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BROMLEY ECONOMIC PARTNERSHIP

Meeting to be held on Tuesday 12 July 2011

Please see the attached report marked "to follow" on the agenda.

**3d LOCAL DEVELOPMENT FRAMEWORK AND PLANNING POLICY
ISSUES (Pages 3 - 14)**

The appendix to this item is attached.

Copies of the documents referred to above can be obtained from
www.bromley.gov.uk/meetings

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Relaxation of the planning rules for change of use from business to residential: Consultation Questionnaire

The Government welcomes your views on the proposals set out in the consultation document, *Relaxation of planning rules for change of use from commercial to residential*, which is available on our website at: www.communities.gov.uk/consultations.

Our preference is to receive responses electronically and we would be grateful if you could return the completed questionnaire to the following e-mail address:

C3consultation@communities.gsi.gov.uk

If you wish to post your response, however, please send the completed questionnaire to:

Theresa Donohue
Consultation Team (Commercial to residential use)
Planning Development Management Division
Department for Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

This consultation will run for 12 weeks from 8 April 2011. **The deadline for submissions is 30 June 2011.**

Data Protection

This is to inform you that we may, with your consent, quote from your response in a published summary of the response to this consultation. If you are content for your views to be made public in this way, please tick the box.

Otherwise, your views may be set out in the response, but without attribution to you as an individual or organisation.

We shall treat the contact details you provide us with carefully and in accordance with the data protection principles in the Data Protection Act 1998. We shall not make them available to other organisations, apart from any contractor (“data processor”) who may be appointed on our behalf to analyse the results of this questionnaire, or for any other purpose than the present survey without your prior consent. We shall inform you in advance if we need to alter this position for any reason.

About you

i) Your details

Name:	Gill Slater
Position:	Planner
Name of organisation (if applicable):	London Borough of Bromley
Address:	Bromley Civic Centre, Stockwell Close Bromley, BR1 3UH
E-mail:	gill.slater@bromley.gov.uk
Telephone number:	0208 313 4492

ii) Are the views expressed on this consultation an official response from the organisation you represent, or your own personal views?

Organisational response	<input checked="" type="checkbox"/>
Personal views	<input type="checkbox"/>

iii) What category do you consider your organisation falls into?

Local planning authority	<input checked="" type="checkbox"/>
Housing developer	<input type="checkbox"/>
Community group/representative	<input type="checkbox"/>
Parish council	<input type="checkbox"/>
Business	<input type="checkbox"/>
Planning professional	<input type="checkbox"/>
Landowner	<input type="checkbox"/>
Voluntary sector or charitable organisation	<input type="checkbox"/>
Other (please state) _____	<input type="checkbox"/>

The consultation questions

Question A:

Do you support the principle of the Government's proposal to grant permitted development rights to change use from B1 (business) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?

Yes No

Please give your reasons:

The proposal undermines local plan making contrary to the Governments intentions in respect of localism. "Neighbourhood planning will allow people to come together through a local parish council or neighbourhood forum and say where they think new houses, businesses and shops should go – and what they should look like." (Plain English Guide to the Localism Bill 2011 CLG). For example the proposal changes the basis on which the recently adopted Bromley Town Centre Area Action Plan was agreed locally.

Restricts the ability to deliver the key principles of the planning system "Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development" (PPS1 para 5) likely to result in outcomes which are directly contrary to the intentions of the planning system, for example:

- the uncontrolled loss of employment land impacting on the local economy and future potential for growth in the most appropriate locations,
- the loss of control regarding design & quality of residential accommodation particularly amenity space and parking
- the removal of the ability to control the mix of dwellings, require affordable homes, lifetime homes or make wheelchair provision etc as well as the ability to require designing out crime features or particular environmental standards
- may deliver residential development in areas of inadequate infrastructure (physical green & social infrastructure) whilst removing the ability to seek 106 contributions (regardless of an Infrastructure Development Plan)
- give a perverse incentive to convert without alterations that would lead to a requirement for planning permission, producing poor quality living environments and potentially destabilising the market for well designed new build residential - which has been slow to deliver despite planning permissions.

Such a radical rewriting of the intentions of the planning system will impact on the Governments Localism agenda and should be reflected in the Localism Bill rather than achieved in contradiction to the proposed bill through amendments to statutory instruments. (Use Classes Order 2007 and General Permitted Development Order 1995)

Housing standards have been used in the past to effect a step change in housing quality.

The 1961 Parker Morris report 'Homes for Today and Tomorrow' sought to ensure that every 'council-built' home had enough space. To address the changing needs of occupants the London Mayor, requires that all new homes be built to Lifetime Homes standards and 10% to be wheelchair accessible or easily adaptable for wheelchair users. These requirements have been reflected in UDP's.

