoric about "localism".

Our own local authority seems to be extremely keen to promote building and development. It also has the knowledge (or believes it does) about which sites would be best developed. If there is a feeling that detailed planning permission is some sort of block on getting those sites developed, then perhaps there would be an argument for a slimmed down procedure. We are not aware of anyone locally arguing for that, but if it was the case then the Government could give powers to local planning authorities to relax planning regulations in such areas, following consultation with local people. Then the council could decide if this was the right approach. Instead Ministers seem to want to impose their analysis of the problem on to local people, without any thought to the consequences in areas where if successful neighbourhoods are to be rebuilt we would argue that more planning powers are required, not less.

These proposals will do nothing to stimulate development in areas that need it, but could create further problems in areas that certainly don't need any more problems to deal with.

We hope you can consider these points before your hearing.

September 2012

Written evidence from Royal Town Planning Institute

The Royal Town Planning Institute (RTPI) is pleased to respond to the call for written evidence to the Communities and Local Government Committee on recent Government proposals On Housing and Growth. The RTPI is the largest professional institute for planners in Europe, representing some 23,000 members. It seeks to advance the science and art of spatial planning for the benefit of the public. The RTPI also works to develop and shape policy affecting the built and natural environment, to raise professional standards and to support its members through continuous education, training and development.

EXECUTIVE SUMMARY

1. Evidence from the RTPI covers the majority of areas of questioning of the Committee:

- Proposals to reduce planning delays and "red tape".
- Home improvements.
- Green belts.
- Offices.

- Large housing schemes.

REDUCING PLANNING DELAYS AND “RED TAPE”

2. The RTPI considers the use of the Planning Inspectorate in place of local authorities in certain circumstances would reduce communities’ influence, and seems at odds with much of the government’s localist agenda.

3. The proposal offering developers the opportunity to demand the Inspectorate determines their applications could be an open-ended call on the resources of the Planning Inspectorate. There has been no announcement regarding additional resources for this. For the Inspectorate to be a planning authority a mechanism would need to be found for the Inspectorate to undertake local consultation. There is no precedent for this. We are not aware of the level of interest amongst developers.

4. The Government estimates that 10,000 affordable homes will be lost through renegotiated Section 106 agreements. It is providing funding for 15,000 additional affordable homes. The additional funding is welcome but does not take account of the role of S106 in providing land for social housing as well as funding. In many areas the real difficulty with providing affordable housing is a shortage of sites, not finance. It also removes from developers the advantage that providing affordable housing confers to their cash flow in the current difficult climate and also could make it harder to achieve mixed communities.

5. All players are already keenly aware that efforts need to be made on stalled sites and much renegotiation has happened since the financial crisis. We commend the Government’s appreciation of efforts made by all parties since 2008. We are concerned that the prospect of legislation on this Subject will merely cause all current and future renegotiations to halt while the details of legislation are worked out.

6. Since Section 106 agreements are two-way contracts, and “stalling” is not only a product of local authority actions, consideration needs to be given to how to circumstances where a local authority wishes to reopen negotiations and a developer does not.

HOME IMPROVEMENTS

7. Proposals to make it easier to undertake home improvements are not yet available for public consultation. The RTPI is concerned in the first instance that sufficient time will be allowed for the public to respond to detailed proposals. We have already made our views known regarding the use of the new short consultation period for government consultations and are somewhat concerned that the planning sector might be specifically more at risk from this procedure than other areas of government.

8. There is some uncertainty surrounding the current proposal which has led already to people asking councils whether it they are now permitted to build larger extensions without applying to. There is currently a widespread understanding about what constitutes permitted development and what requires permission. Changing what constitutes permitted development at a date yet to be determined, and then changing it back again will require very careful and potentially costly messaging if it is not to result in accidental breaches of planning control.

9. Extensions can be very contentious. The Secretary of State has said we are expecting people to operate in a neighbourly fashion...¹⁸ Where this happens and there are no objections, applications are often granted well within the current eight week target. The normal four to six week period it takes to decide an application includes consultation of three weeks (21 days). This time is often used by many applicants to obtain quotes from builders, prepare the house for work, and allow builders to manage their workload. Appraising and arbitrating neighbours’ objections to proposals are the most significant reason for delay.

10. One of the reasons given for the package of reforms is that the fee payable for gaining planning permission is burdensome on householders. The Government-set cost of an application for alteration to/extension of a dwelling is £150 (which is much less than the cost of service, sometimes by a factor of four or five). For this fee, the householder receives a certificate that shows future buyers that the development is lawful.

11. Furthermore, the proposals give the impression that the choice is between having to apply for permission for a fixed design, or having permission pre-granted by Parliament. But what is in effect an independent mediation service provided by the Council can lead to substantial improvements in the quality of extensions through agreements to change designs.

12. The latest official figures show that 88% of householder applications are permitted and that 84% of applications are determined within eight weeks.¹⁹ We question whether the proposals will necessarily increase construction activity when it may simply move some proposals already permitted, but under safeguards, to being poor quality development without safeguards. The proposal will do very little to increase housing supply.

¹⁸ Col 407.

¹⁹ Table P123 <http://www.communities.gov.uk/planningandbuilding/planningbuilding/planningstatistics/livatables/livatablesondevelopmentcontrolst/>

GREEN BELTS

13. The Secretary of State said on 6 September that “as has always been the case, councils can review local designations to promote growth”. The Secretary of State referred to Councils using “flexibilities set out in the NPPF to tailor the extent of Green Belt land in their areas to reflect local circumstances”.

14. It is a little confusing to say in the context of Green Belts that “councils can review local designations to promote growth”. Green Belts are not “local”: they are tools within a wider programme of coordinated action on planning housing and transport investment over fairly large areas around cities and conurbations. Abolishing Regional Strategies does not change this, it merely alters the appropriate mechanism for cooperation.

15. The use of the term “designations” in this context is a little vague. We assume that the Secretary of State is referring to the fact that some designations which local planning authorities observe are national statutory designations (eg SSSIs). Some designations are within the gift of a council (eg Conservation Areas).

16. The NPPF reiterates existing long standing government policy on green belts that if they are reviewed the changes must be for the long term. This means enduring beyond the end of the usual plan period of 15 years. In practice very few outward movements of the inner boundary of green belts have ever occurred. Green belts are in many cases now several decades old. A long term review of their appropriate size in the 2030s and beyond is not a quick fix. It is hard to see quite how this addresses the immediate concerns of planning for growth, although long-term reviews may in some conurbations or cities be appropriate.

17. We are not sure that a green belt surrounding a city or conurbation can really be “tailored to local circumstances”. The existence of green belts in one district has major implications for other districts surrounding it, and even for areas some distance away in cases of large conurbations. The “tailoring” would have to be in response to wider circumstances and undertaken in collaboration, unless it is of such small scale as to make little national difference. In this case why it is national policy at all and how much difference would it make overall to national growth?

18. The focus in the Ministerial Statement on previously-developed land in the Green Belt is an intriguing one. A number of major developed sites have been exploited since government first allowed this exception to Green Belt policy in 1995. But much of the remaining previously developed land is in remote locations which would make it unsuitable for growth without substantial infrastructure, and therefore there would need to be development on a substantial scale. It is difficult to see quite how this would work “whilst protecting the openness of the Green Belt”. Anything less than substantial should not merit national-level policy.

EMPTY OFFICES

19. The RTPI objected to the proposal to permit changes of use from offices to housing in 2011, stating that it may damage the nascent economic recovery, was unworkable, and is at odds with localism and did not fit with neighbourhood planning. We said:²⁰

The greatest benefit both to the community and to organisations wishing to create more homes is at the plan-making stage, which allows communities/organisations to balance the need for housing and employment with the need for other land uses, and ensure that all uses are located in the most strategically beneficial sites, with the necessary supporting infrastructure.

20. In April 2012 DCLG decided not to proceed with this proposal stating that:

The consultation paper recognised that any permitted development right would need to be tailored to ensure that it did not give rise to unintended consequences and that it would be possible to build in effective mitigation provisions. This view was supported by the responses to the consultation, particularly in relation to the need to ensure that local employment needs continue to be met and that housing would be appropriate to its location.²¹

LARGE HOUSING SCHEMES

21. The details of the Government’s proposals to accelerate the delivery of major housing sites are not yet available. We welcomed the reference to housing sites in the National Infrastructure Plan in 2011 and in particular to the beginning of a recognition that at the highest level there must be coordination between transport planning and funding, and housing planning.

22. We welcome measures Government has made recently to unlock a major site. However it is very disappointing that many major schemes have taken so very long to make any progress often throughout the period of high housing demand and buoyant public finances which prevailed until 2007. It is not satisfactory that land which has been progressed properly through the planning system can end up stalled through the lack of straightforward funding mechanisms for the provision of infrastructure. Far too often all the relevant parties -local authorities, government agencies, and railway and utility companies look to others to provide when it comes to delivering major sites. This is understandable because neither the regulators of private utilities nor the performance criteria given to agencies by Ministers seem to require sufficient provision for growth.

²⁰ <http://www.rtpi.org.uk/media/5451/Covering-letter-29.pdf>

²¹ <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2172423.pdf>

23. To this we would add in particular the apparent continuing difficulty of planning transport infrastructure in such a way that its role in unlocking major sites for housing is fully incorporated with sufficient weight into the evaluation framework for investment when high level spending decisions are made. The construction of HS1 into East London has enabled Ebbsfleet, the Olympics, Stratford and Kings Cross Central. None of these was a “transport problem” requiring solution; they would be better described as housing and other opportunities created by transport investment. And on some narrow measures HS1 should never have been built. If transport investment is regarded as only responding to congestion and journey times, and conversely if housing development is not enabled to take advantage of where major transport investment occurs, we will continue to run into problems of finding sufficient housing sites. Proposed transport infrastructure must be considered in a much wider context.

24. We very much welcome proposals to release public sector land for the nation’s housing supply. Again reference to recent experience would suggest that sometimes the process of becoming “surplus” can be very protracted. Could occupiers be assisted in accelerating this? Furthermore we stress that, given costs of infrastructure provision, decontamination (sometimes) and heritage preservation (sometimes), for government agencies to press for the highest possible price results in at best considerable delay whilst organisations discuss who is then going to meet funding gaps, and at worst development which doesn’t happen.

September 2012

Written evidence from Simon Hill

1. LOCALISM

The greater say over truly local matters is welcome; but there is now a vacuum in strategic planning. That used to be filled by a mixture of regional statements and county planning (structure plans). Housing demand cannot be established for small district areas alone. Some demand is local, but in the areas of highest demand—especially London and the South East—there is a footloose demand related to the whole sub-region. Who is to decide this when accommodating demand from outside the area is politically toxic for local politicians? There needs to be strategic long term planning with targets, imposed if necessary, on local authorities if sufficient housing is to be planned well in advance in locations that fit with strategic conservation and opportunity (such as that afforded by the huge investment in Crossrail).

The reason why the strategic planning system failed is because successive Secretaries of State, including John Gummer and John Prescott, were unwilling to grapple with the long-term strategic need because of the feared adverse political consequences, particularly in the South East. They fudged the issue and effectively endorsed no more than the existing commitment figures that local authorities had collectively offered up. Planning Inspectors are now expected to decide the figures for each local authority area but with no strategic context in which to do so and for a period of 10–15 years. A much longer time frame is needed for planning housing and other land uses in relation to major infrastructure. The government has shifted what should be openly debated strategic planning decisions into the undergrowth of a myriad of short term separate decisions taken serially for each authority by a bevy of technocrats acting independently. The Secretary of State has abrogated responsibilities that are his as government minister on the false pretext of giving freedom to local areas to decide. They will not have that freedom, as in the end they will have targets imposed for obscure reasons in order to keep housing numbers up. And there will have been no long term strategic planning to guide resources and investment across city regions and in particular London and the South East.

2. SOCIAL HOUSING

Relaxing the requirement for social housing as a response to current economic conditions could do no more than pass a greater land value back to landowners. Most developers will have negotiated a price dependent on the s106 requirements. Whilst some may have bought land outright, many will have an option that will be triggered when the development takes place, in which case relieving the house builder of social housing may only increase the amount that the base landowner receives.

Also the planning system has responded to evolving government policy on social housing to replace council housing over many years. The full effects—ie a reasonable proportion of social housing dispersed around a development rather than in ghettos—are only just coming through into planning permissions negotiated over the last 10 years. It would be short sighted to tear that up now. The real boost the housing market needs is the reasonable availability of mortgages to potential house buyers.

3. IMPACT ON PLANNING INSPECTORATE

The Planning inspectorate has long been respected for the fairness of process and impartiality of its decisions. That has been increasingly compromised in recent years by (a) the Planning Inspectorate’s management becoming more involved in setting government policy (as well as advising on procedures) (b) the transfer to it of decisions in the first instance on national scale planning applications, both via merger with the IPC and now with the muted role of deciding non-national decisions of “dilatatory” local authorities.

The system used to be that the Planning Inspectorate acted at arms length of government as an arbiter between local interests and government policy. That led to protracted planning inquiries on some matters (Dibden Bay container port, nuclear power stations) when government had failed to make its policy clear. For example there was no national ports policy for the Dibden Bay inspector to take into account, so he had effectively to weigh up all the alternatives and come to a de facto view of national policy in order to make a decision. It was thus the lack of national government policy on matters that were squarely the remit of the Secretary of State that led to the lengthy planning inquiries on particular proposal for which the Inspectorate got the blame—leading to the setting up of the IPC by the last government. The merger with the Planning Inspectorate has now made the Planning Inspectorate a form of national planning authority and the current proposals would make it also a default local planning authority. Its role as impartial adjudicator will thus be lost. This will adversely impact “localism”, as planning inspectors will now be seen as direct agents of government, rather than as independent agents weighing local interests against government views.

4. RELAXATION OF PERMITTED DEVELOPMENT

It makes no sense to have a temporary relaxation. If relaxation is acceptable there is no reason for it to be temporary. If it is not acceptable it cannot be made acceptable by being temporary. Planning control exists to protect the interests of neighbours. Getting planning off the backs of developers, householders or otherwise, risks having a permanent effect on those who have been adversely affected. The living conditions of everyone, particularly those in tightly packed urban areas, depend on the effective planning control and enforcement of development by neighbours. The permitted development definitions have only recently been revised after a long process of consideration and consultation. To arbitrarily tear up one part of them will lead to many people to be adversely affected in terms of having overbearing structure in close proximity and possibly overlooking and addition noise and other effects of over development. The proposed new freedoms will be particularly exploited by those that already proving to be the worst neighbours—for example landlords of student HMOs which ruthlessly push occupation to the limits and take no responsibility for managing the consequences. Student HMOs have already had a disastrous effect on the living conditions of many families and have trashed attractive long standing mixed family areas in many University towns, including my own. The relaxation will allow already unacceptable conditions to be intensified.

5. REVIEW OF NATIONAL AND LOCAL STANDARDS

The NPPF removed a number of national standards—for example noise. National/local standards on matters for which there is little justification for standards to be local—for example the level of noise that is acceptable in residential areas—avoid the expense and delays of having a plethora of local debates on such matters. Such national/local standards could be applied to matters such as privacy/overlooking distances between dwellings. That would make the preparation of local plans simpler and quicker in certain areas and give greater certainty to applicants and decision makers. It would not rule out local exceptions to standards, which could be applied through development plans if they could be fairly justified.

6. MAJOR HOUSING SITES

Speeding up delivery of large housing sites is laudable but has dangers that adequate (or good) levels of facilities and standards of environment will not be thought through and successfully agreed (or imposed if necessary). The problem now is that there is no long-term strategic planning framework to decide upon and bring forward large housing sites and areas (new towns?). To avoid similar problems in future an efficient and effective system of regional/strategic planning of land for long term housing and economic needs should be set up as soon as possible. Properly applied, nothing more would speed up and make the planning system and its decisions, as the pattern of development over a wide area will have been discussed and decided setting the context for more rapid local decisions on the details of development.

September 2012

Written evidence from the Campaign to Protect Rural England

INTRODUCTION

1. CPRE welcomes the opportunity to submit evidence to the Communities and Local Government Committee evidence session with the new Ministers for Housing and Planning. As a leading environmental charity, we have worked to promote and protect the beauty, tranquillity and diversity of rural England by encouraging the sustainable use of land and other natural resources since our formation in 1926.

2. On 6 September, the Prime Minister and Deputy Prime Minister announced a series of measures designed to boost house building. CPRE is concerned that so soon after the introduction of the National Planning Policy Framework, the Government appears to have come to the view that further reforms are necessary. This is despite clear evidence that developers are sitting on permissions for 400,000 new homes.

3. We are also concerned that the new Planning Minister, Nick Boles, has been reported as stating in 2010 that planning “can’t work”. In his early statements to the house, the Minister’s approach has been more

reassuring. We hope that at this evidence session, the Minister will offer further assurances that he recognises the many merits of the planning system.

4. CPRE would welcome clarification of the following issues in particular:

- What is the evidence offered of failure in the current system to justify such fundamental change so soon after a major reform?
- How can the high level of central intervention proposed be justified in relation to a commitment to localism?
- How, specifically is Local Planning Authority (LPA) under-performance to be judged, particularly in relation to approval of environmentally damaging development, and used as a basis for central intervention?
- Ministers appear to be making comments which do not fully reflect formal planning policy statements. This is particularly evident in relation to the review of Green Belt which will influence landowners and developers, local planning authorities and Planning Inspectors. Is this approach acceptable when a Minister is operating in a quasi judicial decision-making environment and the Government is proposing greater use of call in powers?

5. CPRE believes that good planning is not an obstacle to economic development but an essential tool for securing the development we need in the right places. We will campaign to ensure these further reforms do not result in development which damages the character and beauty of the rural environment.

RESPONSE TO SELECTED INQUIRY QUESTIONS

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

6. Widening the scope of the Major Infrastructure Planning Regime, or increasing the frequency with which major proposals are called in, are clearly centralising measures that run counter to localism. It is a long standing principle of the planning system that it should operate primarily through local government, using public consultation and participation to secure political and public consent for new development. This is particularly important for major housing development which will foster new communities.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

What will be the impact on the Planning Inspectorate and local planning authorities (LPAs) of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

7. Planning obligations, and to an extent the Community Infrastructure Levy (CIL), capture the land value uplift that results from new development, for the benefit of the wider community. Planning obligations are negotiated on an individual basis, while CIL has tried to simplify this by using a pre-set monetary levy on development, and removing any right of appeal. In spite of CIL, negotiated agreements such as section 106 agreements will remain essential to providing more complex on-site requirements, for example affordable housing.

8. CPRE fears that the proposal to allow planning obligation agreements to be appealed immediately, (as opposed to five years) after they are issued, and then only on the basis that the obligations no longer serve a useful planning purpose, severely weakens local authority negotiation positions. This could enable developers to establish the principle of development based on the negotiated agreement, for example including a certain percentage of affordable housing, and then immediately appeal against it in spite of the subsequent implications for whether the principle of development remains acceptable.

9. Revised proposals are then likely to fall to the Planning Inspectorate for judgement. Planning Inspectors are not necessarily well equipped or well placed procedurally to engage with the complexities of a planning obligation agreement. Many could be left in a position of simply judging unilateral undertakings presented by landowners and developers. Viability justification at appeal could become a highly complex aspect of conflict resolution and decisions will either require significant resource input from the Planning Inspectorate, or a superficial overview approach. This system could be very inflexible, thereby hindering progress in securing necessary development.

10. A further concern is that transparency in appeal decisions will suffer as a result of increased numbers of Inquiry-based decisions on planning obligations: These cause delay and require detailed formal legal exchanges that have to be dealt with in public by Inspector and/or applicant letters.

11. Crucially, LPAs will also not be legally committed (by negotiation) to implementation arrangements. In many cases LPAs are needed to implement public projects arising from new development.

12. In terms of planning obligation outcomes, the strong new policy message that affordable housing can be omitted could mean that any developer unable to make an acceptable profit from affordable provision will exclude it from schemes. This is a major concern, as planning obligations have been the main source of land for affordable housing for the last 20 or so years. There is a real risk that only public owned land will be

available in future. In addition this could undermine the progress that has been made on securing mixed tenure development in recent years. Moreover, in CPRE's view it would be difficult to reinstate the section 106 method of affordable provision after a three year period of relaxation.

13. The proposals strongly suggest that affordable housing should be the first thing omitted from agreements, but other policy changes on short term viability and the appeal right will also undermine delivery of other essential infrastructure such as open spaces and transport schemes. This raises the issue of priorities in obligation agreements; which aspects are to be considered disposable and which are imperative?

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

14. The principle of removing aspects of development from control by a general order is well established, but care is needed on the level of freedom provided. CPRE is concerned that development design quality could suffer seriously if the proposed changes are followed through, resulting in reduced amenity for adjoining properties and an overall decline in environmental quality. Once in place for 3 years it could be very difficult to reinstate the lost controls as well as the LPA resource required to operate them.

15. CLG press statements have suggested that LPAs could reintroduce control using local Directions (Article 4). While theoretically possible, this could introduce considerable complexity and geographical difference to the system. Such Directions also create a risk of compensation liabilities on the LPA.

16. CPRE is particularly concerned about the visual impact of larger unregulated extensions on properties in open countryside. Protected areas will be retained, meaning there is no change to permitted development rights (PDRs) in areas such as National Parks, but under the current regime this would not include Green Belt. This could result in a loss of openness, undermining one of the primary objectives of Green Belt policy.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

17. CPRE supports Planning Performance Agreements subject to these being used for development in line with adopted plans. We are concerned that LPAs faced by an increased threat of costs awards on appeal would be less likely to take decisions on the basis on sound planning principles.

How planning authorities should be able to adjust Green Belt land?

18. CPRE believes that adjustments of Green Belt land should be entirely exceptional, in line with established planning policy. The Government has pledged to maintain Green Belt in line with this requirement. Government statistics from 2009 reveal enough brownfield land is available for 1.5 million new homes, with over twice this amount for new industrial and commercial development also available. It should not be necessary therefore generally to release Green Belt land to meet development needs.

19. The Secretary of State has encouraged LPAs to review Green Belt boundaries and reallocate brownfield sites within the Green Belt for development; these sites comprise around 7% of Green Belt land. CPRE's recent briefing *Green Belt: Under Renewed Threat*²² has drawn attention to a number of cases where Green Belts are already being reviewed. While we support the reuse of brownfield land in suitable locations, the presence of these sites does not justify a full scale review of the Green Belt, as they are easily identified and, for example, many former hospital sites have now been redeveloped. Brownfield sites in the Green Belt are also often set in open landscaped parkland which contributes to openness and should remain undeveloped.

20. We are particularly concerned by suggestions that LPAs could "swap" areas of Green Belt land for development in exchange for other more peripheral areas. Such an approach would undermine one of the fundamental purposes of Green Belts which is to restrict urban sprawl. It is also misleading to claim, as some in Government have recently done, that current policy allows for this. The NPPF sets the "exceptional circumstances" test for removing land from the Green Belt, but also has even more onerous requirements (at paragraph 82) for designating new Green Belt, which must be met even in the case of "swaps". The further the land is from the main urban area(s), the more difficult it is to justify including it in the Green Belt. Areas where Green Belt "swaps" have recently been tried include regional plans in both Bedfordshire (new Green Belt around Milton Keynes to replace areas for development around Luton) and Avon (new Green Belt north of Thornbury and north of Radstock to replace development around Bristol and Bath, respectively). Both of the proposed new areas of Green Belt were rejected by Planning Inspectors, while the proposals to develop Green Belt land were accepted. The Government has since taken steps to abolish regional plans.

How the Government's review of national and local standards should be carried out and what focus should it have?

21. CPRE welcomes the commitment by Government to rationalise standards, but is unequivocal that this must not result in further weakening of ambitions to improve the environmental performance standards of new buildings. The Green Deal has made good progress on increasing opportunities for owners of existing homes

²² Available at: <http://www.cpre.org.uk/resources/housing-and-planning/green-belts/item/download/2317>

to improve the energy efficiency of these buildings. This review offers the opportunity to ensure that higher standards are automatically included in all new buildings.

22. We were disappointed that the Government announced in late 2010 that it would not implement the previous Government's commitment to require all publicly subsidised housing to meet Code Level 4 of the Code for Sustainable Homes. It is equally disappointing that the definition of zero-carbon that all new homes should meet by 2016 has been weakened, so that emissions from appliances installed in the building are excluded.

23. CPRE recognises that there are some concerns that delivering higher environmental performance standards can be more expensive than constructing new buildings to lower standards. We urge the Government to consider the most recent review of the cost of delivering higher levels of the Code for Sustainable Homes, which found that year on year extra costs are falling as supply chains adjust²³. CPRE believes that the challenge of climate change means we cannot afford not to improve the sustainability standards of our new buildings.

What the impact is of the proposal to get empty commercial buildings into use?

24. CPRE strongly supports making good use of existing buildings and developed areas. This is already supported by the NPPF, and as a result in Local Plans. Some discretion to consider local circumstances should remain with LPAs however, for example to allow for judgements about relationships between uses, the need for basic residential amenities, or the need to safeguard some business properties with lower land values so that economic activity is now undermined.

25. It should also be considered that a permitted development approach to this issue removes all possibility of negotiated planning obligations that can facilitate appropriate solutions to amenity and design issues.

What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

26. It is unclear whether the Government intend to pursue this through widening its use of the existing power of call in, or through widening the scope of the Major Infrastructure Planning regime.

27. Whichever mechanism is used, centralisation of decision making is unlikely to ensure speedy or optimal planning decisions in the context of the government's priority to "get Britain building". In practice the Government, via the Planning Inspectorate, will face a series of complex resource intensive decisions. In addition, the extended use of call-in powers could lead to decisions being taken quickly, risking poor attention to detail and quality and triggering the prospect of legal challenges.

28. Extending the National Infrastructure Planning regime would require a significant boost to resources, the changing of the legislative framework set out in the Planning Act 2008, and the development of some kind of policy framework, for instance through the formation of new National Policy Statements. Significantly these measures could also take up between 18 months and two years to introduce, meaning they will have little effect in the short to medium term.

29. CPRE believes that the best way to achieve sound planning decisions is to support LPAs in finalising their local plans in line with the NPPF. Once this has been done LPAs should be able to make decisions to encourage genuinely sustainable development based on locally agreed plans.

30. The Government has stated that it proposes to legislate to allow applications to be decided by the Planning Inspectorate, if the local authority has a "track record of consistently poor performance in the speed of quality of its decisions". It has been suggested that quality may be judged by the number of decisions an LPA has had overturned by PINS. Clarity on this point from Ministers would be helpful. It would also be useful to know how the Government intends to deal with LPAs which are consistently failing to take decisions which prevent unsustainable and environmentally damaging development.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

31. The key issue here is land value. To create sizable new communities including affordable housing it is usually essential for the public sector to make the land available at low or nil cost to allow developers to fund infrastructure and affordability by joint venture, or for the public sector to invest in these issues through advance works.

²³ <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1972728.pdf>

32. We are concerned that, at present, the normal approach appears to be to dispose of land at maximum market value, meaning that the development then becomes identical to a private dependent on planning obligations (see above).

CPRE

September, 2012

Written evidence from the Federation of Master Builders

SUMMARY

1. While many of the Government's reform proposals are welcome, most will have little impact on the SME sector which provides the greatest potential for growth, both in terms of new homes delivered, and jobs created.

2. Since 1988 the number of house building firms registering less than 100 units per annum has fallen by 69% with the loss of over 8,000 firms from the SME sector of the industry.

3. According to the London School of Economics we have the capacity within existing communities to create all the new homes we need by making use of small and micro sites.

4. However, small sites are up to 70% more expensive to develop than general estate housing as they are typically brought forward by SMEs who cannot take advantage of economies of scale, and who struggle most with the burden of regulation.

5. As such the Government must look at introducing a raft of measures to encourage SMEs and self builders to bring forward proposals for small developments.

6. The FMB calls on the government to significantly reduce planning fees for small site applications.

7. The FMB calls on the government to implement a return to meaningful outline planning applications.

8. The FMB calls on the government to significantly reduced contributions on small sites under section 106 agreements, Community Infrastructure Levy, and to locally imposed policies that go over and above national requirements.

9. The FMB calls on the government to immediately introduce a moratorium on the introduction of all new burdens on the house building sector for the remainder of the Parliament.

EVIDENCE

10. The Federation of Master Builders (FMB) is the largest employers' body for small and medium sized firms in the construction industry, and with nearly 10,000 members is the recognised voice of the SME building sector.

11. Over the life time of this parliament new household creation will outstrip net additions to the dwelling stock by around 521, 600 units. This is around 100,000 units more than the dwelling stock of our second largest city, Birmingham.

12. While many of the Government's reform proposals are welcome, most will have little impact on the SME sector which provides the greatest potential for growth, both in terms of new homes delivered, and jobs created.

13. Large house builders will be the primary beneficiaries from: New Buy; Get Britain Building, specialist teams from DCLG looking renegotiation of 106 agreements; and Planning Performance Agreements.

14. With the nine largest house builders delivering 45% of our new housing, the emphasis on large builders is understandable, and must be part of the solution but it is a medium term strategy that is unlikely to see results in the next three to five years.

15. With the volume builders having stabilised at a lower level than most would want, far more attention should be paid to getting a wide variety of smaller sites started because that is where developers can get on-site and complete houses quickly.

16. The last time more than 200,000 homes were built in a single year in England was 1988. An analysis of NHBC statistics shows that in 1988, firms completing less than 500 units per annum delivered two thirds of UK housing. However SME house building is in long term decline and by 2010 the proportion of new homes delivered by small firms had dropped to just one third.

17. Over the same period the number of house building firms registering less than 100 units per annum fell by 69% with the loss of over 8,000 firms from this sector of the industry.

18. According to the London School of Economics we have the capacity within existing communities to create all the new homes we need. Small available sites of under two hectares within built up areas are rarely counted, and micro sites of half an acre are literally to numerous to count.

19. However, an analysis of data from the Building Cost Information Service shows that, on average, the mean cost per m² for “one off” developments of three units or fewer has been 70% higher than for general estate housing.

20. Any effective solution to the housing crisis will need to focus on releasing this land and encouraging SME builders to bring it forward for development. This will require a comprehensive package of measures specifically targeted at small sites and the small builders who build on them.

21. Such a package of measures will need to address the five major “pinch points” in the development process that are deterring SME engagement in house building.

22. The first is the cost of submitting a planning application. If the chances of achieving an implementable permission for a financially viable project are not sufficiently strong to outweigh the time and expense of submitting a planning application, no application is made. The erosion of any meaningful distinction between outline and full plans applications means that, in such uncertain market conditions, SMEs are not taking the risk of even making an application.

23. The second is obtaining an implementable permission to build. Although the National Planning Policy Framework is in place, the general consensus amongst leading planners, lawyers and developers is that it will take several years of appeals and court decisions to clarify a number of key issues.

24. The intended revocation and repeal of requirements for Regional Strategies (RS) has not occurred because Government is undertaking Environmental Assessments of the effects of the revocation of each strategy. Thus they remain the statutory plan, even if with diminishing weight, and many local authorities are unwilling to prepare local plans because they would still have to be in conformity with the RS.

25. The third is the combined cost of section 106, national policy, local policy and increasingly, Community Infrastructure Levy (CIL). The cost and complexity of section 106 and local policies are well known, but the cost of CIL is increasingly a factor. Originally expected to cost between £5,000 and £10,000 per property, front runner authorities are regularly imposing significantly higher CIL costs, with one authority imposing a charging schedule that would impose a £52,000 CIL charge on an average size home of 91m². The Government must reexamine the introduction of CIL urgently and either suspend or amend the regulations. A developer cannot develop if the accumulated cost of publically imposed burdens at national and local level renders the development unviable.

26. The fourth is development finance. Even with an implementable permission for an economically viable project, development cannot take place without finance being available at acceptable rates. 72% of respondents to a recent survey of FMB’s house builders cited lack of finance as a main constraint on ability to build more homes.

27. The fifth is the market. The demand for both public and private housing is high, but cannot be realised due to lack of funding. This problem is particularly acute for private buyers owing to the remaining tightness in mortgage lending criteria. If buyers cannot raise the finance to buy, builders cannot build even if all of the other criteria for a successful development remain in place.

28. As such the Government must look at introducing a raft of measures to encourage SMEs and self builders to bring forward proposals for small developments such as: a significant reduction in planning fees for small site applications; a return to meaningful outline planning applications; significantly reduced contributions on small sites under s106, CIL and local policies; targeted finance aimed specifically at SMEs, first time buyers, and home owners; and a moratorium on the introduction of new burdens on the house building sector for the remainder of the Parliament.

September 2012

Written evidence from BCSC

BACKGROUND

BCSC represents businesses operating in the retail property sector, including landlords, developers, investors and retailers. This submission focuses on proposals to get empty commercial buildings into use and proposed changes intended to speed up the planning process.

In terms of retail supply we accept that in some locations, exacerbated by the current market, there are a large number of retail premises not in use. Indeed in 2011 we undertook research into vacancy rates and concluded that the incidence of void retail units on the UK’s high streets and shopping centres increased substantially over the course of the recession. However long before the recession began a number of structural drivers were undermining the demand for traditional retail space in many parts of the country²⁴. As such, even as and when the economy emerges from recession over the coming years, we should not expect a return to the low void rates seen during the last decade. We anticipate that barring substantial changes to the offer provided by current high streets and shopping centres, or a rationalisation of some of the space currently classified as

²⁴ *EMPTY SHOPS: What does the future hold for town centres?* http://www.bpsc.org.uk/media/downloads/2011_voidsreport.pdf BCSC (2011)

retail, the void rate could settle in the double digits. As such moves to increase the supply of retail space through the planning system may not be responding to long term market trends and as such we believe there needs to be far more radical thinking on this issue of future retail supply in town centres.

Either way we strongly believe that councils must invest time and money to ensure they have up to date local plans which set out their aspirations for a good supply of all uses—retail, leisure, commercial and residential—in their town and city centres. If there were to be much greater scope for individual “ad hoc” decisions this could create less need to have regard to a coherent planning policy which favours, say, new retail development in a town centre. Therefore any proposed future change to the use classes order that might impact on retail should be considered in the context of planning for the future retail demands of a town or city.

PERMITTED DEVELOPMENT RIGHTS—GENERAL

We have some concerns that allowing permitted development rights to change from agricultural to retail uses could undermine the strength of some town centres, and seems to contradictory to Government’s stated support for a town centre first planning policy. We do not believe retail is a relatively low impact business use, as stated in paragraph 30 of Government’s recent consultation on this issue. It is worth noting that developing a farm shop or café would, in most circumstances, presently be permitted development in any case. We therefore question the extent that this policy change would be used for this purpose, but as noted have concerns about its potential for abuse to the detriment of some town centres. As we have made reference too above the issues facing the retail sector are not as a result of a supply problem, but driven by serious constraints on consumer demand. Increasing the supply of retail space is therefore clearly not a solution.

One other point is that given agricultural buildings are often located in sensitive locations (Green Belt, AONBs, Open Countryside) with little or no supporting infrastructure for these to be converted to retail without any control would be wholly inappropriate. The other uses (B1, C1 and D2) proposed would have less impact upon town and city centres but careful control would again be required to ensure the scale of operation was appropriate to the location.

THRESHOLDS AND LIMITATIONS ON PERMITTED DEVELOPMENT RIGHTS

Were Government’s proposals taken forward it is critical that thresholds are applied, including quantitative and qualitative thresholds, and are consistent with Government’s approach to planning for retail as set out in the NPPF.

Unrestricted uses cannot be allowed and these controls are essential to ensure any impacts on nearby town centers are appropriately controlled and minimized.

A prior approval process for authorities and communities to understand impact should certainly be in place.

PERMITTED DEVELOPMENT RIGHTS

Temporary use of buildings currently within the A, B1 and D1 and D2 use classes for a range of other specified uses for two years

We are supportive of a more flexible approach to allowing changes of use across the use class order to reflect changes in local circumstances/market demand. However uncontrolled and unrestricted change of use of buildings, even on a temporary basis, could have a significant impact on town and city centres and must therefore be considered in the context of the relevant retail tests. For example under these proposals, large out of town light industrial parks/buildings or exhibition halls could change to retail use over night without any consideration of the impacts this may have upon a town or city centre. This is clearly consistent with the Government’s commitment to town centres as set out in the NPPF and emphasised through the appointment of Mary Portas to undertake a review of the high street.

If current Government proposals are to be taken forward they should therefore be strictly controlled. For example any change of use involving main town centre uses should only be permitted within the defined town/city centre boundary and should be restricted in overall size to ensure the impacts (retail, traffic, amenity, environmental etc.) are adequately controlled.

Further questions remain on the following points:

- the detail of the notification requirement referred to in the consultation document;
- confirmation of the uses that might be considered appropriate temporary uses; and
- if this policy only applies to vacant or redundant buildings, the way in which this will be defined.

We are of course very keen to engage with the Communities and Local Government Committee further on these proposals.

Uses that could be allowed on a temporary basis

As stated above some further flexibility in the system is welcomed however we remain concerns about the impact on the vitality of town centres were some uses able to be changes through permitted development to

open A1, especially those located in poorly linked out of town locations. Therefore we would like to see further controls applied to support well founded and broadly supported national policy to ensure the vitality of town centres.

Furthermore, given our research highlighted above, we question whether the demand for retail space is a real barrier to business start ups given the current consumer spending trends. What is probably more important is ensuring the vibrancy of town centres which will require an appropriate mix of uses, across commercial and residential assets.

Finally from experience a two year period to test a business is limited. The kind of capital expenditure to fit out a shop, and indeed the loan capital often required to start up a business, will only pay back over a much longer period. We therefore question the number of businesses that would be prepared to make this investment risk based on this limited period.

STREAMLINING INFORMATION REQUIREMENTS FOR OUTLINE PLANNING APPLICATIONS

Where it is agreed between an applicant and a local authority that layout will be reserved for subsequent approval the applicant should not be required to submit plans showing the location of buildings, routes and open spaces etc.

Whilst the applicant will need to undertake a certain level of design work in order to be confident that proposals can be delivered, they will not normally wish to submit this information to the local authority for approval and subsequently be tied to its delivery if this is “reserved”. If submitted, the information should be treated as illustrative/indicative only.

Illustrative/indicative layout plans together with “parameter plans” for EIA testing (where relevant) are considered to provide sufficient detail necessary for a local authority to determine an outline application where layout is “reserved” in most instances.

Further the requirement to submit plans and details covering scale where this matter is “reserved” can be overly restrictive, time consuming and unnecessary.

Particularly in relation to commercial/retail schemes, the scale of a building (height, width, length etc.) will often be a specific tenant requirement which is unlikely to be known at the outline stage, when proposals can often be speculative. Therefore it is likely that these details will significantly change over time as the scheme progresses to detailed design and if approved at outline stage this would necessitate revised or S73 applications having to be submitted.

The only information an applicant should be required to submit relating to scale where scale is “reserved” is the maximum level of floorspace proposed to be developed. However, slightly confusingly, this is referred to as “amount” when considered in relation to Design and Access statements.

Over time Design and Access Statements have been used by local authorities and applicants as a “catch all” document to cover many of the peripheral issues and details local authorities have requested be submitted. There is also an increasing level of duplication between Design and Access Statements and other supporting reports such as masterplan statements, transport assessments, sustainability appraisal, biodiversity strategies etc. that local authorities also often require. This has led to statements becoming excessively long and less focused upon the key issues that they were first introduced to cover.

Whilst guidance does exist on preparing Design and Access statements, this is several years old now and would benefit from being reviewed in light of the experience gained since the statements were introduced in 2006 and this consultation.

There are also a number of ways that the standard application form could be further rationalised.

The level of detail sought on the current Outline Planning Application Form in respect of the following elements will often not be available at this stage in the process or are better dealt with through supporting reports and documents. Therefore the following components of the standard application form could be omitted without affecting the ability of the local planning authority to determine the application:

- Some aspects of flood risk and drainage.
- Precise details of residential units (type, tenure, size).
- Employment.
- Hours of Opening.
- Industrial or Commercial Processes and Machinery.

Written evidence from the Town and Country Planning Association (TCPA)

1. ABOUT THE TCPA

1.1 The Town and Country Planning Association (TCPA) is Britain's oldest charity concerned with planning, housing and the environment. Our objectives are to:

- Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country.
- Empower people and communities to influence decisions that affect them.
- Improve the planning system in accordance with the principles of sustainable development.

2. SUMMARY OF THE TCPA'S RESPONSE

2.1 The TCPA wants to see an outcome driven and visionary planning system which is responsive to people's needs and aspirations and delivers long term sustainable development for the nation. While planning can claim many substantial achievements, we recognise that the current system can be unresponsive and remote from communities and does not always deliver the high quality outcomes vital to building a better future for England. Our key objective is to ensure that planning reforms creates a system that is both visionary and workable. It must help deliver high quality, well located homes; create dynamic local economies; and deal with the pressing challenge of climate change.

2.2 The TCPA welcomes the opportunity to submit evidence to this inquiry. Overall the proposed measures appear to amount to a very significant change to the planning system. These changes come only six months since the publication of the National Planning Policy Framework (NPPF) and the full commencement of the Localism Act 2011.

2.3 The TCPA supports the Government's ambitions to kick-start the economy and support housing delivery; however it is a myth that planning is a barrier to economic growth. The real barrier is a lack of finance in the system. The TCPA highlights the findings of research by the LGA that almost 400,000 homes have been granted planning permission but are incomplete, with building work yet to start on more than half.

2.4 The new proposals are not framed by a green or white paper or any form of consultation or dialogue. They are being introduced in the same way in which emergency legislation might be adopted and the TCPA is not aware of any planned public consultation process before publication of the draft Bill. The TCPA's understanding is that new legislation is likely to be published in the autumn. Government will have to carefully consider how to manage public consultation on the Bill and an inequalities impact assessment.

2.5 Proposals to re-assess section 106 agreements need very careful consideration. It is well understood that social and affordable homes are essential to creating mixed, vibrant and resilient communities. The detail of how the Planning Inspectorate (PINs) administers changes to affordable housing requirements of section 106 agreements will be of particular importance in ensuring we strike the right balance between bringing housing supply forward and maintaining delivery of new affordable homes. We cannot risk creating a legacy of social division. Once these places are built the long term consequences of this division cannot be easily undone.

2.6 The implications of the Government's drive towards by-passing local authorities also requires careful consideration. Local communities may well be marginalised and the TCPA is concerned that the increased workload for PINs will not lead to any time or cost saving for the private sector without significant resource. The Government needs to carefully consider public legitimacy in planning decisions.

2.7 It is important to take stock of how the latest reforms impact on the overall workability of the English planning system. After a period of significant change, the TCPA questions whether the planning system is fit to meet the challenges facing the nation. The mix of deregulation, localism and now centralism may create confusion as to the purpose and objectives of the planning system and the TCPA is concerned that this will not ensure high quality outcomes. We need a functional, democratic planning system to guide the future sustainable development of our communities and our nation.

3. TCPA RESPONSE TO CLG COMMITTEE QUESTIONS

3.1 *How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?*

3.1.1 Overall, the proposals may create confusion about the place of localism in planning. Many of the proposals have the effect of centralising planning decisions via a reactive appeals process. For example, the Statement sets out Government's intentions to introduce a new fast track appeals process where there are "failures of performance" in Local Planning Authorities (LPAs).

3.1.2 A related aspect of the announcement is the increased use of call in powers by the Secretary of State in relation to major housing developments. This reverses the policy introduced in 2010 of radically reducing the use of call in. It is difficult to square these proposals with the localism agenda.

3.1.3 The announcement praised the success of the Nationally Significant Infrastructure Projects (NSIPs) regime in streamlining planning and proposes a review of thresholds for some categories of NSIPs and to bring

in new categories of commercial and business development. The 2008 Planning Act was designed for a specific group of large scale projects relating only to energy, transport, water and waste and founded on the creation of National Policy Statements (NPS). Determination under the 2008 regime effectively bypasses any form of LPA control and decisions are now made by the Secretary of State on the recommendation of the NSIPs unit of PINs. The Secretary of State can, by order, amend the detail of any of the specified categories, but cannot add new categories without amending section 14 of the Planning Act 2008. This proposal would therefore require new legislation.

3.1.4 The TCPA seeks clarity from Government as to what kind of development might be drawn up into the new regime. The DCLG website summary of the announcement states that “*thousands of big commercial and residential applications to be directed to a major infrastructure fast track*”. However, the actual Written Statement appears to relate only to commercial and business development. Even if it the announcement applies only to commercial and business development there are wide ranging implications for the function of LPAs, for the local plan-led system and for the rights of communities. The Government will need to carefully define the forms of development it considers significant and publish a supporting and inevitably detailed NPS.

3.1.5 The TCPA believes that the 2008 regime is ill-suited to dealing with forms of development with complex social and economic impacts on existing communities. Even now the existing NPS do not relate well to each other, and have no relationship to factors like housing, which holds back effective strategic planning in England. The 2008 NSIPs regime and the town and country planning regime under the 2004 Planning and Compulsory Purchase Act and the 2011 Localism Act have yet to form a meaningful relationship. While there is a case for such an approach on major energy and transport schemes with national scale implications, the case for even the very largest form of, for example, retail development being determined by the 2008 regime is questionable.

3.1.6 The complex mix of deregulation, localism and now centralism may create confusion as to the purpose and objectives of the planning system and the TCPA is concerned that this will not ensure high quality outcomes. There is a risk that localised planning structures will be played against central control and this clearly has consequences for public legitimacy.

3.2 What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

3.2.1 While viability is vital for delivery, the policy approach of re-assessing section 106 agreements has significant implications for the creation of balanced and inclusive communities. The TCPA is concerned that there is a risk of increased social polarisation as a result of the policy and direct impacts on those groups who rely disproportionately on social and affordable housing.

3.2.2 The TCPA urge Government to reconsider this approach suggesting the increased financial investment in affordable housing (using the £300 million set aside to compensate for the loss of affordable housing on these sites) is used as a direct investment to unstick these sites while leaving the objective of social mixed communities intact. The TCPA seeks clarity on the scale of losses and compensatory benefits in terms of where the £300 million is being used for compensatory social housing and whether this will be in genuinely mixed and inclusive communities?

3.3 What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

3.3.1 *Speed:* The commitment in the Written Statement to new legislation to expand the grounds of appeal suggests a re-examination of section 78 of the 1990 Planning Act. However “speed” is already dealt with in terms of non-determination of applications and the TCPA questions how this could be further expanded. Many extensions to the statutory timescales for determination are by mutual consent to deal with the complexity of applications. Expanding the grounds of appeal to encompass issues of quality raises questions as to what “quality decisions” in planning might mean. The TCPA asks Government to provide clarity on whether quality applies to process or outcomes and what are the criteria to be? This is even more complex when such a definition is to be enshrined in law. The TCPA questions whether an appeal based on the “quality” of a local authorities decision workable?

3.3.2 The Statement also flagged up new measures to fast track some kinds of commercial appeals (see 3.1.4) and to speed up the process more generally. Since considerable progress has been made already on timescales it is hard to see how this can be achieved without affecting the transparency of the process.

3.3.3 *Capacity:* The proposals—changes to appeals, call in and the re-assessment of section 106 agreements—would see a much greater burden fall on PINs. The TCPA questions whether there is evidence that these proposal will result in a saving of time or money. PINS will require significant expansion to deal with the workload.

3.3.4 The issue of monitoring the performance of planning authorities needs to be set in the context of the removal of reporting obligations to Government which came into law only nine months ago in the Localism Act 2011 (Section 113). These provisions removed the requirements for LPAs to send annual monitoring reports to the Secretary of State.

3.4 *How the Government's review of national and local standards should be carried out and what focus should it have?*

3.4.1 The TCPA recommends that the Government's review focuses on the following.

3.4.2 *A national minimum on sustainability:* The TCPA urge Government to continue their commitment to the definition of zero carbon and that Building Regulations will remain the mechanism to set national minimum standards. If the outcome is a substantial reduction in building standards, particularly around the zero carbon definition, then the quality of our communities and their ability to, for example, adapt to climate change will have been set back. Investment in industries which deliver these new technologies will also suffer in marked contrast to our European partners and in particular Germany. The TCPA notes that an earlier review for the Local Standards Framework was not taken forward.

3.4.3 *Level playing field for housing space standards:* The TCPA has long been an advocate for providing quality and decent homes. National housing space standards are essential to ensure the sustainability of our homes, ensuring that the quality of life of people and families are not compromised by poor quality housing. The TCPA is aware of the arguments against the setting of stringent housing space standards. However as demonstrated by the leadership of the Mayor of London through the 2011 London Plan, such standards are necessary.

3.4.4 *Clarity and communication:* It is essential that Government provide clarity about the Building Standards as soon as possible to ensure:

- there is clarity in the minds of industry and the public on the narrative surrounding low carbon, resilient communities;
- that there is a level playing field and consistency between all sectors and LPAs on key issues such as space standards and sustainability; and
- that given the Statement raises questions about who might own the standards that there is clarity that Government will retain ownership of the standards that are fundamental to quality of life and our ability to adapt to climate change.

3.5 *What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?*

3.5.1 The TCPA welcome the focus on the delivery of major housing sites, however if the Government centralises decisions for large-scale developments via PINs this will change the locus of the consent from local to national. By-passing LPAs will not address the key delivery issues set out in the TCPA report "Creating Garden Cities and Suburbs Today"²⁵ and sets up a potential legacy of tension between LPAs, communities and developers.

3.5.2 The TCPA suggests that the Government look at making the best use of the existing New Towns legislation which would provide not just a way of managing consent but the outline of delivery vehicles and the financial resources necessary to build high quality new communities. This could be a locally based and controlled version of a New Town Development Corporation (NTDC). These were purpose designed to deliver large scale joined up developments and did so effectively over 40 years. The Act under which they were created still exists and although NTDCs were seen as agents of central government this could be overcome if Government could find a way of allowing local authorities to create, and effectively own, the NTDC. This would then allow successful partnerships to be formed with private landowners. A recent paper by John Walker for the TCPA provides further detail this proposition.²⁶

3.6 *How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?*

3.6.1 The Government can play a key role in the assembly and co-ordinated release of public sector land, working in partnership with local authorities and the private sector. The Government should also consider how the rules surrounding "best value" might be modified to deal with specific deliverability and viability issues. There may be a case for releasing suitable public sector land at less than market value where this is demonstrably in the public interest. This would open up the prospect of delivering high-quality communities with, for example, a meaningful proportion of decent social and affordable housing and custom/self-build plots. It is still possible to achieve good value for the taxpayer using this mechanism; it is simply that some of the returns to the public purse are generated through the growth of a new community and the wider economic benefits of housing delivery for the nation.

September 2012

²⁵ TCPA, May 2012, Creating garden cities and suburbs today. Policies, practices, partnerships and model approaches—a report of the garden cities and suburbs expert group, www.tcpa.org.uk/pages/creating-garden-cities-and-suburbs-today.html

²⁶ John Walker, September 2012, Town & Country Planning Tomorrow Series Paper 13, Land value capture and infrastructure delivery through SLICS, www.tcpa.org.uk/data/files/TomorrowSP_SLICS.pdf

Written evidence from the Council of Mortgage Lenders

INTRODUCTION

1. The CML is the representative trade body for the first charge residential mortgage lending industry, which includes banks, building societies and specialist lenders. Our 113 members currently hold around 95% of UK first charge mortgages. In addition to lending for home-ownership, the CML's members also lend to support the private rental markets and social housing.

2. We welcome this opportunity to respond to the call for evidence in advance of the planned session with the new Ministers for Planning and Housing.

3. There is huge political and social sensitivity around the availability and delivery of housing. For the past decade or so, it has been widely recognised that there is a growing shortfall between housing supply and need. There is an increasing need for housing of all tenures, as a result of strong demographic pressures on household formation rates, but low levels of new build are falling well short of prospective requirements. The credit crunch has clearly added to these difficulties, most obviously by shrinking how much mortgage finance is available and triggering the need for fiscal austerity. These additional pressures look set to only dissipate gradually.

4. Against this backdrop, the CML supports any efforts to bolster new build activity, regardless of tenure. In the absence of a “magic bullet” solution to the UK’s housing difficulties, it is important that policy-makers and stakeholders craft initiatives that are well-designed and complementary in nature, in order to achieve maximum impact.

GOVERNMENT GUARANTEES AND AVAILABILITY OF FUNDS FOR HOUSING ASSOCIATIONS

5. We welcome, in principle, the announcement of government guarantees for housing association development. There are two schemes which this support is intended to promote—a further 15,000 new affordable homes, and development of new properties for full market rent.

6. There is currently a lack of detail available as to the terms and structure of the schemes, and when they might be available. Bond market commentators have suggested that the announcement on guarantees might affect availability of funding at some point, but it has not brought any immediate changes.

7. Recent issues show there is strong appetite in the market for housing association wholesale bonds; private placements continue to be available; the retail bond market has seen a number of new issues in August and September at competitive prices, with investor appetite still strong.

8. Pending further information, we anticipate the following potential issues:

- (a) Pricing and timing of the debt guarantee could impact the existing good availability of funds and strong investor appetite in the bond markets.
- (b) The detailed arrangements about how the debt would be accessed (possibly through an aggregator), and how this might operate have still to be established.
- (c) There is still a lack of detail about security requirements for the new debt and the ranking arrangements which might apply. In terms of covenant structures, existing lenders who have substantial investment in and exposure to the sector already will be keen to see security and covenant arrangements developed which do not compromise or undermine their existing positions.

9. It is still not clear at this stage how attractive the new guarantee will be. Housing Associations which have recently gone to the bond markets might not be interested, although clearly pricing will be key here.

10. In terms of the guarantees to stimulate housing association development for full market renting, we anticipate that this is likely to be attractive to a number of larger associations, particularly in the south of the country where demand for quality full market rent homes is strong. Clearly development finance will still have to be raised, and there could be issues for the Regulator to consider in terms of how this is secured and the requirement to protect existing social housing assets from exposure. Diversification into full market rent housing is generally not core business for housing associations, and additional risk associated with this will have to be carefully assessed and managed.

11. Generally on the guarantees, it is likely that until there are further details, housing associations will continue with their current funding plans. In order to prevent any build-up or glut of associations seeking to approach the bond markets, it would be useful if government were to provide clear messages around the likely timetable for the guarantees to become available. This will help associations plan and manage their approaches to the markets, and not unnecessarily hold off doing so.

SECTION 106 AFFORDABLE HOUSING REQUIREMENTS

12. On the proposed changes to the planning system, and the relaxation of s106 obligations, there is the possibility that this might have a perverse consequence of reducing the level of affordable housing development. We understand that many local authorities are already taking steps to proactively renegotiate s106 agreements

where developments have stalled. We are not convinced that s106 obligations are necessarily the key sticking point which needs to be addressed in stimulating growth. There are, for instance, more pressing issues about land supply and, particularly in London and the south east, ensuring a pipeline of well priced land which is “shovel ready” for development. Also in London and the south east, a number of associations have s106 developments in the pipeline, and there could be implications for existing developments and HCA contracts arising from relaxation of s106 obligations.

PRIVATE RENTED SECTOR

13. Buy-to-let activity has driven a remarkable renaissance of the private rented sector—in both scale and quality over the past 15 years. While this can and will continue, we believe that there should also be scope for greater institutional investment, especially if focused on new build activity.

14. The government’s proposals in this area, following on from the recommendations of Sir Adrian Montague’s report on the barriers to institutional investment, should help to unlock this potential for increased delivery of good quality private rented sector accommodation.

15. However, we need to ensure that any policy initiatives do not distort the market and interfere with the existing range of activities undertaken by buy-to-let landlords; there should be a level playing field for landlords in terms of regulation, tax breaks and other fiscal incentives.

EASIER ACCESS TO MORTGAGES THROUGH NEWBUY

16. Lenders and the CML worked closely with the government and home builders to help deliver an initiative that would work for lenders, builders and borrowers through NewBuy, not least because with a government guarantee it has created a market at 90–95% LTV in new build where previously none really existed. The scheme continues to gather momentum and there are now over 1,500 reservations under the scheme.

17. In assessing the impact of NewBuy so far, we must not forget that, although it has now been in place for six months, this autumn represents the first serious opportunity for builders to market it concertedly. Having been launched in March, NewBuy could have had only a modest impact on home-buying activity in the spring. Summer is usually a quiet time for the house purchase market, anyway, with buying activity this year further disrupted by the Jubilee celebrations and the Olympics.

18. Public awareness of the scheme has also taken time to grow and it is not always recognised that the scheme is for home movers as well as first time buyers. Given that housing transactions usually take several weeks or even months to complete, the number of purchases under NewBuy was always likely to be modest at first. FirstBuy had a similar trajectory when it was launched but is now a mainstay of the new build offering with further support recently announced by the government. But, the scheme has expanded since its launch. The three participating lenders at launch (Woolwich/Barclays, Nationwide Building Society and NatWest) have now been augmented by Santander, Halifax and Aldermore. Meanwhile, the number of builders signed up to the scheme has grown from seven in March to 31 listed on the NewBuy website today.

19. Future demand from consumers will depend on a variety of factors, including the economic backdrop and the extent to which builders market and promote the scheme. Government policy will also affect the outcome, and it is possible that the recent announcement of enhanced support for the FirstBuy initiative could lead to some future substitution of sales that might otherwise have been completed under the NewBuy scheme. However, we are confident that the scheme will continue to grow and support more purchasers.

September 2012

Written evidence from the Royal Institution of Chartered Surveyors (RICS)

THE ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS) IS PLEASED TO RESPOND TO THE COMMUNITIES AND LOCAL GOVERNMENT SELECT COMMITTEE’S CALL FOR VIEWS AHEAD OF THE EVIDENCE SESSION WITH THE NEW MINISTERS FOR HOUSING AND PLANNING

RICS is the leading organisation of its kind in the world for professionals in property, construction, land and related environmental issues. As an independent and chartered organisation, RICS regulates and maintains the professional standards of over 91,000 qualified members (FRICS, MRICS and AssocRICS) and over 50,000 trainee and student members. RICS has 22,000 UK members in the Planning and Development Group with 5000 also qualified as Building Surveyors. RICS regulates and promotes the work of these property professionals throughout 146 countries and is governed by a Royal Charter approved by Parliament which requires it to act in the public interest.

WRITTEN EVIDENCE

RICS notes that the questions provided by the Committee do not address the status of the Government’s proposed review of the guidance underpinning the NPPF as announced in the Government’s response to the

Committee's Report on the NPPF, published in March 2012²⁷. There has been, as of this date, no announcement as to the details or timing of this review. It is right that existing guidance should remain in place whilst the NPPF beds in but the current situation could result in conflicting and confusing guidance being issued by a number of different bodies which would only result in further red tape, appeals and delays. There is a great deal of good work currently being done by a number of organisations in the sector to produce guidance and an announcement of the review by Government would help co-ordinate this work, preventing duplication and ultimately resulting in a streamlined planning system that will bring forward development quickly.

To ensure the NPPF is implemented appropriately and immediately, RICS believes that it will be necessary to retain some sections of existing Government-led guidance and develop new guidance which is complementary to the NPPF. The previous Planning Minister recognised the role that professional institutions have to play in delivering industry-led guidance and RICS is pleased to work with other stakeholders to achieve this. RICS has already successfully collaborated widely with public and private sectors to produce Financial Viability in Planning Guidance (enclosed) which is referred to below.

RICS OFFERS COMMENT ON SELECTED QUESTIONS AS FOLLOWS

What are the economic and wider impacts—such as on the provision of social housing—of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

Affordable homes

There is no one solution to ease the pressure on the provision of affordable homes. S106 agreements are one part of the solution alongside other tools like increased availability of land, “social housing” REITs, more help for first time buyers and initiatives to encourage the growth of the market rent sector. What is clear is that the provision of affordable housing can help make mixed developments happen, bringing investment, jobs, and benefits for the whole community.

What is clear is that affordable housing is often difficult for developers to make viable. Potentially reducing obligations on developers to provide much-needed affordable housing risks reducing provision at a time when need is great and Government are unable to fund affordable housing delivery due to fiscal constraints. Private sector investment in affordable housing as outlined in the recent Montague Report will take time to have a significant effect in plugging any gap.

S106 Negotiation

Government initiatives to kick start stalled development are to be welcomed given the scale of the UK's housing crisis. However, the processes put in place to renegotiate S106 agreements made before 6 April 2010 must be robust and efficient to prevent further delay through appeals. This risks introducing greater uncertainty into the system resulting in an even more cautious approach from developers. If the process of renegotiating S106 is to be robust, it is essential that there is guidance which has broad industry agreement to correctly assess viability of development.

A proper understanding of financial viability is essential in ensuring that:

- land is willingly released for development by landowners;
- developers are capable of obtaining an appropriate market risk adjusted return for delivering the proposed development;
- the proposed development is capable of securing funding;
- assumptions about the quantum of development that can be viably delivered over the course of the plan period are robust; and
- CIL charging schedules are set at an appropriate level.

RICS has produced Financial Viability in Planning Guidance, consulting widely with the public and private sectors, to provide an objective test of the ability of development to meet its costs including the cost of planning obligations, while ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer in delivering that project. This guidance will provide an agreed framework to ensure the delivery of local development without undermining the developer's business case. RICS developed its guidance alongside and in consultation with the area-wide guidance developed by the Local Housing Delivery Group led by the HCA and under Sir John Hanham. RICS calls on Government to endorse this guidance to provide the public and private sectors with the clarity they need to make robust assessments, quickly. The NPPF currently only has supporting technical guidance alongside it on flood and minerals matters, whilst other earlier practice guidance (for example, retail planning was produced under the now defunct PPS system). Endorsement of up to date and topical advice as a “material consideration” would help give greater effect to the presumptions made under NPPF without adding to the “red tape” burden.

²⁷ <http://www.official-documents.gov.uk/document/cm83/8322/8322.pdf>

CIL

Renegotiating S106 agreements are one of many planning tools at the Government's disposal to get development moving. RICS members view the current lack of clarity around the operation of CIL and the lack of understanding of it in the market as a major barrier to development, making schemes financially unviable.

CIL clearly isn't working in the way Government intended with local authorities setting charging schedules at such a high level, development is at risk of being made unviable. Local authorities are caught between seeing CIL as a barrier to much-needed development and a revenue generator as budgets are cut. Once CIL is in place it then acts as a fixed statutory charge with very little scope for exception or variation. It is thus a blunt instrument that can act as a block rather than an encouragement to development. There is also strong evidence that affordable housing for example is being squeezed out in order to maintain viability by the inflexible prerequisites of meeting CIL obligations. It is not the single regime originally promised.

A suspension of CIL whilst the Government undertakes an urgent review would send a clear message to planners and developers that the Government is pulling all the levers to kick start development.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

The suggestion to bring forward the replacement of permissions granted before October 2009 which will come into force next month is to be welcomed. Planning Performance Agreements have been available for a while and the best authorities are prepared to agree a timetable for major applications. However, the issue is with poorly performing authorities and it is difficult to see how Government can persuade or incentivise them to improve, particularly in the current economic climate. A related point is that the skill and experience needed to meet PPA requirements within authorities is often variable too. Outsourcing and buying in experts is increasingly common. There is greater scope for sharing of expertise and capacity cross boundary in this regard.

Allowing direct applications to the Planning Inspectorate to bypass "poorly performing" authorities is likely to be problematic. It may have a negative impact on existing relationships, adversely affecting the progress of development. It is also questionable whether the Planning Inspectorate has the resource to deal with these direct applications.

Whilst the RICS Financial Viability in Planning Guidance provides a clear framework, it is vital that those renegotiating S106 agreements have the right skills to use the guidance to assess viability. RICS anecdotal evidence suggests that the Planning Inspectorate's expertise in this area is uneven.

The RICS, RTPI and The Planning Officers society have developed and established the Expert Advisers in Planning Service (EAPS). This is an independent service that is available to local authorities, public and private bodies, developers and local communities. EAPS provides access to impartial experts who can advise on all aspects of the planning process. RICS recommends that Government explores how EAPS can be developed to provide independent advice to the Planning Inspectorate as renegotiations are undertaken. This would provide much-needed viability expertise and ensure the process is robust and efficient.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

While these measures may help deliver much-needed work to the construction sector, these minor changes will not address the UK's housing supply crisis nor create sufficient jobs. Local decision making (for example, by some councils "opting out" through the use of local statutory measures—Article 4 Directions for example—will also be confusing making planning seem a complex and variable system again.

How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

Whilst the Government has made good progress in releasing surplus public sector land, care must be taken to ensure that the assessment of the viability of the development particularly outside London and the South East is robust. A clear, long term nationwide strategy for the release of land and a National Asset Register to provide developers with the transparency they need is vital as is a definition of best value that goes beyond simply assessing the highest return to include housing supply and the resultant economic benefits. RICS Guidelines for the Disposal of Land at Less Than Best Consideration provide developers and local authorities with a common framework for this assessment alongside the use of RICS Financial Viability in Planning Guidance. RICS recommends that Government promotes the use of the Guidelines for the Disposal of Land to local authorities.

Written evidence from the British Property Federation

INTRODUCTION

1. This submission has been prepared by the British Property Federation (BPF) in response to a request by the Communities and Local Government Select Committee in advance of the evidence sessions to be held with the new Ministers with responsibility for housing and planning.

2. The BPF represents companies owning, managing and investing in property. This includes a broad range of businesses—commercial property owners, the financial institutions and pension funds, corporate landlords, local private landlords—as well as all those professions that support the industry.

3. We have decided to structure our response in a slightly different way, and to divide it into two sections:
- What are the real problems and obstacles to growth and development?
 - Does the recently announced package of measures²⁸ address these issues or will this package actually make things worse by creating any degree of uncertainty or complication?

What are the real problems and obstacles to growth and development?

4. The economic downturn has exposed some of the more fundamental and long-term problems that are adversely affecting the economy. Chief among these are deficiencies in the country's infrastructure and a workforce whose skills are falling behind those of some of its competitors. The Government has identified £200 billion of public and private infrastructure planned over the next five years, and the requirement is likely to grow beyond that. Equally, there is a widely recognised need to upgrade the level of skills in the UK as a highly skilled workforce is seen as essential to creating and maintaining a competitive edge.

5. Business confidence is at a low ebb, seen against a background of relentlessly negative economic news. Consequently, businesses are reluctant to commit to new investment, despite often sitting on stockpiles of cash. This inevitably impacts on regeneration and development. Speculative development, in particular, which is so crucial to the success of Enterprise Zones and other areas most in need of regeneration, has virtually disappeared. Without the prospect of some additional stimuli—whether incentives to business to invest (for instance through enhanced capital allowances) or help with unlocking stalled development (for instance, through TIF-type approaches)—the prospects for new development outside central London look bleak.

6. A particular problem is that the financial model that underpinned regeneration for many years, driven by copious public funds and ready access to private finance, has been fractured. Public sector funding has dried up and the banks and investors that paid for it in the past are unlikely to do so in the same way for the foreseeable future. Whilst investment has continued to flow to central London, other more marginal areas which are most in need of regeneration have struggled to attract investment. The paucity of both public and private finance means that financial partnerships between the public and private sectors (with the two sectors sharing both the risks and the rewards) are going to be more important than ever.

7. Planning controls can, if inappropriately applied, delay and even deter development. The Government has spent much of the last two years implementing a package of planning reforms which should be helpful in easing the path for some types of development. It has now announced the intention to introduce further significant reform. Whilst we agree that the length of time taken to approve major new infrastructure does need further attention, a further round of full reform for the rest of the planning system is not required. In most areas where development is stalled, the problem is not over-rigorous planning but the lack of financial viability. Planning reform should not, therefore, be seen as a substitute for Government action being taken in other areas.

8. The Community Infrastructure Levy (CIL) is one of the biggest hurdles facing development at the moment. We believe that a thorough overhaul of both Regulations and Guidance is necessary in order to achieve a robust framework that will deliver on the original objectives and allow properly considered development to proceed. There are some fundamental issues that need to be addressed in order for CIL to function as it was first intended, including the relationship between S106 and CIL, exceptions and the mechanics of charge setting.

9. Both local authorities and developers are concerned by an increasing number of proposed developments that are delayed through the use of judicial reviews (JR). Typically, JR delays a scheme by a year, and wastes time and money of both the applicant and the local authorities. We strongly suggest that there should be some research to establish how to speed up this part of the system, and identify the key bottlenecks where there is scope for improvement.

10. There are also various “tank traps” that strike after planning permission has been granted, such as late applications for local listings and town and village green application. We support the Government's plans to enable developers to seek a Certificate of Immunity from listing or scheduling at any time, valid for five years, rather than the current provision of issuing COIs only in relation to listing, and after the developer has applied for planning permission.

²⁸ <http://www.communities.gov.uk/statements/newsroom/2211838>

Does the recently announced package of measures address these issues, or will this package actually make things worse by creating any degree of uncertainty or complication?

11. The package of measures announced on 6 September includes a variety of different proposals, which we believe will bring some benefits but which may also introduce some additional complications. As suggested above, we do not see planning as the biggest blockage in the development pipeline. There should not, therefore, be an over-reliance by Government on changing the planning system as a means of rekindling growth. Although some of the latest reforms are welcome, it is also crucial that the more substantial package of changes to the planning regime introduced over the last two years, including the NPPF, are given time to bed down and allow applicants and local authorities to become more accustomed to their new responsibilities and implementing the new national planning policies.

12. The real problems and obstacles to development are not, therefore, likely to be solved by the recently announced measures, although some of them may go some way to speeding up the planning system and help provide the flexibility needed to get some stalled sites moving.

13. For example, and whilst we fully support the Government's backing for greater use of Planning Performance Agreements (PPAs) for major schemes, we would also stress that this needs to be accompanied by changes to make PPAs more attractive and workable in practice. Through setting a realistic timetable appropriate for the size and complexity of the application and defining key milestones, PPAs should in theory enable a much smoother path for the application to follow, and minimise the risks and costs of appeal. In their current form, few PPAs are truly effective, principally because they are not enforceable. In a recent survey undertaken by the British Property Federation and GL Hearn, only 36% of applicants surveyed had entered into PPAs and only 25% of those believed that they were a positive tool. As PPAs have no statutory basis, and only serve to provide a guide rather than a legal commitment, there is no opportunity for legal recourse if the agreement is not adhered to. PPAs should be given more "teeth", and enforceable if broken by either party. This would significantly increase their level of usage, and help to give applicants the confidence they need to invest.

14. With reference then to the Government's proposals intended to help to bring empty commercial buildings back into use, we have given our support in principle in each of the various and recent consultations on the matter. In our response to the most recent consultation, one of our members' greatest concerns was the suggestion that if introduced, the change of use permitted development rights could be subject to a notification or prior approval process. A prior approval process would however require its own procedures and processes, including appeals—it would over-complicate the system and thereby negate many of the benefits that would be gained from the new permitted development rights. If the change of use permitted development proposals are to be introduced and work effectively, they must be put in place with minimal extra procedures.

15. This latest clutch of planning changes also brings with it a complex, and somewhat contradictory message. Local authorities have been encouraged to take up the challenge of a more localist philosophy, and to plan positively for their local area through the new local plans, and neighbourhood plans. The proposal now to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its decisions, are particularly difficult, as it is fundamentally goes against the ideology of localism. There is a danger that removing decisions from local authorities, and therefore out of the reach of communities, could serve to reinforce the negative perception of the planning system. It may be, however, that the threat of decisions being taken away from them will serve to galvanise local authorities into improving their performance and that interventions by the Planning Inspectorate would be comparatively rare. In any event, it is likely that more transparent reporting of council performance on planning will be required, further increasing the burden on already stretched local authorities and reinstating the target and performance indicators that took too much time and energy in the past.

16. The proposed changes intended to speed up the planning process and to allow s106 obligations to be reassessed are likely to be difficult to implement, and are not perhaps the "magic bullet" that some seem to presume. The 6 September statement announced the intention to introduce legislation to allow developers of sites made unviable because of the affordable housing requirements in s106s to appeal. Although we welcome the efforts to reduce burdens on developers, particularly those with large, complex sites, we do not believe that these proposals will provide the spur for development that much of the commentary seems to suggest. The new procedure could have unforeseen consequences in that it could be used as a threat with which to "encourage" local authorities to renegotiate, rather than an opportunity to have the decision on viability taken by planning inspectors. Many applicants are loath to antagonize local authorities with whom they have established good working relationships, and many would be unlikely to jeopardize these relationships by making use of these provisions. In any event, the lack of viability preventing implementation development is usually due to a variety of factors, not just the amount of affordable housing. The ability to review planning obligations should be holistic if there is a true intention to see development take place.

17. The announcement on 6 September also makes reference to the current consultation on the renegotiation of s106 planning obligations²⁹. This has been heavily trailed as a hugely beneficial step for unlocking developments. In reality, the ability to make a formal representation is less useful than the consultation suggests, and the timings suggested are not likely to have a significant effect.

²⁹ <http://www.communities.gov.uk/publications/planningandbuilding/renegotiationobligationsconsult>

18. The Government's plans to accelerate the delivery of major housing sites are to be applauded; however there is much detail still to be worked through, so it is very difficult to give a detailed view. It is unclear precisely which sites this assistance is intended to be available for. There are many stalled commercial and mixed use sites that also have local support for growth, strong demand for the development—homes, employment, leisure, and infrastructure—and good prospects for delivery.

19. The Government's financial incentives to increase investment in private rented housing form part of a larger package of measures which were recommended by the Montague Review. The success or otherwise of a build-to-let sector will depend on the whole package being delivered.

18. The financial incentives (£200m of equity investment by Government and access to the £10bn housing debt guarantee fund) are welcome measures, which address an important obstacle to institutional investment in the private rented sector—the lack of suitable build-to-let stock to invest in. Accessing finance to acquire sites and construct build-to-let homes is as challenging as any other construction project in the current climate. These financial incentives should make it attractive to deliver build-to-let stock. We welcome the fact that the incentives are inclusive to registered providers, construction firms or more traditional house builders, and therefore convey the message that all of them can develop for build-to-let. We have still to see the detail on the financial incentives, though CLG is encouraging “expressions of interest”. One technical issue which has yet to be clarified is the extent to which the debt guarantees will require EU state aid approval and if so, how long that might take?

19. Most of the other “Montague” recommendations are aimed at local authorities to provide them with help, and therefore give them the confidence to support build-to-let developments—these recommendations are:

- (a) To clarify through guidance how build-to-let should be treated by planners. Build-to-let has a different viability equation and that should be taken account of in s106 negotiations. That may mean a lesser affordable housing requirement, but what is asked for will remain in the full control of local authorities, and it is only fair to apply it to developments that are held as rental for a significant period of time.
- (b) A taskforce of experts that will help local authorities in negotiations they are entering on build-to-let developments. This will be particularly important for smaller authorities who may not have that expertise in house.
- (c) Some further measures to help get public land released for build-to-let developments and consideration that “best value” may not be the best guide.
- (d) A kitemark to provide local officers and councilors with some assurance that build-to-let development will be well managed.

20. It is not clear yet how Government will take the first of these four recommendations forward. There are pros and cons to different approaches. At one extreme, the Government could give any planning direction on build-to-let the status and force of inclusion in the wording of the NPPF. That may provide all parties with confidence they are planning for build-to-let in the correct way, but may take time to consult on and put in place. At the other extreme, the Government could simply issue a letter from the chief planner at DCLG, clarifying how build-to-let should be treated, which may not provide the same force of statement, but with time of the essence, would be quicker.

22. We see considerable effort going into identifying surplus land owned by Government departments and agencies and welcome the intention to accelerate disposals by preparing the land for market and providing a single “shop window”. In London, it is our belief that most GLA “family” owned land is already earmarked for development.

23. The challenge in this arena, if housing development is to be sustained, is releasing sufficient local authority land to support housing delivery. We are not convinced that cajoling local authorities to use previously developed land in the Green Belt was the right emphasis in the statement on 6 September. The emphasis should be on trying to understand what measures will result in local authorities bringing their land to market for housing development. Are there barriers? What incentives might help? Are authorities' expectations of receipts unrealistic? As we have said above, in the context of the Montague Review, interpretation of “best value” as being the highest cash consideration may be one such barrier to build-to-let development.

Written evidence from Westminster City Council

I refer to the recent call for evidence from the new ministers at Department for Communities and Local Government in connection with the session being held on 15 October 2012 regarding the recent announcements to boost house-building, jobs and the economy. On behalf of Westminster City Council I have the following observations to make regarding the questions put forward.

How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

Communities will have less say. Developers will be able to go directly to the Planning Inspectorate on certain types of development. The proposals to allow more development without planning permission (offices to residential, hotels to residential, extended householder permitted development rights) means communities will have less opportunity to have a say over schemes in their areas.

What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

This is likely to lead to planning by appeal at the cost of proper community involvement. Local Authorities are being squeezed at both ends. Not only are they under pressure to determine applications within eight weeks, they are under a new obligation to negotiate applications to give the applicant every opportunity to obtain consent. It will not be possible to engage with the community over revisions to a scheme and determine applications within eight weeks. The need to cite what attempts have been made to negotiate applications will lead to further delays as LPA's address this additional red tape to avoid judicial reviews and awards of costs at appeal.

Developers can renegotiate schemes now by submitting a fresh planning application for the same scheme but with the revised section 106 package. The LPA is better placed to strike the right balance between the developers and community needs in renegotiating these packages than Planning Inspectors. The provision to allow revisions to section 106 agreements will only undermine the system by leading to uncertainty.

There is also a danger a developer could take advantage of any temporary lift of section 106 requirements by commencing a development to keep a planning permission alive in perpetuity. This can easily be done by digging a trench to legally commence development, but with no intention to carry it out. Once the temporary lifting of the section 106 requirements are over the live consent can be used to circumvent extant policy requirements.

What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

As stated above, developers can renegotiate section 106 packages already by resubmitting an application. Developers are likely to see this as a second opportunity to whittle away affordable housing requirements, once a package has been agreed with the Council. There are also legal implications which may prevent the Planning Inspectorate from merely considering the affordable housing pot. Depending on the particular circumstances of each case, other section 106 issues cannot be isolated and affectively withdrawn from the negotiations. For example, the LPA and local community may prefer to retain the affordable housing element at the expense of other section 106 funding that was also secured as part of the development.

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

This will lead to more complaints from adjoining occupiers, who have not been consulted and had an opportunity to comment on the proposals. It will lead to more enforcement cases as LPA's are forced to investigate the complaint and verify the works do not need planning permission.

It will not make it easier to undertake home improvements because the owner is at risk to an injunction on rights to light grounds or other issues that could have been resolved during the planning process. It will not reduce the amount of red tape for owners because they will also need to apply to the Council for a Lawful Development Certificate (CLOPED or CLUED). Without a certificate they are unlikely to raise a loan from a bank/building society to fund the development or will be caught out, at the worst possible time, when selling the property and the buyer will not exchange without proof the works did not need consent.

The 2009 changes to householder permitted development rights was based on an impact approach. The changes were regarding at the time to accommodate the maximum amount of development permissible before neighbours would be affected. To double the length of extensions will inevitably impact on adjoining occupiers and the further erosion of gardens to the cost of family play space and biodiversity.

How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

PPAs are a very useful tool for giving a degree of certainty to applicants about the timing of their application. They should be encouraged for all development and the LPA allowed to charge the appropriate amount to ensure the relevant resources are in place. The danger is this may lead to a two tier system where those who can afford to pay will receive a faster service.

It is not yet known what the tests will be for granting an award of costs. The threat of more costs are likely to lead to LPAs being less flexible by sticking to normal policy constraints to protect them from costs. This will lead to a tick box exercise that will not benefit anyone. The award of costs equally needs to apply to developers who have wasted time in appealing decisions that are clearly not in accordance with the LPA's Local Plan and/or NPPF.

How planning authorities should be able to adjust Green Belt land?

N/A in Westminster

How the Government's review of national and local standards should be carried out and what focus should it have?

The Penfold Review gives a useful summary of where standards are duplicated in different consent regimes. Any review of standards across the country needs to acknowledge there is a need for different standards at a local level to meet the particular circumstances for each LPA. A good example of this is local validation lists.

Existing standards should be merged into a single, nationally-prescribed set, in which local authorities can set the appropriate level. It should use existing standards as the starting point namely Code for Sustainable Homes, Lifetime Homes, Secured by Design and BREAMM for commercial and residential extensions. This would standardise and simplify standards and assessment procedures, removing duplication and making things simpler for local authorities and others trying to plan for a multitude of requirements and outcomes. It is crucial we deal with this adequately due to the NPPF reference to nationally described standards in paragraph 95 as well as other references.

What the impact is of the proposal to get empty commercial buildings into use?

The proposals to extend permitted development rights to allow vacant commercial buildings to be converted into residential are likely to damage London's business development, result in substandard and poorly located homes, and prevent local authorities from securing essential funding for infrastructure to support the new dwellings. The Council has previously commented on this proposal and concluded it will lead to:

- Loss of industrial, hotel and other commercial buildings and land used for employment purposes.
- Loss of cheap hotel accommodation impacting on London's capacity to accommodate visitors and retain its role as a Global City.
- Damage to the delicate balance between the wide range of different employment uses needed to support the complex and diverse national economy, particularly SME businesses.
- Loss of niche industries such as the creative industries (fashion, music, film etc) and the media.
- Increased uncertainty for commercial occupiers.
- Existing business activities being restricted in predominantly commercial areas or being forced to close down/relocate because of complaints from new residents in the newly created dwellings about noise, odours, dirty and anti-social activities by their commercial neighbours.
- Adverse impacts on the areas where such new residential provision occurs such as increased pressure on parking.
- Residential accommodation located in unsuitable areas because of pollution, high volumes of heavy vehicles, flood risk etc.
- Provision of poor quality residential accommodation in terms of size, amenity space and parking provision.
- Inadequate infrastructure to support the increased residential population.
- Increased costs for local authorities and other public sector organisations in addressing the issue of inadequate infrastructure.
- Reduced provision of affordable housing

Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

Westminster has a very large private rented sector making up and estimated 46% of the stock and 56,000 properties. There has been significant expansion over the last few years. The sector accommodates a variety of

people, ranging from the “high end” luxury market to houses in multiple occupation providing accommodation for low income people.

Research into the sector in 2010 found that private landlords operating in Westminster are particularly attracted to high demand from the young professional market. We expect the sector to continue to provide supply for this group and a landlord survey found landlords fairly optimistic about future operations. However, it is at the “lower end” (currently estimated to be 18% of the sector) where we expect there to be a shortage of supply.

While it is too soon to predict the long term impact of welfare and Housing Benefit changes on Westminster’s market, we are seeing landlords no longer providing supply for low income groups. Supply in this area helps to address and prevent homelessness and provides temporary accommodation where needed. Providing private sector homes to meet demand, particularly family sized, is a challenge.

Properties in multiple occupation (HMOs) provide housing for low income working people often supporting the night time and service economy of the city. There is no evidence of contraction, but amendments to the Town and County Planning Order mean that planning permission is no longer needed to convert an HMO to a dwelling house, so there is potential for the number of HMOs to reduce.

Whether the Government’s proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

It would be helpful if it were extended to existing properties but I can understand the focus on new build from an economic growth perspective.

What is the feasibility and what will be the impacts of the Government’s plans to accelerate the delivery of major housing sites?

The LPA facilitates a constant dialogue and mediation service between the aspirations of a developer and the local community to achieve an acceptable development. The Planning Inspectorate cannot fulfil this time consuming role. There is a very high risk the local community will not be properly engaged and the risk of judicial review will be increased.

How feasible are the Government’s measures to release surplus public sector land to developers and how might they influence the supply of housing?

No comment

Implications for local authorities and for the planning system of the Government’s proposal to make it easier for communications providers to install equipment to provide broadband services

There are serious implications for the high densely populated areas such as the West End with so many competing demands for the use of our congested public realm. Telecoms companies have a track record of locating cabinets and other equipment in insensitive positions on the street and using them as advertising space. Further deregulation will lead to more clutter at the expense of the pedestrian, the free flow of traffic and the visual amenity of this global city. This Council supports broadband and recognise the benefits of the technology but it needs sensitive handling.

September 2012

Written evidence submitted by RenewableUK

1. INTRODUCTION

1.1 While the Secretary of State’s statement of 6 September relates to housing development, in our view there are some issues which relate to renewable energy that need to be addressed on behalf of the onshore wind industry. RenewableUK therefore provides the statement below.

CONTEXT: THE ROLE OF RENEWABLES

1.2 The delivery of renewable energy infrastructure is a matter of the utmost importance, as indicated by Government in national policy. It is crucial that the UK develop a new, sustainable energy infrastructure in order to reduce carbon emissions from the energy sector; maintain security of energy supplies and minimise cost volatility for the consumer. Given the large number of power station which will close and require replacement over the next fifteen years, it is essential that we take this opportunity to rebuild our energy infrastructure -at a local as well as national scale -using renewable and low carbon technologies wherever possible.

1.3 We believe that the UK’s renewable energy targets will be best met through a diverse mix of development where well designed projects, that are in general conformity with requirements stated in the NPPF, National Policy Statements (NPSs) for Energy, Local Development Frameworks (LDFs) and where appropriate the

Marine Policy Statement (MPS) should be accepted. Failure to deliver the renewable energy deployment needed could leave the UK exposed to infraction proceedings from the European Commission and therefore all areas of England will need to significantly increase their levels of renewable energy generation.

1.4 RenewableUK wishes to emphasise the important role that renewable energy technologies play in contributing to the sustainable development of communities, in reducing the country's carbon emissions and in mitigating the impacts of climate change. Renewable electricity is planned to contribute at least 30% of the UK's final electricity consumption by 2020 to enable the UK to deliver its statutory target of achieving 15% of all energy consumption from renewable energy sources, including heat and transport, by 2020. This will require positive planning and, importantly, strong support in local planning policy.

2. COMMENTS ON THE COMMITTEE'S TOPICS

2.1 *How will the package of proposed measures contribute to the Government's ambition to provide communities with a greater say about development in their area?*

2.1.1 While the Secretary of State's statement of 6 September proposes a number of changes in relation to housing development and growth, we wish to comment on how some of them will work in relation to renewable energy and onshore wind in particular. A recent report on the economic impacts of onshore wind, commissioned by DECC and RenewableUK,³⁰ estimated that in 2011 the direct and supply chain impact of onshore wind included the creation of 8,600 jobs and £548 GVA. In the current times of recession, the renewable energy sector has shown significant growth and this should be recognised in future Government planning policy.

2.1.2 One example of a point from the SoS' statement of 6 September is the instruction to PINS to divert resources to prioritise major economic and housing related appeals in order to speed up the process. This proposal would certainly affect the remainder of appeals which will not be prioritised, and may lead to delays. In our view some wind energy projects should be considered as major economic appeals and should also be given priority.

2.1.3 As a result of recent policy developments in relation to renewable energy, there is potential that some communities will be having a lesser and not greater say about wind energy development in their areas. We are seeing the emergence of local policies and supplementary guidance which are contrary to national policy and the fundamentals of the planning system, and undermine the rights of local communities to have a say on projects in terms of their individual merits.

2.1.4 Examples are emerging of locally derived policies and guidance which have the very real and deliberate potential to limit the deployment of onshore wind energy and hence jeopardise the UK's ability to meet its climate change and carbon reduction objectives; threaten its energy security and deter investment. One such example of an emerging policy of concern is the matter of LPAs introducing arbitrary separation distances between dwellings and onshore wind turbines.

2.1.5 There are now several examples of such policies emerging within Supplementary Planning Documents (SPDs) which are therefore not subject to any independent examination in public or scrutiny by a Planning Inspector. This is a worrying development for the following reasons:

- The planning system operates on the basis of assessing site specific impacts of a development proposal and mitigating accordingly. This approach is correct because impacts and their severity vary along many dimensions. The move by some LPAs towards a simplistic generic separation distance threatens this long standing principle and opens up a dangerous precedent to unnecessarily block development and economic growth.
- The sort of impact that these arbitrary separation distances are intended to protect against are already SUBJECT to rigorous assessment as part of the planning process on a far more sophisticated site-by-site and scheme-by-scheme basis.
- Meanwhile, if we were to maintain general separation distances, we would artificially restrict developable land to such an extent as to threaten our renewable energy targets, energy security and tens of millions of pounds worth of investment.
- Applying blanket separation distances would further restrict the ability of communities to have a say on individual projects, or develop their own renewable energy projects.

2.1.6 SPDs are intended to elaborate and explain existing development plan policies which have been subject to independent examination and scrutiny. In the case of wind energy, the introduction of separation distances is clearly a substantial policy matter, so any attempt to do so must be made through the local plan procedure.

2.1.7 We believe such policies run counter to requirements in the NPPF to plan positively for development of renewable energy and would not therefore stand up to scrutiny at a local plan examination. Indeed we note that the NPPF at para 153 states that "Any additional development plan documents should only be used where clearly justified". Supplementary Planning Documents should be used where they can help applicants make successful applications or aid infrastructure delivery.

³⁰ Onshore Wind -Direct and Wider Economic Impacts, available at:
http://www.bwea.com/pdf/publications/Onshore_Wind_Direct_and_Wider_Economic_Impacts.pdf

2.1.8 Urgent clarity is needed from Government on the future role of guidance in the planning system, the status and weight to be afforded to guidance that has been produced already and the opportunities for gaining the Government's support in endorsing guidance produced in the future.

2.1.9 Wind farms bring significant local benefits to local people, from investment in community schemes to energy efficiency. Many groups are also choosing to generate their own energy through renewable, or to cut down on the cost of running public buildings by using wind power. Local planning policy should therefore continue to provide local communities with the opportunity to have a say about wind energy development in their areas and not impose blanket restrictions on such projects.

2.2 How will the use of Planning Performance Agreements and greater powers to award costs in planning appeals affect the planning process?

2.2.1 In terms of the proposed greater powers to award costs in planning appeals, RenewableUK agrees in principle, that where a Local Authority (LA) has relied on a Statutory Consultee's (SC) advice and as a result refused an application, and that advice subsequently does not stand up at appeal, the SCs should potentially be required to meet some or all of the costs, including additional costs incurred by the appellant.

2.2.2 However, in our view, it would be very difficult to prove that a SC has acted unreasonably. Consultees often take an overly cautious approach requiring developers to undertake or commission surveys/technical reports (eg two years of environmental surveys when perhaps one year might suffice). These both delay projects and unnecessarily increase costs, but developers are often finding that failure to provide such evidence then leads to an even more cautious approach or negative response towards a development.

2.2.3 In relation to proposals to removing the award of costs against LAs in certain circumstances, we understand the proposal for there to be no grounds for an award of costs against a LA where it has refused a planning permission that is clearly contrary to a development plan where no material considerations including national policy indicates that planning permission should have been granted.

2.2.4 However, whilst the aim of this proposal is to ensure greater clarity, it is important to achieve an appropriate balance, which protects LAs from the potential cost of appeals arising from their refusal of planning permission, based on inaccurate information, while at the same time avoiding them inappropriately refusing planning permission for an application, in the knowledge that they will not have to pay costs on appeal.

2.2.5 Despite the safeguards within the National Planning Policy Framework (NPPF), which encourages LAs to promote low carbon and renewable energy, we remain concerned that LAs could potentially be more likely to refuse controversial renewable energy projects, on the grounds of them not being aligned to their Local Plans, confident that they will not have to pay costs on appeal.

September 2012

Written evidence from Shelter

SUMMARY

- The new Ministers for Housing and Planning have a huge opportunity to provide leadership in reversing the failure of successive governments to tackle the housing crisis, and to send a strong signal to young families unable to afford a place of their own that the government is on their side.
- Shelter welcomed the recent new package of measures on housing and planning, but further innovation in housing policy and practice will also be necessary to overcome years of neglect by successive governments.
- We are proposing a new Stable Rental Contract for the private rented sector. This would use existing legislation to strike a better deal by giving renters the ability to put down roots and landlords more confidence in a steady income and their ability to evict problem tenants.
- We also urge ministers to recognise the limitations of planning reform as a means of delivering new homes, and to look at ways to promote greater competition in the house building industry and improve access to land and long-term finance.
- Housing for older people is an issue of increasingly pressing concern, and we ask ministers to support the development of more appropriate housing for this group. This would help to free up stock and give all generations more opportunities to find an appropriate place to live.
- Finally, we are very concerned about the lack of clarity from government about how temporary accommodation will be funded under the household benefit cap, and we ask ministers to address this urgently.

THE HOUSING OPPORTUNITY

1. The housing brief offers a huge opportunity to provide leadership in reversing the failure of successive governments to tackle the housing crisis, and to send a strong signal to young families unable to afford a place of their own that the government is on their side. Rents are at record highs, house prices grew three times as

fast as wages over the last decade, and a generation of young people are working and saving hard only to find a decent home of their own remains completely out of reach.

2. Shelter welcomed the recent new package of measures on housing and planning. This is an important step forward in delivering more homes, not only to provide a vital and urgent boost to the economy but to address the country's housing shortage. It is crucial that the government honours its guarantee that more affordable homes will be delivered under these proposals so that the measures succeed in meeting the needs of struggling families. We look forward to working closely with the new ministers throughout the upcoming legislative and policy implementation process, to ensure that the reforms genuinely deliver.

3. Further innovation in housing policy and practice will also be necessary if we are to really make headway in overcoming the impact of many years of neglect. More details are set out below.

IMPROVING THE PRIVATE RENTED SECTOR OFFER

4. With a generation priced out of home ownership, renting is the only choice for growing numbers of people, including over a million families with children. But the current rental market isn't giving families the stability they need. Shelter favours market incentives for change, rather than legislation, but we think that the Minister for Housing should take a lead and make use of available levers to support reform.

5. We are proposing a new Stable Rental Contract, which strikes a better deal for renters and landlords by giving renters the ability to put down roots and landlords more confidence in a steady income. The new rental offer would be developed using the current legal framework and would:

- Last for five years, giving renters the chance to put down roots.
- Increase rents in line with inflation each year, giving landlords predictable incomes and renters predictable outgoings.
- Allow landlords to end the tenancy if they sell the property and better support them in evicting problem tenants.
- Allow renters to give two months' notice to end the tenancy.

6. Our proposals draw on research by property consultants Jones Lang LaSalle, showing that the Stable Rental Contract could increase landlords' return on their property investments. The Qatari Diar and the Delancey Asset Management firm (QDD) has come to a similar conclusion and is now considering offering 5 or 10 year tenancies in its private rented stock in the Olympic village. We suggest a combination of incentives and assurances for landlords and lenders which would help to bring this product to market more widely.

7. The Department for Communities and Local Government has a lot of scope to provide leadership in encouraging landlords and letting agents to offer longer tenancies. With new investment and guarantees on the table, institutional investors should be required to offer stable tenancies as a condition for government help in building private rented homes. There is also scope to reform the court system to improve landlord confidence in their ability to evict problem tenants, and tax nudges which could incentivise the development of new landlord business practice.

GOING BEYOND PLANNING REFORM

8. In an ideal world the housing market would operate on a simple demand and supply basis whereby if more people wanted homes, this extra demand would increase prices and then more homes would be provided. However, the system doesn't work like this. The supply of housing hasn't been enough to keep up with demand for many years. The recession hasn't helped, but the current economic situation isn't the cause of the problem—there was a shortage of homes and declining home ownership back even when the economy was booming and it was much easier to get a mortgage.

9. With most products, when prices go up producers decide to increase supply. This doesn't tend to be the case with housing. The unavoidable time it takes to plan, build and sell homes creates a time lag which makes the market less responsive. There is plenty of land in the UK to build all the homes we need (only 6.8% of the UK has been developed and only 2.27% has actually been directly built on). Nonetheless it is a precious resource which has to be managed carefully to avoid adverse social, economic and environmental consequences. No matter how much governments tweak the regulations this will always be a factor.

10. Because there are no hopes of fast returns for developers, this makes them risk averse. They don't know what the state of the market will be by the time a house is built, so they err on the side of caution and build fewer. On the other hand, when prices fall this has an immediate knock-on effect on supply because developers quickly get cold feet and stop building. The upshot, as outlined recently by consultancy FTI, is that left to its own devices the market will never deliver the homes we need.

11. We need to promote greater competition in the house building industry by helping new entrants into the market and improving their access to land. A more diverse, mixed economy in housing supply would improve resilience in the face of future market fluctuations and smooth the peaks and troughs of supply. This should include a mix of self-build projects (which also have the benefit of public popularity), small builders, local authorities and international developers.

12. In the short-term, providing developers with access to more long-term finance to take away some of the risk in getting homes built should also help. That is why we welcomed the recent announcement of government guarantees to support housebuilding.

13. With the new planning regime reliant on greater community engagement in local planning policies and decisions, it is vital that the government supports local planners and developers in understanding public attitudes to house building. Government can play a role in ensuring that local authorities are using the New Homes Bonus to full advantage, and that councils are properly equipped to make a strong case to the public on the benefits of building new homes.

IMPROVING THE OFFER FOR OLDER PEOPLE

14. By 2030 one in three people are projected to be aged 55 and over. Older people, in particular older owner-occupiers, tend to live in larger homes than other households. Sixty-eight% of older homeowners live in a home that has at least two spare bedrooms, technically classified as “underoccupation”.

15. To free up stock and give all generations appropriate places to live, we need a much greater supply of specialist housing for older people. If demand for specialist housing remained constant, the supply would need to grow by 70% just to accommodate the growth in the number of older households over the next twenty years, some of which may be met through turnover in the existing stock but some of which must come from new builds.

16. But few developers are active in building for the older people’s market and they are constrained by complex planning regulations, financial viability and a lack of strategic vision at local authority level. We urge the new ministers to use the new National Planning Policy Framework to support the development of housing for older people, and do more to encourage older people to plan ahead for their future care and support needs.

FUNDING TEMPORARY ACCOMMODATION UNDER THE BENEFIT CAP

17. The funding of temporary accommodation is likely to present a significant problem for local authorities and claimants once the household benefit cap is introduced in 2013. TA is an important part of the housing safety net, which gives people a chance to get back on their feet if an unexpected event—such as losing their job or falling ill—causes them to lose their home. TA tends, for various reasons, to be more expensive than normal private rented accommodation. This means that homeless families will struggle to cover the costs once the benefit cap comes into place, creating considerable difficulty for claimants and local authorities.

18. Shelter is calling for an exemption from the overall benefit cap for households in TA so that local authorities can continue to meet their duty to homeless families. Without the exemption, local authorities will have to meet the cost of TA out of their own stretched budgets or send homeless families to live in cheaper boroughs far away from their local area, limiting their ability to get back on their feet. We would ask Ministers to raise this issue with their colleagues in the Department for Work and Pensions and ask for urgent clarification on how TA will be funded under the benefit cap.

FURTHER READING

A Better Deal—towards more stable private renting (Shelter, 2012)

http://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/report_a_better_deal_-_towards_more_stable_private_renting

Can landlords’ business plans sustain stable, predictable tenancies? (Jones Lang Lasalle, 2012)

http://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/jones_lang_lasalle_landlord_business_models_report

Understanding Supply Constraints in the Housing Market (FTI Consulting, 2012)

http://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/report_underestimating_supply_constraints_in_the_housing_market

A Better Fit? Creating housing choices for an ageing generation (Shelter, 2012)

http://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/a_better_fit_creating_housing_choices_for_an_ageing_population

September 2012

Written evidence from the Home Builders Federation

1. The Home Builders Federation (HBF) is the principal trade association representing private sector home builders in England and Wales. Our members range from large national companies, through regional firms to smaller, more locally based businesses. Between them our members build about 80% of the new homes constructed annually.

2. We would wish to offer the following comments on the questions raised by the Committee for its evidence session with the new Ministers for Housing and Planning.

PLANNING MEASURES

3. It is central to the Government's planning reform objectives that the planning system should prove effective in delivering sustainable development, including new housing. The planning measures announced on 6 September should be seen in this light.

4. It has always been clear that the devolution of more power to local authorities and communities under the Government's reforms comes with the responsibility to use this power to plan positively and efficiently for the requirements of their areas, including for housing and other development. It is not a power to do nothing or to avoid decisions.

5. Key measures in the 6 September announcement included the proposal to legislate to allow applications to be decided by the Planning Inspectorate if the local planning authority has a track record of consistently poor performance in the speed or quality of its decisions. The principle of this measure is reasonable. It should be the case that if, for whatever reason, a local authority is failing to provide a quick, accessible and consistent service in determining applications the applicant has recourse to a means of resolving such problems.

6. The idea of enabling applicants to have their applications determined by the Planning Inspectorate is a logical way of resolving shortcomings in the planning process while providing a public assurance of objectivity in applying the provisions of local and national policy to the determination. We hope that this proposed measure would create a strong incentive for timely and consistent decision-making.

7. The detailed criteria for establishing poor performance will need to be clarified, but the principle of providing recourse to an alternative mechanism for determining planning applications objectively in such circumstances is sound.

8. The proposal to legislate to allow site developers to appeal with immediate effect because of the number of affordable homes sought would make it unviable has a similar logic.

9. The proposal seeks to address viability of development and implementation of permissions rather than the delivery of affordable housing per se. If sites are unviable due to onerous affordable housing cross subsidy requirements then they will not be developed. In that case there will be no market or affordable housing. If action can be taken to change the viability then at least there will be a sustainable level of delivery of various types of housing, including affordable housing.

10. While it is of course possible to negotiate such matters case by case, the Government's proposal provides a backstop incentive for such discussions to be held in a timely fashion rather than in themselves becoming a barrier to the timely delivery of new homes.

11. Any increase in case work which arises from either of these legislative proposals would have an impact on PINS, but we believe that their incentive effect would be likely to minimise any additional resource requirement.

12. We are very supportive of planning performance agreements and encourage our members to make more use of them where possible. Award of costs works both ways and there is no reason why the party that has acted irresponsibly should not have to pay for wasting resources. We have long argued that planning appeals should adopt the court process of "loser pays". However, we are aware of the potential problem of not restricting the appeals process solely to those who can afford to lose (whether this is appellants or LPAs). However, where LPAs argue that they shouldn't be fettered from refusing planning permission due to the potential for costs being awarded against them we would point out that costs are only awarded for unreasonable behaviour. If the LPA believes that it is acting reasonably then it should not fear an award of costs against it.

13. The Government's announcement of a review of local and national standards is welcome. This work should follow up the initial thinking and proposals undertaken

PLANNING AND HOUSING MINISTERS

By the Steering Group chaired by Sir John Harman which reported this summer and involve representatives of all the main parties with an interest in this set of issues, including local government and house builders. The review should also engage with standards owners. There is no doubt, however, that the current multiplicity and complexity of the standards sought in different parts of the country creates unnecessary costs and delays to the delivery of development while also posing policy implementation challenges for planning authorities. The review should also look to produce a more robust policy position which makes it clear that planning should

not seek to supplement things that are controlled through other legislation. This should be clearly stated and supported by government and its many agencies.

14. A number of house builders have been very actively looking at how to make the Private Rented Sector work for the new homes sectors and that we hope the recent announcements of £200 million of equity funding and the guarantee scheme will help bring these ideas into reality.

ACCESS TO HOME-OWNERSHIP

15. The government's commitment to enabling more people to access the housing ladder is welcome in the current climate where mortgage finance has fallen to such low levels. To maintain a healthy housing market—and to increase housing supply—it is vital that access to home ownership is supported where possible. To that end, the government's recent announcement of more funding for FirstBuy is very important. FirstBuy has been a very successful scheme, offering real value for money for the tax-payer, enabling 10,000 people to get a foot on the ladder and thereby supporting house building. The new funding should help another 15,000 households buy their own home.

16. NewBuy is a scheme designed by us with the CML and supported by government. The need to return to a sustainable mortgage market where 95% loans are available provoked its creation and we are pleased by the progress made so far. Up to mid-September more than 1,500 reservations had been made through NewBuy and for a scheme only launched in March, with just seven developers and four on board at launch this is very promising. There are now over 30 developers signed up and six lenders and take up in the past few weeks has markedly increased.

17. It is worth noting that we are in the midst of doing research into the key features of NewBuy in practice, and in particular looking at what are the obstacles to expanding the scheme. It is clear that there are a range of measures the house builders, lenders and government need to take to increase sales. For instance, we hope the Funding for Lending scheme will help bring NewBuy mortgage rates down.

18. We are also hopeful that the Funding for Lending scheme will encourage lenders to increase the amount they put into mortgage finance. Though the success of this is in the hands of mortgage providers, improved mortgage availability and lower rates should boost demand for new homes. Any improvement in the wider housing market from increased mortgage availability will also help the industry. Home builders, especially smaller and medium sized companies, should benefit from any easing in the availability and cost of bank development finance.

19. Our members are clear that over the last few years and, looking forward, in the short to medium term, the lack of mortgage finance is the most serious obstacle preventing the construction of new homes. To put it simply if buyers can't buy, builders can't build. It is imperative that government keeps up pressure to increase mortgage lending.

KICK-STARTING DEVELOPMENT

20. The government's plans to accelerate the delivery of major housing sites are welcome. We have seen our members using the Get Britain Building fund to good effect and—as previously mentioned—the ability of developers to renegotiate s106 agreements could ensure many more sites become viable again.

21. Likewise, the measures to release public sector land could provide a boost to housing supply but it is vital that government doesn't seek to restrict the types of housing development on the land and they must recognise that it is not simply the release of land that will see housing supply increased—land without a viable planning permission, whoever owns and sells it, is not the answer to our housing crisis. As we commented at the time:

22. "Releasing surplus public land for much needed homes is something HBF has long been pushing hard for, and so is a very welcome first step:

However, apart from the lack of mortgage availability, the key constraint on increasing housing supply is the supply of viable land with residential planning permission. Releasing surplus public sector land can improve the supply of land, but it will only help solve our housing crisis if local authorities grant planning permission for housing development and if the regulatory burden imposed by central and local government is brought under control:

"It is vital to recognise though that this is only a first step towards the creation of a truly pro-growth planning system which will tackle our housing crisis and create jobs and investment, bringing much needed social and economic benefits to communities across the country".

23. The key to ensuring public sector land release has a chance of success is ensuring the release of land quickly and make the process as simple and unbureaucratic as possible.

Written evidence from UK-GBC

This note is submitted in response to the call for evidence from the above Committee in advance of the session on 15 October where they will take evidence from the new Ministers for Planning and Housing. UK-GBC wishes to respond to the following questions:

How the Government's review of national and local standards should be carried out and what focus should it have?

The Code for Sustainable Homes (the Code) is a Government owned national standard for sustainable design and construction of new homes. The Code was introduced as a voluntary standard in England in April 2007. It works by awarding new homes a 1 to 6 star rating based on their performance against the nine sustainability criteria and therefore their overall environmental impact. It applies in England, Wales and Northern Ireland. The Code covers the following issues: energy/CO₂, water, materials, surface water runoff (flooding and flood prevention), waste, pollution, health and well-being, management and ecology.

Government funded affordable housing schemes are required to meet the Code, and many Local Planning Authorities (LPAs) have adopted levels of the Code as planning requirements. Other voluntary standards for new homes exist including Lifetime Homes, Building for Life and Secured by Design.

Recently there has been concern voiced that the standards required by LPAs for new homes are acting as a brake on development. Sir John Harman chaired a recent review of local standards, and viability, and concluded that some rationalisation of the standards was needed. In response, Government has recently announced that it will undertake a review of these standards:

“There is concern that the array of local and national standards used in different parts the country is complex and counter-productive: confusing local residents, councillors and developers. I am announcing today a fundamental and urgent review led by Government working with interested parties to rationalise these standards. This review will result in a clear plan of action by next spring, including legislative approaches if a significant rationalisation cannot be agreed”.³¹
Eric Pickles, September 2012

The forthcoming review of the Code for Sustainable Homes and other voluntary standards is potentially cause for concern for the house-building industry.

The Code was introduced in 2007 to provide a “single national standard” for sustainable homes. At the time, the Code was developed in direct response to the proliferation of local sustainability standards which were being required by LPAs and which were causing confusion in the market place. The application of a wide range of different local standards also prevented economies of scale for developers, and lessons being learned about cost effective and efficient delivery of standards across different boroughs and counties.

UK-GBC does have sympathy with concerns about the current raft of standards being applied at the local level. In combination, these standards can have burdensome reporting requirements and be overly bureaucratic and inflexible, and there is a case for some rationalisation. However, we are convinced that if the Code were to be scrapped, or significantly weakened, LPAs would again start to develop their own versions of sustainability standards, which would take us right back to square one and be of little benefit to either developers or the environment and society more widely.

Therefore, we strongly believe that the upcoming standards review must ensure that sustainability ambitions are not watered down, and that the Code and other standards remain a robust indicator of high quality, world-class developments.

Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector? and

Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

UK-GBC believes it is essential that we increase the availability of good quality homes that are affordable to occupy and to run. However, we need much more creativity to think beyond traditional home ownership and rental models. Schemes like the “Genie” model from housing provider Gentoo already offer a new form of home ownership, which doesn’t require a mortgage or a deposit, but allows people to build equity in their own home over time.

Building on this kind of approach, institutions should be encouraged to invest in existing as well as new homes, renovate them to high standards and provide an on-going maintenance service in exchange for an affordable monthly payment that also builds equity for the occupier. This would offer all the upside of home ownership, without the upfront hurdle of needing a deposit, or the on-going hassle of maintenance, as well as being a good investment opportunity for financiers.

³¹ <http://www.communities.gov.uk/statements/corporate/housingandgrowth>

Over six months the UK-GBC brought together over 50 representatives of companies spanning the built environment industry to develop “A Plan for Growth”.³² The idea of a different form of home ownership was explored in the “Great Home, No Hassle” concept—which was one of a number of business proposals designed to meet customers’ needs in a much more resource-constrained future.

September 2012

Written evidence submitted by J Shergold

What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions

The answer is simple it will be an absolute disaster especially in areas dominated 80- 90% by Houses in Multiple Occupation particularly when the HMO occupiers are students. Diaries and statistics kept by Residents Action in Polygon Southampton student ghetto show conclusively that each week or sometimes daily there are complaints about noise mainly loud music from such abodes noise from drunken homegoers entering their HMOs at any time through the night and high levels of anti social behaviour/criminal damage etc.

Due to the HMOs being in long rows often the whole side of one road and most of the opposite side the Noise Nuisance service is no longer suitable for the purpose and we long term residents suffer noise/go out to deal with the noisemakers ourselves at some personal danger during the past 20 years of student colonisation. Two houses from my home there is a conservatory on the back of a student HMO this serves as a lounge and several times recently students have kept me awake all night by being in this glass extension drinking and shouting until morning.

It has been proven beyond any reasonable doubt that HMOs and the bad behaviour of some occupiers blight once quiet residential areas and the opportunity for landlords to pack in more tenants/householders will drive even more citizens away therefore even if this plan goes ahead HMOs must be exempt and not allowed to have extensions or conservatories without planning applications being submitted to the Local Authority. Student nuisance in Polygon features on local TV radio and in the press every year it is quite likely the most notorious student ghetto in the whole country.

October 2012

Written evidence from Friends of the Earth

Friends of the Earth England, Wales and Northern Ireland welcomes the opportunity to provide evidence to the Committee on the implications package of proposals announced by the Government on 6 September to boost house-building, jobs and the economy. Friends of the Earth is an NGO with over 100,000 supporters and local campaigning groups in over 200 communities. We are also a member of Friends of the Earth International, which has 68 national member groups around the world. Friends of the Earth has worked on planning and housing for over 25 years, and we are convinced that the land use planning system is a key mechanism for delivering sustainable development, where a sustainable economy operates within environmental limits to deliver social justice.

1. Summary

The suite of reforms announced by the Government are reversal on previous localism policies, and are a serious threat to local democratic decision-making. It continues the trend of failing to put sustainable development at the heart of decision-making. The reforms threaten the sustainability of our built environment.

In summary these are the key risks:

- changing the definition of major infrastructure to include large housing and commercial developments means that these decisions will come under the Planning Act and the Secretary of State, centralising thousands of decisions;
- changing the way appeals work by allowing developers to by-pass local authorities and ask for the decision to be taken by the Planning Inspectorate if a local authority is considered “poor” at taking decisions without any explanation of “poor”;
- changing section 106 agreements and so housing sites can be brought forward without the requirement to build affordable homes and so that wider public interest and sustainability considerations can be ditched;
- changes to building standards which could result in much poorer standards threatening the growing green building sector and resulting in confusion for developers; and

³² <http://www.ukgbc.org/content/%E2%80%98industry-business-plan%E2%80%99>

- extensions to premises will for a short time become permitted development (ie there is no need to submit a planning application) which will result in neighbourhood disputes, localised environmental impacts and a lost opportunity to require consequential improvements to our existing built environment which could help drive a dramatic growth in energy efficiency and consequently jobs and skills employed in retrofitting homes.

There are huge sectoral challenges in embarking on more planning reform without allowing recent reforms to bed down resulting in confusion and lack of public legitimacy for policy and legislative proposals that are made without proper public debate or consultation.

Friends of the Earth believes that these planning reforms lack an evidence-base and have not fully considered their wider impacts, for instance on equality issues.

2. How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

We are at a pivotal moment for public trust in the planning system. After the outcry last year over the reforms to national planning policy, further reform is clearly designed to cut communities out of the system. Following on from a “presumption in favour of sustainable development” designed to make it easier to approve development, these proposals particularly around “fast tracking appeals” and transforming more decisions into major infrastructure decisions, will place communities at a distance in the decision-making process. Their democratically elected representatives will no longer be taking key development decisions in their area.

The UK is a signatory to the Aarhus Convention which states in Article 7 that: “Each party shall make appropriate practical and/or other provision for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4, and 8, shall be applied.” Article 6(3) states that: “The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during environmental decision-making.” Article 6(4) states: “Each party shall provide for early public participation when all options are open and effective public participation can take place.” Article 6(8) states: “Each party shall ensure that in the decision due account is taken of the outcome of public participation”.

Nothing in the package of proposed measures is designed in the spirit of the Convention or to promote better public participation.

3. What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

Friends of the Earth shares the concern of the LGA and others that the revisions of section 106 agreements—which should be integral to the delivery of places rather than just buildings—are being treated in this cavalier fashion. The cost to the public purse of failing to provide the social and environmental infrastructure required to make development work above a certain scale will put further pressure on communities. The wider economic impacts are in the unsustainability of developments that do not cater for the timeframes within which development is framed. It is far too risky to ignore climate change in either mitigation or adaptation in economic terms, let alone in terms of social and environmental considerations. Removing affordability from existing agreements will lead to polarisation between areas, and long-term social cohesion issues.

This could be construed as a sop to developers, who will walk away from developments once they are sold. It is the future owners who will have to live with poor transport access, lack of school places, an inefficient home and expensive flood insurance. It is the Government's role to ensure that the public interest is served.

4. What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

The Planning Inspectorate is more expensive than planning officers, therefore fast-tracking developments to the Inspectorate does not save money. Given that the majority of developments are approved and the majority are approved within time, it is unclear why the proposal has not included increased funding to provide a better planning service for the public and for developers, given that billions are to be given in financial guarantees to private developers.

Local planning authorities are again being put on the back foot—instead of being able to set a level playing field for developers where development is on a trajectory towards better quality and increased resilience, they will see increased pressures on people in housing need in their area. If planning gain agreements are to be re-assessed they must fully involve the public in consultation and clearly identify where the issues are.

5. What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

Neighbour disputes will rise. Those who can afford to extend may do so, at the expense of their neighbours, and with no regard to the possible environmental impact on those around them. Permitted development on extensions is also an extremely dangerous precedent to set—once this comes in, it will be very difficult to then take them away. Permitted development eg for solar panels is different in that it doesn't increase the size of a dwelling or commercial premises. Increasing size does have a definite environmental impact.

Permitted development for extensions is also totally the opposite direction to what Government should do in order to tackle the quality of the current built environment. We have to address the issue of energy efficiency in existing homes. Government would be tackling climate change and showing people how serious it is about the need to be energy efficient if it instead used planning applications for extensions to encourage consequential improvements to homes in the form of energy efficiency wherever this is feasible. Retrofitting and renewable energy installation has been calculated by Friends of the Earth to have the potential to create over 70,000 jobs.³³

6. How the Government's review of national and local standards should be carried out and what focus should it have?

The Government should not introduce uncertainty into national standards, and should therefore absorb the code for sustainable homes into building regulations. The planning “must-haves” around sustainable development—provision of walking and cycling, wildlife etc should then be strengthened in national planning policy. Most large developers and architects would prefer a level playing field—the key is to ensure that this playing-field is one that is about very high standards of building and planning for sustainable development. We should be taking Northern Europe models for development and building on this to become world-class in this area. Being clear about national policy will also reduce the proliferation of local standards—although local distinctiveness and locally-led solutions are key for sustainability and one size does not fit all.

7. How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

Any public sector land should be developed through contract with the local authority. The Freiburg model for Rieselfeld and Vauban is excellent in this respect. These models secure high levels of sustainability together with public participation into the shape and design of places and incorporate high quality public transport, wildlife, facilities and community safety, recycling and renewable energy resources. Public sector land should not be wasted on propping up the pre-recession business model for developers.

CONCLUSION

Friends of the Earth promotes a planning system that is fair, participative, democratically accountable and delivers on sustainable development. The concern is that these reforms will result in a rash of short-term unsustainable and damaging developments which will have long term impacts. The seriousness of the climate challenge requires the debate around planning reform to be framed differently, and to consider how best we can retrofit our existing buildings, build the best quality new sustainable developments, particularly for those most in need, and involve the public far more in developing local plans and solutions.

Fair Transition Programme, Friends of the Earth England Wales and Northern Ireland

October 2012

Written evidence from Jesmond Residents Association

The Jesmond Residents Association was founded in 1964 and has been in continuous existence from that year. It is a member of the National Organisation of Residents Associations, who will be making a submission to your Committee also.

The suburb of Jesmond, in Newcastle upon Tyne, has a high residential density, including a significant number of Houses in Multiple Occupation as well as family homes. The majority of occupants of Houses in Multiple Occupation are students, as Newcastle has two Universities and a College.

The Association has fears that the relaxation of planning regulations allowing homeowners, which would, of course include landlords, will precipitate an increase in the existing residential density, especially in the HMO sector.

It is not convinced that the proposal would benefit the building industry and thus the economy. It also opines that the lack of funding for potential purchasers and the building industry is the deterrent.

The Association has worked hard over a considerable number of years, along with Newcastle City Council and its Ward Councillors, to safeguard Jesmond's environment and maintain a viable, sustained community,

³³ http://www.foe.co.uk/resource/media_briefing/carbon_descent_jobs_research.pdf

most especially in the area of development and planning. Jesmond has a number of Conservation Areas and historic and listed buildings and these too, it is feared, may also come under threat.

The Association considers that, having campaigned for many years, along with other similar Associations throughout England and in conjunction with the National Organisation of Residents Associations and the National HMO Lobby, to effect a change in planning legislation relating to Houses in Multiple Occupation, and thus contain the increasing residential density, the proposals will negate all that has been achieved in this respect.

Most of Jesmond is covered by an Article 4 Direction preventing the conversion of family homes to HMOs, and this has been welcomed and supported by the vast majority of permanent residents. It is very apprehensive that the benefits of this policy will only encourage landlords to extend their premises and thus increase the number of, already excessive, tenants. There is also a corresponding perception that some homeowners will construct extensions which will be both overbearing and unsympathetic to neighbouring properties. The present planning regulations, at least, provide some protection against this.

A moratorium of two years will, the Association has no doubt, undo virtually all the progress that has been made.

Accordingly, the Association attaches its response to the questions posed.

I shall be obliged if the contents of this letter, and the responses would be placed before your Committee for its consideration.

Q1. How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?

A2. The proposals are in conflict with the Government's avowed intention to allow communities to have a greater say in local planning policies, such as the formation of Neighbourhood Forums and is perceived, therefore, to be in conflict with the intent and purpose of the Localism Act.

The proposals will grant more permitted development rights to build even larger extensions to dwellings and will preclude any opportunity for the community, which should include neighbours, local amenity organisations, local councillors, officers in the Local Planning Authority, to have any influence on development and will inevitably lead to problems.

Such developments will undoubtedly have the consequence in disturbing and even ruining neighbour relations in localities and have a potential for damaging the environment.

Of great concern is the latent possibility that landlords of Houses of Multiple Occupancy (HMO) would be able to expand their properties without any control even in areas where there are social problems with Article 4 Directions aimed at managing HMO.

It is noted that the Government intends to facilitate the installation of broadband cabinets and other related infrastructure on public land without local councils' permission in England (except in areas of Special Scientific Interest). Whilst the Association is generally in favour of the necessity of increasing broadband facilities, it notes that, apparently, exceptions for Conservation Areas, Listed Buildings, World heritage Sites and Areas of Outstanding Natural Beauty are conspicuous by their absence.

In general, and in Jesmond and particular, many of the streets were designed and constructed in the Nineteenth Century, to provide for the transportation of the time and correspondingly, pavement areas are also narrow. There appears to have been no consideration made for those with a visual and/or physical disadvantage.

Q2. What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

A2. It is considered by the Association that where the elimination of planning consents that oblige developers to provide a considerable number of what is described as "affordable dwellings", this will emasculate the policies that aspire to make sure of the value and benefit of a "mixed development". Insofar as the City of Newcastle is concerned, there has been a history of the separation of social classes which led to the creation of deprived areas, which are a source of crime and anti-social behaviour.

Q3. What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

A3. The Association perceives that Section 106 agreements are concerned, in the main, with proposals for the management and implementation of traffic and drainage systems as well as social and community developments. These latter can include play, sport and leisure areas, community meeting facilities, and which benefit a community by integration and cohesion.

If these are sidelined, then local policies which seek to improve that community cohesion and maintain and improve suitable development, will be only to the detriment of the community

Q4. What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

A4. It is considered that “home improvements” will generate tension between neighbours. The potential, as has been stated above, for extensions to Houses in Multiple Occupation, which will, no doubt, be described as “home improvements” will precipitate a plethora of these and this will inevitably distress and antagonise residents who have been in favour of the change in planning regulations and the implementation of Article 4 Directions. Past experience leads the Association to believe that residential density in this sector will increase exponentially once more.

Q5. How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

A5. The awarding of costs against bodies other than the applicant and Local Planning Authority who are involved in the planning process, such as conservation societies and residents associations, may be a deterrent to those bodies to become involved.

Q6. How planning authorities should be able to adjust Green Belt land?

A6. The Association is aware that there is a facility available to exchange land but that this is rarely invoked. This may well be that it is considered to be inequitable. Developers may offer Brownfield or poor quality Greenfield sites as an inducement for the substitution of premier Green Belt land.

Q7. How the Government’s review of national and local standards should be carried out and what focus should it have?

A7. This matter is outwith the Association’s remit and therefore it has no views.

Q8. What the impact is of the proposal to get empty commercial buildings into use?

A8. In general, the Association would support appropriate changes of use for empty commercial buildings. However, the location of some, where there is an absence of services and facilities, eg schools, shops, “buses, health care, may render them impracticable for conversion. Notwithstanding, in areas, such as city or town centres, or where there are viable communities, this proposal could be of great benefit. The conversion, especially of unused upper floors in city and town centres would have a possibility for improving the local economy.

Albeit, it would be paramount for Local Planning Authorities to engage with local communities to ensure that the proper management of such development was effective and properly applied”.

Q9. Whether the Government’s financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

A9. The Association takes the view that the Government’s consideration of lowering or removing specified percentages of “affordable dwellings” is a problem that confronts private developers who seek to make a profit. The provision of such “social housing” makes it a requirement for the liability to be assumed by local and central government. This is obvious and no legislation or regulation can make it otherwise.

Today’s present society ideally seeks to ensure that there is an acceptable level of satisfactory accommodation for those in the lower income groups, who, in the main, contribute to the basis of the functioning of the general society.

Q10. Whether the Government’s proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

A11. In hindsight, the financial meltdown that precipitated the present recession in many economies, has been due to many factors, not least of all the sub-prime mortgage culture, which allowed borrowers to acquire debts far beyond their capabilities to repay them. The aspiration that all should own their own homes is, then, as now, impracticable and unsustainable. There will always be a demand for rented properties, by those who are on low incomes or have not yet achieved a level of income, such as young people starting out on a career, compatible with acquiring a mortgage.

Lenders, particularly banks and building societies, are now chary of providing borrowers with cheap and easily obtainable money without a high degree of security and equity. Indeed, the revelations about the profligacy within the financial industry have led to its near collapse and the reliance on, in the case of the United Kingdom, reliance on the taxpayer’s support.

Whilst it may appear harsh, stringent measures to ensure that borrowers have the wherewithal and resources to service loans, the Government’s intention to provide easier access to mortgages will prove to be misguided and will fail.

Another misconception is the uncertainty of employment. The obtaining of a mortgage can no longer be based on the assumption that employment will be permanent and that wage levels will rise over time.

Q12. *What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?*

A12. Briefly, the Association's opinion is that the planning process is not a major contributory factor in the non-implementation of major building sites but more the lack of lending available to both prospective purchasers and developers alike.

Q13. *How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?*

A13. While the release of public land for development will possibly lower the cost of purchase, those with land banks purchased at a higher price will not be persuaded to proceed on existing proposals. Better access to finance would be a more productive option.

October 2012

Written evidence from the Leamington Society

It is strange that our government believes that these proposals would kick-start the construction industry and the economy, when it is clear to most observers that it is not the planning regime that deters house-builders and developers from building houses, but the lack of available funds for both those wanting to buy homes and those who wish to build them.

The proposed relaxation of planning rules is not, and cannot be, a way of empowering local communities. The proposals to permit larger extensions and to remove obligations for affordable housing will be a "double-whammy" for towns like Leamington Spa. The effect of these proposals will be to fracture communities and damage the townscape and its gardens. It will pitch neighbour against neighbour, developers against residents and planning departments against amenity groups. The combined effect of these proposals will be to make our town more and more unaffordable for middle income and poor families. It will encourage un-neighbourly commercial development that masquerades as family extensions. For example, in the case of semi-detached properties there is the potential for an anti-social juxtaposition of family bedrooms and HMO recreation rooms. This is already a serious problem for some families.

It will also encourage the further development of HMOs (and especially student residences) at the expense of much needed affordable family homes.

A new upper limit for extensions should not be established without reference to the size of a property, its configuration or the use of the extension (suppose someone wants to build a garage or workshop underneath a neighbour's bedroom window?).

There will be abuse and breaches of the relaxed regime that will simply mire Planning Departments and residents in more disputes.

Leamington Spa will be very badly served by changes that are little more than knee-jerk reactions to problems that have nothing to do with the planning regime. Moreover, what is the evidence that the building industry in Leamington Spa does need "kick starting"? The existing framework has is not overly bureaucratic as is sometimes claimed—it is an appropriate way of managing the issues that flow from development.

These particular proposals, subject of the questionnaire below, aroused considerable concern in historic towns, conservation areas and protected rural areas. In just two years these proposals will have the effect of undoing the hard work of many years by civic societies to protect and improve the urban and rural environment. Members living in university towns and cities, already suffering from too many houses of multiple occupancy catering for students, are disturbed that the proposals would allow landlords to add even more student accommodation without the need for planning consent in conflict with the Article 4 Directions that have been introduced to manage such housing.

Accordingly the answers to the questions are entirely critical, and unfortunately we have no positive suggestions to improve the proposals.

ANSWERS FROM THE LEAMINGTON SOCIETY

1. *How the package of proposed measures will contribute to the Government's ambition to provide communities with a greater say about development in their area?*

1.1 None of the several planning changes proposed relate to "the Government's ambition to provide communities with a greater say about development in their area". In the view of our members the effect of each of them is in direct conflict with the Localism agenda.

1.2 The proposals to grant more permitted development rights to individuals to build even greater extensions to their dwellings without any opportunity for the community—neighbours, local amenity organisations, local councillors, officers in the Local Planning Authority—to have any influence on development is bound to lead to problems. These developments may result in disturbing and even ruining relationships in neighbourhoods and damaging the environment. A particular concern is the possibility that landlords of Houses of Multiple Occupancy (HMO) would be able to expand their properties without any control even in areas where there are social problems with Article 4 Directions aimed at managing HMO.

1.3 Companies providing broadband facilities would be able to develop cabling and associated cabins anywhere (except in areas of Special Scientific Interest) so that both residential and rural areas, which have been carefully managed in the past to conserve their attraction, could be seriously damaged. The omission of Conservation Areas, Listed Buildings, World Heritage Sites, and Areas of Outstanding Natural Beauty from the list of exceptions is extraordinary. However, just as important is that, at a stroke, the measure could ruin the effect of many years of careful protection of local green spaces, much valued by residents. There also appears to be no provision to avoid siting cabling or cabins where they will form a hazard to pedestrians (particularly the visually-handicapped), or produce ugly results.

2. What the economic and wider impacts—such as on the provision of social housing—will be of the proposed changes to speed up the planning process and to allow revisions to section 106 agreements?

2.1 The removal of conditions on planning consents for dwellings that oblige a significant proportion of them to be “affordable dwellings” undermines the planning policies that aim to ensure mixed developments. The separation of social classes in the past has led to the ghettos and the sink estates that blight so many of our towns and cities.

Local planning authorities already negotiate with developers to ensure that demands for social housing are financially feasible. The huge demand for more affordable housing to rent will only be met by building on the back of private development. Alternative government funding will never suffice to meet this need.

3. What will be the impact on the Planning Inspectorate and local planning authorities of the proposed changes intended to speed up the planning process and to allow section 106 agreements to be re-assessed?

3.1 We are very concerned about Section 106 agreements. These include off-site proposals for managing traffic and drainage and social developments, which ensure the provision of facilities such as play areas, community halls, etc., which enhance community cohesion. To lose these elements in agreements would undermine the policies of improving community facilities and sustainable development

3.2 Planning authorities are already able to negotiate with developers over the financial viability of the section 106 provision. Any suggestion that developers can draw back from these agreements will encourage them to abandon all contributions at a time when local government is losing funding from central government and is unable to provide appropriate facilities themselves.

4. What will be the impact of the proposed changes to the rules on permitted development intended to make it easier to undertake home improvements such as house extensions?

4.1 As indicated above, friction between neighbours will occur, and developments could damage the “pride of place” appreciated by communities. The building of more extensions to Houses of Multiple Occupancy can hardly be described as “home improvements” especially in areas in many university towns and cities where there are already serious problems with too great a density of such premises.

4.2 As minor uncontroversial extensions are already decided by officers without input from councillors the changes will not make any noticeable improvement to the speed of decision making.

5. How the use of Planning Performance Agreements and greater powers to award costs in planning appeals will affect the planning process?

5.1 The proposal for Planning Inspectors to be able to award costs against external bodies involved in participating in the planning process if their advice is poorly supported may help to ensure that refusals of planning applications will be more fully substantiated by those external bodies.

6. How planning authorities should be able to adjust Green Belt land?

6.1 We understand that this proposal to be able to swap land is already available but rarely used, possibly because the swaps are usually considered not to be equitable. It should not be acceptable, for example, for developers to offer brownfield sites or poor quality green field sites in exchange for prime Green Belt land.

8. What the impact is of the proposal to get empty commercial buildings into use?

8.1 Appropriate changes of use for empty commercial buildings may be acceptable, but the siting of many does not permit a change of use to residential dwellings because of the absence of necessary facilities such as schools, shops and health care. When these facilities are available—as in cities, towns and villages—such

changes of use may be welcomed. In all situations, however, appropriate management by local planning authorities with involvement of the community is essential to ensure sustainable development.

9. Whether the Government's financial incentives to increase investment in private rented housing provide the most effective solution to delivering housing in this sector?

9.1 That the Government has had to consider allowing private developments to lower or delete agreed percentages of "affordable dwellings" highlights the problems faced by private developers seeking to make adequate profits. It must be concluded that private developers are by their very nature unable to provide "social housing", so the burden must fall on local and central government. It is essential for a modern society to ensure adequate accommodation for those living on lower incomes, who often provide the basic services that support the rest of society. If private developers cannot afford to do so, then society through its elected bodies—local and central government—must do so.

10. Whether the Government's proposals to provide easier access to mortgages are feasible and will get people on to, and moving up, the housing ladder?

10.1 The current financial mess that now is crippling world economies appears to have started because unsustainable financial burdens were placed on those unable to afford them. Cheap mortgages and loans based on family income rather than the income of one individual clearly are not sustainable regimes for house purchase. The concept that everyone should own their own home is not feasible and never has been, so rented dwellings are essential both for those at the start of careers likely to lead to rising incomes and for those whose income will remain low. The Government's proposals will only repeat the errors of the recent past and prolong the economic mess.

10.2 The most important factor is that nowadays people's jobs and hence income can no longer be based on the assumption that they will stay with one employer for their working lives; instead many people experience periods of work interspersed with periods of unemployment, and even in employment earnings can drop on a change of job rather than rise. Thinking about mortgages still seems to assume continuous employment and rising earnings.

11. What is the feasibility and what will be the impacts of the Government's plans to accelerate the delivery of major housing sites?

11.1 By all accounts the major reason for developers deferring the implementation of major housing sites is not a consequence of delays in the planning process, but due to the lack of finance both by developers and more seriously by those wishing to purchase homes. Even developers with adequate land banks with full planning consent will not go ahead if there is no market. This problem affected notably Spain and Eire, where there are large housing developments lying empty for lack of purchasers. This is now a feature of the UK too—even in the south-east—and that efforts to free up more land are misguided and unlikely to succeed in increasing house-building levels. Instead possible ways of assisting house-builders to obtain suitable financing for new developments that already have the benefit of planning consent should be examined.

12. How feasible are the Government's measures to release surplus public sector land to developers and how might they influence the supply of housing?

12.1 We do not see any impediment to releasing surplus public sector land for development. Flooding the market with such land is likely to reduce the cost of land, so that development of such sites might be more profitable for private developers, but it is not likely to encourage developers to implement existing proposals for development on land, which has already been bought at a much higher price.

12.2 However, as we point out above, we believe that efforts to free up more land are misguided and unlikely to succeed in increasing house-building levels. Instead possible ways of assisting house-builders to obtain suitable financing for new developments with existing valid planning consents should be examined.

October 2012

Written evidence from the Loose Anti Opencast Network

1. ABOUT THE LOOSE ANTI OPENCAST NETWORK (LAON)

LAON was formed in 2009. It helps groups across the UK share information about the planning issues relating to opencast coal. Member groups in LAON provided much of the information that informed both the House of Commons Debate on the Planning (Opencast Mining Separation Zones) Bill in 2011 and the making of a section of a BBC1 Countryfile programme to be broadcast on 30/9/12. I act as the unpaid Co-ordinator and Research Officer for LAON.

2. EXECUTIVE SUMMARY

The reforms proposed on the 6 September will have a very severe and detrimental impact on people if used for determining mineral planning applications, especially for coal. They may also contribute to lower quality applications being approved for reasons explained below.

3. GENERAL OBSERVATIONS ON THE CURRENT (POST NPPF) PLANNING SYSTEM FOR DECISIONS ON MINERAL EXTRACTION

3.1 The Loose Anti Opencast Network (LAON) is submitting this evidence to make the Committee aware that recent changes in mineral planning policy has already had severe consequences for people.

3.2 Reading mineral planning application documents make two things clear. There is little direct reference to the consequences that any proposed development will have on people. Direct references are made to the impact that the development has on the local ecology, but not directly on people. They are written out. The nearest we get to them being considered are references to “receptors”. When I first read and understood what the term meant, I felt that I had become a ghost in my own village, an abstract entity that had no power to influence events.

3.3 Secondly, the planning discourse has developed its own language and culture. All applications use language which acts as a barrier between people and their ability to engage in the planning process. In any decision about planning issues, this imbalance in knowledge is there from the start. When the planning application is for mineral extraction, the imbalance is even starker as these applications are more complex, technical and the language more esoteric. The playing field on which the decisions are to be made, are already tipped in favour of the applicant,

3.4 English UK citizens, compared with their Scottish and Welsh counterparts, were suffering from an injustice when it came to objecting to opencast coal applications before the NPPF was introduced. We were already being treated as second class citizens. Planning policy guidance for coal in England does not require a 500m buffer zone between the site of an opencast mine and houses, whereas explicit guidance on this provision is contained in planning guidance notes for Scotland³⁴ and Wales³⁵ that protects local people better from the risks and loss of amenity associated with this form of development.

3.5 The Localism Act further compounds the injustice. The policy may intend to empower local communities to engage in the development of local plans and be more involved in land use planning decisions—except for infrastructure projects and mineral planning decisions.

3.6 Paragraphs 3.4 and 3.5 is two examples of the injustice inherent in the English planning system before the NPPF was introduced which remain after the NPPF was introduced. LAON believes that these are legitimate grievances to bring before this Committee, before it considers further changes which, if approved by Parliament, would further reduce our right to be heard.

3.7 LAON is already alarmed at the consequences of implementing the NPPF on mineral planning applications, especially in light of the Planning Inspector’s decision to grant planning permission for an opencast mine at the Halton Lea Gate site in Northumberland.³⁶ Judging from the reaction of the minerals industry, they see this as a landmark victory under the new NPPF system.³⁷ If it survives a judicial review,³⁸ it can be cited as a material consideration when any future mineral planning application is being determined. In that case the “great weight” argument about the national need for the mineral in question will be deemed to be more important than other considerations, such as, in this case, the site of this mine being 17m from a house or 300m from an Area of Outstanding Natural Beauty. LAON therefore consider that the implementation of the NPPF has already tipped the balance of the planning system even further in favour of the applicant. If the Committee agrees with this, why is consideration is given to tipping the balance further again against those who have legitimate ground for objection to future applications?

4. WHY OPENCAST COAL IS SUCH A CONTENTIOUS ISSUE

4.1 Opencast Coal is a contentious English planning issue. This is because England has most of the surface mine coal reserves that are known to be in the UK. It amounts to 516m m/tonnes.³⁹ This coal is much cheaper to mine than deep mined coal. The Confederation of UK Coal Producers (CoalPro) estimates that if England’s

³⁴ “Scottish Planning Policy”, (The Scottish Government, 2010), paragraphs 239–247 @ <http://www.scotland.gov.uk/Publications/2010/02/03132605/0>

³⁵ “Mineral Technical Advice Note 2: Coal, (Welsh Assembly, 2009) @ http://www.caerphilly.gov.uk/pdf/Environment_Planning/LDP-Examination-Documents/W39-MTAN-2-Coal.pdf

³⁶ Decision Letter, Land adjacent to Halton Lea Gate Farm. Case Reference No APP/P2935/A/11/2164056, (The Planning Inspectorate, 7/8/12) @ <http://www.pcs.planningportal.gov.uk/pcsportal/CaseSearchResults.asp>

³⁷ For example “Landmark planning appeal is a big thumbs up for mineral extraction” (Development Control Solutions / Mineral Planning, 16/8/12) @ <http://www.dcservices.co.uk/news/1145859/landmark-planning-appeal-big-thumbs-up-mineral-extraction/> “Green Light for Halton Lea Gate” (Environmental Industry Magazine, undated) @ <http://www.environmentmagazine.co.uk/latest-news/1117-green-light-for-halton-lea-gate>

³⁸ Halton Le Gate Campaigners seek Judicial Review’ (The Journal, 24/8/12) @ <http://www.journallive.co.uk/north-east-news/todays-news/2012/08/25/halton-lea-gate-opencast-campaigners-seek-judicial-review-61634-31694089/>

³⁹ Personal communication sent to me by Simon Cook, Deputy Operations Manager, The Coal Authority, 20/12/10.

planning system did include a 500m buffer zone, then between 250m and 500m m/tonnes of surface mine coal reserves would be sterilised, a figure equal to between 48 and 97%⁴⁰ of these reserves. LAON believe that, when Andrew Bridgen's Private Member's Bill⁴¹ to introduce such a buffer zone into the English planning system was recently debated⁴² and this point was put to the Government beforehand, it took fright and talked out the Bill without explaining why. LAON claim that what the Government saw, was that too much of our surface mineable coal reserves are too close to where people live to give them similar protection to that enjoyed by our fellow citizens in Scotland and Wales.

4.2 England is a more densely populated country, with many of its urban areas located for historical reasons on or near to shallow coalfields. LAON argue that this Committee should see the strength of the reverse argument, which is that too many people live, often unbeknown to them, too close to potential opencast sites for this state of affairs to continue for much longer. This aspect of policy should be due for review as the use of coal for power generation purposes was already due to decline significantly,⁴³ even before recent announcements about renewables replacing coal for generating purposes were announced.⁴⁴

4.3 Without strengthening rather than weakening safeguards against new opencast coal applications, this issue of planning applications for future opencast mines will continue to be the itch in the English planning system that will not go away. LAON maintain that there is already a fundamental incompatibility between protecting the level of amenity citizens should enjoy and the existing level of intrusion into that enjoyment already allowed, without sanctioning even greater levels of intrusion and loss of amenity.

5. SPEEDING UP THE PLANNING PROCESS AND ALLOWING REVISION OF SECTION 106 AGREEMENTS

5.1 LAON are opposed to these suggestions. LAON cannot speak about the way other planning applications are dealt with, but as far as the complex process of dealing with mineral planning applications is concerned, objectors play a vital role in improving the quality of successful applications as well as defeating poor applications. The level of scrutiny given by opponents to sizeable 1,500 page long submissions, often points out legitimate causes for concern based on local knowledge, which if not addressed, would mean approving applications which would have a detrimental environmental impact. The issue here may be more to do with the poor quality of the initial submission rather than the "bureaucratic delays" often cited as the cause.

5.2 LAON does not agree with the proposal to allow a revision of Section 106 Agreements retrospectively to the benefit of the applicant for any mineral planning decision. These Agreements are the only forms of compensation available for the social costs that are imposed upon local communities, and these Agreements, we contend, never fully compensate local people especially those most directly affected, for these costs. If revisions were to be allowed then this would introduce a great degree of uncertainty into the final outcome of any planning decision and at the same time reduce trust in both the Planning and Government system.

6. THE IMPACT ON THE PLANNING INSPECTORATE AND THE LOCAL AUTHORITY OF SPEEDING UP THE PLANNING PROCESS

6.1 Mineral planning applications suffer from two other sources of delay. Firstly the length of time it takes for statutory consultees to respond to consultation requests. Secondly the length of time it takes applicants to consider valid objections and resubmit revised applications. If the Government wants to speed up the planning decision making process for mineral planning applications, it should not give the applicant unlimited amounts of time to respond to valid objections. The onus should be on the applicant submitting an application of sufficient quality in the first instance and not using the system to allow valid objections to become means by which the quality of the application can be improved.

6.2 If the applicant considers that there has been undue delay then they already have the right to ask for a Public Inquiry via the Failure to Determine an Application provision. We argue that because of the complex nature of such planning applications, that the time limits currently in operation are sufficient.

6.3 Increased use of the Planning Inspectorate and, we presume, the use of Public Inquiries, to speed up mineral planning decisions will reduce the ability of members of the public with local knowledge to engage in the planning decision process because of a significant increase in the cost of gaining legal representation that this may involve.

⁴⁰ "Visit to opencast sites tests out buffer zone", (The Journal, 3/11/10) @ <http://www.journallive.co.uk/north-east-news/todays-news/2010/11/03/visit-to-opencast-sites-tests-out-buffer-zone-61634-27589655/>

⁴¹ Planning (Opencast Mining Separation Zones) Bill, 2011 @ <http://services.parliament.uk/bills/2010-11/planningopencastminingseparationzones/documents.html>

⁴² Debate on the 2nd Reading of the Planning (Opencast Mining Separation Zones) Bill. 11/2/2011 @ <http://www.theyworkforyou.com/debates/?id=2011-02-11a.647.0&m=40081>

⁴³ "CCS axe threatens the future of coal" (Process Engineering, original publishing date 1/11/11, put on the web 12/9/12) @ <http://processengineering.theengineer.co.uk/environment/1011005.article?>

⁴⁴ "Biggest English Polluter Spends \$1 Billion to Burn Wood: Energy", (Bloomberg, 26/9/12) @ <http://www.bloomberg.com/news/2012-09-25/biggest-english-polluter-spends-1-billion-to-burn-wood-energy.html?>

"RWE seek to extend the life of biomass- converted UK Coal plant", (Reuters, 26/9/12) @ <http://www.reuters.com/article/2012/09/26/britain-coal-biomass-idUSL5E8KQ80Q20120926?rpc=401&feedType=RSS&feedName=rbssEnergyNews&rpc=401>

"UK and Ireland Install Underwater Interconnector Cable to Boost Wind Energy", (Oil Price, 26/9/12) @ <http://oilprice.com/Latest-Energy-News/World-News/UK-and-Ireland-Install-Underwater-Interconnector-Cable-to-Boost-Wind-Energy.html>

7. THE USE OF PLANNING PERFORMANCE AGREEMENTS AND GREATER POWERS TO AWARD COSTS IN PLANNING APPEALS

7.1 The emphasis in the NPPF to “front load” the decision making process with prior agreements on some issues being decided on, can leave out of the decision making process the local people most likely to be affected if the application succeeds. Until the voice of local people is heard, they are merely treated as “receptors”, ghosts in the own locality.

7.2 New “front loading” proposals raise the following questions.

At what stage in the process is the proposed application to be considered a real application against which objections can be made?

At what stage is the applicant said to be under an obligation to fully inform those that live within 800m of the proposed opencast site that an application is pending?

7.3 Such questions are important, because only then are people able to assess the potential impact that such a proposal would have on their lives. Only then can they begin to assess, from scratch, what it means to begin to understand the planning process and possibly consider grounds for objections. This is also the stage in the process when house owners are supposed to inform prospective buyers that their house may soon be adjacent to an opencast mine. It is the point at which planning blight begins.

7.4 Problems then begin for the people directly affected by such a proposal. They enter a decision making process which is designed to eventually achieve a result of sustainable development favourable to the applicant—that is the stated default position.⁴⁵ Only then is the inherent bias in the process in favour of the applicant begin to become apparent.

7.5 Maintaining their valid opposition to the point of funding a hearing at a Public Inquiry, would cost them thousands of pounds. To then be presented with having to find the costs of the applicant, should they lose, would severely curtail the chances of taking the issue to a Public Inquiry.

7.6 However the main purpose of such a proposal we believe is to frighten mineral planning authorities into granting planning permission and stifle deeply held opinions as to why a particular proposal should not go ahead. This is illustrated by a statement made by a Northumberland County Councillor, who is reported as saying the following:

“The dilemma we have here is if we refuse this, it will go to appeal and it will be approved, of that I’m sure. At that point, we lose all control of being able to negotiate the terms and conditions on road safety so I will have to vote for this as the least damaging option”.⁴⁶

This was said during the determination of another Northumberland opencast mine site at Well Hill Farm in the afternoon of August 8th, after the Halton Lea Gate decision had been made public in the morning.

7.7 LAON therefore argue that the real risk is that if the new proposed procedure was applied to mineral planning applications, it would encourage poorer quality applications to both be submitted and approved.

8. LOCAL AUTHORITIES ADJUSTING GREEN BELT LAND AREAS

8.1 LAON fear is that this measure, if approved, may make it easier for owners of land to offer to swap land which does not have commercially workable reserves of minerals and are not designated as Green Belt for land which does have commercially reserves of minerals including coal which are Green Belt. This would make it more likely that planning permission can be gained, as a less rigorous system of assessing the quality of the application would apply. For this reason we object to this proposal.

9. REVIEWING THE CATAGORIES OF COMMERCIAL AND BUSINESS DEVELOPMENTS WHICH CAN BE CONSIDERED INFRASTRUCURE PROJECTS

9.1 In Paragraph 156 of the NPPF it states that Local Authorities should set out the strategic priorities for:

“.....the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat)”.⁴⁷

The Secretary of State for Communities and Local Government 6 September statement included:

“...we now intend to review the thresholds for some of the existing categories in the regime, and also to bring new categories of commercial and business development into the regime—making it possible for

⁴⁵ “Development that is sustainable should go ahead, without delay—a presumption in favour of sustainable development that is the basis for every plan, and every decision”. Ministerial Forward, The National Planning Policy Framework, p i, Op Cit

⁴⁶ “Road fears cannot thwart mine plan” (Morpeth Herald, 9/8/12) @ <http://www.morpetherald.co.uk/community/local-information/road-fears-cannot-thwart-mine-plan-1-4818501>

⁴⁷ The National Planning Policy Framework, op cit

such schemes, where they are of sufficient significance, to be considered and determined at a national level".⁴⁸

9.2 If this result of this review is the removal of any local control over the development of mineral resources, including coal, from the remit of Local Authorities we would see this as evidence of a further attempt to stifle legitimate opposition to applications that, if accepted, could have a detrimental effect on thousands of people who we know live on or adjacent to England's shallow coal field areas. This is again a cost issue, since we are presuming that that the decision would involve holding a Public Inquiry. The argument made above, at paragraph 6.3, equally applies here.

10. CONCLUSIONS

10.1 For these reasons LAON has reached the conclusion that if the proposals announced on the 6 September were approved for determining mineral planning applications that they would have a very severe and detrimental impact on people. They may also contribute to lower quality mineral applications being approved that would have a detrimental environmental impact.

October 2012

Memorandum from the City of London Corporation

SUBMITTED BY THE OFFICE OF THE CITY REMEMBRANCER

INTRODUCTION

1. This memorandum responds to the announcement by the Committee on 12th September 2012 of a hearing with the new Ministers responsible for planning and housing. It addresses in particular the proposals of the Department to introduce new national rights of permitted development. These are set out in two consultation papers: "*Relaxation of planning rules for change of use from commercial to residential*" (8th April 2011), and "*New opportunities for sustainable development and growth through the reuse of existing buildings*" (3rd July 2012). The memorandum explains the concerns of the City Corporation that the proposals could give rise to serious risks to the ability of local planning authorities to preserve important centres of commercial activity. These concerns are particularly relevant to the City of London.

GENERAL COMMENTS

2. As the Government states in the first paragraph of its National Planning Policy Framework (March 2012), the planning system "*provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.*" However, the granting of national permitted development rights by the Government can run counter to this approach. Permitted development rights are a very blunt instrument of planning policy which assume that a consistent national approach should prevail in the face of diverse local circumstances. They result in a reduction in the ability of local communities, acting through their elected councils, to influence the use of land in their areas in a way which reflects their particular needs and priorities. The greater use of permitted development rights therefore tends to contradict the principles of "localism" which have often been reflected in the policies of the Government.

3. National permitted development rights are justified in relation to changes which are not likely to affect the essential characteristics of a locality to a material extent, or where the changes are likely to be so limited in nature or quantity that it would be an altogether disproportionate burden to require a planning application to be considered by the local planning authority. However, national permitted development rights are usually inappropriate for types of change which are likely to have a significant and substantial effect on local economies and local environments. For such changes, it is important that the local planning process be respected, unless there is convincing evidence that the requirement for local planning permission is acting to impede some overriding national purpose.

4. The Government already exercises a large measure of influence over the planning system through the requirement for conformity with the statements of national policy it issues, including the recently issued National Planning Policy Framework. These national policies should be the primary instrument for promoting the objectives of Whitehall in relation to the local use of land. Only where statements of policy have been put in place and have proved ineffective can more intrusive measures such as national permitted development rights be justified.

5. Local planning authorities do retain a limited ability to restrict national permitted development rights, through what are commonly known as "Article 4 directions" (by virtue of their position in the relevant statutory instrument). However, these directions are usually subject to limitations of time, and, more significantly, require the authority to compensate those affected by the restriction. These factors mean that Article 4 directions do

⁴⁸ Housing and Growth Statement, Eric Pickles, Secretary of State for Communities and Local Government, 6/9/12, @ <http://www.communities.gov.uk/statements/newsroom/2211838>

not provide a practical means for local authorities to restrict development where the intended development is of high value or of wide extent.

6. The considerations above apply to all local planning authorities in England and Wales. They are, however, brought into especially sharp relief in the City of London, where the distinctive cluster of office-based businesses is crucial to the City's position as one of the world's leading commercial centres. Strategic local planning is essential to maintaining the beneficial combination of commercial activities which prevails in most of the City. In particular, the City Corporation's planning policies discourage housing in these commercial areas, and direct it instead to areas identified as appropriate for residential development. In this way, conflicts between residential amenity and the needs of businesses can be avoided. Such policies have performed an important rôle in sustaining the high concentration of diverse commercial activity which characterises the Square Mile and enables it to make a beneficial contribution to the national economy.

THE PROPOSALS OF APRIL 2011: CHANGE OF USE FROM OFFICES TO HOUSING

7. The proposals set out in the consultation paper of 8th April 2011 would grant national permitted development rights for development consisting of a change of use of premises from commercial purposes (including offices) to residential purposes (*ie* from use classes B1, B2 or B8 to use class C3).

8. Extensive comment was passed on these proposals in a memorandum submitted to the Committee in November 2011, in the course of the Committee's inquiry into the National Planning Policy Framework. The details of this memorandum are not repeated here. In summary, it expressed the concern that the proposals carried a significant threat to the commercial character of the City, as well as to the ability of the City Corporation to allocate services and resources in the most effective manner. It predicted that the proposals could lead to an irreversible reduction in the availability of commercial floor space (an independent consultant's report estimated that one fifth of the total office space in the Square Mile could be threatened in this way), the inhibition of new commercial developments by sporadic residential presence, and conflict between the needs of efficient commercial operations and residential amenity. It suggested that a strong statement of policy in the National Planning Policy Framework would be a more proportionate means of achieving the Government's aim to encourage house-building. Otherwise, it called for some form of exemption which would enable the distinctive rôle of the City to be protected.

9. In the National Planning Policy Framework, published in March of this year, the Government included a policy in the following terms (which had not been found in the draft Framework): “[Local planning authorities] should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.” (¶ 51.) On 3rd July of this year, in its response to the initial consultation, the Government announced that this would be the extent of its action, and that no national permitted development rights would be introduced. Such a right had been opposed by a clear majority of respondents (61% or 69%, depending on the specific use class in issue). The Government's conclusion was expressed in the following terms: “We believe that a strong, national planning policy will achieve the Government's aims of delivering more housing and encouraging the reuse of empty buildings while giving local authorities and their communities the opportunity to influence development in their area and take account of local circumstances. We will keep the impact of this policy under review to ensure that it is effective.” (¶ 36.)

10. However, this position appears to have been changed in a written statement to Parliament by the Secretary of State on 6th September of this year. This announced that the Government would “introduce permitted development rights to enable change of use from commercial to residential purposes, while providing the opportunity for authorities to seek a local exemption where they believe there will be an adverse economic impact.” At the time of this submission, no further formal explanation has been made available.

11. It is disappointing that the Government has apparently revised the sensible and clearly stated conclusion which it reached so recently as July. This naturally revives the concerns described above. It might be added that conversions of commercial premises to dwellings are by no means the sort of minor or inconsequential developments to which national permitted development rights should clearly apply. Such developments could have radical effects on the character of local communities, especially in the case of large commercial centres, in a way which threatens fundamentally to undermine local strategic planning. A reasonable, proportionate and locally sensitive means for the Government to pursue its objectives is available in the form of the National Planning Policy Framework, as the Government accepted in July.

12. The City Corporation nonetheless notes and cautiously welcomes the suggestion that some form of “local exemption” from the national permitted development rights will be provided to avoid “adverse economic impact”. Such an exemption might, depending on its details, serve to alleviate the particular concerns which arise about the position of the City of London and other important commercial districts. However, the details of where such an exemption might apply, and how it might operate, are as yet obscure. It is important that the Government clarifies its intentions on this aspect of the proposals within a reasonably short period, and engages fully with local planning authorities in a way which affords them adequate opportunity to consider and contribute to the substance of the exemption. In particular, it might be stressed that any exemption should not carry the same sort of financial implications as those of “Article 4 directions”, and that the exemption should

be available to local planning authorities from the commencement of the new national permitted development rights.

THE PROPOSALS OF JULY 2012: CHANGE OF USE FROM HOTELS TO HOUSING

13. The consultation of 3rd July, 2012 set out further proposals for national permitted development rights. The proposal which is of particular significance to the City Corporation is the proposal to permit changes of use from hotels and guest-houses to residential purposes (*ie* from use class C1 to use class C3).

14. The City Corporation would oppose this proposal for much the same reasons as we have given in relation to the earlier proposal in relation to commercial-to-residential conversions. Although hotels do require a reasonable level of occupier amenity, this is considerably less than for the residents of permanent dwellings. Therefore it is often appropriate to treat hotels as forming part of the mixture of “commercial” uses in the City. Indeed, we have found that hotels can play a valuable supporting rôle in commercial areas by providing facilities for business visitors, conferences, etc., and hotels are now found across the City as part of a beneficial combination of commercial activities. Their unconstrained conversion to permanent housing would not only threaten the stock of hotel rooms available, but would also create the other problems already described, as commercial property development and the day-to-day operational needs of businesses came into conflict with the needs of newly established permanent residents.

15. More broadly, this is not an appropriate case for the introduction of national permitted development rights in line with the general comments offered above. The proposed developments would not be minor or inconsequential but would potentially entail substantial changes to the characteristics of local areas. There appears no justification for proceeding straight to the introduction of permitted development rights without first seeking to encourage local planning authorities to advance the Government’s objectives through a strong statement of policy guidance, which could nonetheless be applied with sensitivity to local considerations.

16. It is understood that this proposal may be primarily intended to address the issue of hotel over-capacity in some coastal resorts. If so, this not being a national issue, it would be inappropriate to use national permitted development rights to address it, especially as this would generate unintended problems in other parts of the country.

CONCLUSION

17. The City Corporation fully recognises and supports the Government’s determination to shape the planning system in a manner which encourages growth. In particular, it shares the objectives of increasing housing supply and making it easier to establish new businesses. For example, in relation to housing, the City Corporation has overseen a doubling in the number of residential dwellings in the City in the past two decades, and also manages some 2,700 houses in neighbouring boroughs. However, the widespread introduction of new national permitted development rights would likely prove a disproportionate and damaging method of achieving these aims, because of the removal of local planning authorities’ ability to protect strategically or communally important uses of land. Other than for minor or inconsequential changes, such a blunt tool should only be used where a genuine and substantial problem can be demonstrated with the existing system, and only after less intrusive measures such as statements of policy have been tried. If national permitted development rights are to be introduced which would permit the conversion of a wider range of commercial premises to other purposes, it is important that an effective mechanism be included to ensure that local planning authorities can protect economically important concentrations of commercial activity such as those found in the City of London.

Guildhall, City of London

27th September 2012

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