The Mayor has also produced The London Housing Strategy, which requires all homes developed with public funding to meet new minimum space standards (Housing Design Guide SPG) It also encourages all involved in the design of new housing to embrace the Mayor's aspirations. The design guide notes that "In recent years London has been providing some of the smallest homes in the developed world and too many developments of a low quality. This is not something to be proud of and is not sustainable"

Question B:

Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage & distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?

Yes No

Please give your reasons:

As above, but also

- impact of co existing with B2 / B8 uses. Unsatisfactory residential environment leading to pressure to limit legitimate use of neighbouring B2 / B8 units through environmental health legislation. Further complicated by potential automatic switch back to business (if other adjacent B uses have all changed to C3)
- Whilst B1 uses may have parking or high public transport accessibility appropriate to residential use this is unlikely to be the case for B2 / B8 leading to parking problems and/ or inaccessible employment and services for residents

Question C:

Do you agree that these proposals should also include a provision which allows land to revert to its previous use within five years of a change?

Yes No

Comments:

As above, there may be problems relating to the co existence of a reverted B uses alongside converted to residential buildings which remain as residential.

Additionally, there would be perverse incentives

- not to convert to a high specification or attempt to address issues of parking or amenity for the new occupants or existing neighbours, for a proposal which was merely a trial
- to rent only on a short term thus enabling reversion if the market favours offices – this would lead to a transient population (coupled with the low specification), a poor, transient population
- to maximise income from the likely residents (poor & transient) the market may deliver a high proportion of small 1 / 2 bed units.

Question D:

Do you think it would be appropriate to extend the current permitted development rights outlined here to allow for more than one flat?

Yes No

If so, should there be an upper limit?

Yes No

Comments:

The restriction of planning controls risks unacceptable residential conditions even on a relatively small scale of development over shops

Question E:

Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals?

Yes No

Are you aware of any further impacts that may need to be taken into account?

Yes No

Please give details:

The consultation does not adequately address the impact of the likely quality of the resulting residential units on the health and well being of both the occupants of the new units or the existing communities. The Specific Impact Test on Pg 61 "Social impacts" merely indicates that increased housing provision may have a positive impact on health and wellbeing. It fails to consider the health and wellbeing impacts of the nature of the accommodation (quality, size, amenity space, and infrastructure) or the potential segregation of the communities that may be established in certain circumstances.

Question F:

Do you think that there is a requirement for mitigation of potential adverse impacts arising from these proposals and for which potential mitigations do you think the potential benefits are likely to exceed the potential costs?

Yes No

Comments:

The costs of the proposal will exceed the benefits.

The impacts set out in Qu A will not be adequately addressed by conditions attached to permitted development rights or a prior approval mechanism. If the proposed conditions (which have not yet been set out) / prior approval mechanism / self certification are any less rigorous than the requirements of a planning application the quality of schemes and the mitigation of undesirable impacts cannot be guaranteed. In particular the conferring of permitted development rights on the basis of self certification may be open to misinterpretation or abuse. If the process is to be effective it needs to be as detailed as a planning application anyway.

If a development is not "permitted development" (i.e. it fails to satisfy the prior approval mechanism) it would be necessary to submit a planning application (retrospective, if the development has commenced) thus it presents an additional hurdle / cost to the developer. There is no guidance regarding the process if a proposal fails the prior approval mechanism (certification, appeal or enforcement).

No mechanism is suggested to replace s106 contributions although the consultation suggests "it could occur through other action by the local authority or the developer on a voluntary basis following discussion with the neighbourhood", the incentive being that this would make their development more attractive to buyers. Experience demonstrates the difficulties of securing contributions from developers using the current planning system.

The costs of mitigating the impacts of the development, rather than being borne upfront through the planning process, will be borne over the longer term by the local community and the tax payer.

It is surely optimistic that discussions with the local neighbourhood, will serve any positive planning purpose if there is no requirement to obtain planning permission.

Article 4 directions will be both time consuming to produce and potentially costly in respect of compensation as outlined on pg 57, as well as producing applications which attract no fee.

Question G:

Can you identify any further mitigation options that could be used?

There is no suitable mitigation for the proposed changes which would undermine the housing and employment land supply, likely to result in housing which is not required to meet any relevant planning standards, and that is not supported by sufficient infrastructure.

Question H:

How, if at all, do you think any of the mitigation options could best be deployed?

The detail of the mitigation options and their operation as expressed will not be effective to “facilitate and promote sustainable and inclusive patterns of urban and rural development.” (PPS1).

Question I:

What is your view on whether the reduced compensation provisions associated with the use of article 4 directions contained within section 189 of the Planning Act 2008 should or should not be applied? Please give your reasons:

If the proposed changes to permitted development are carried forward then there should be no compensation for applications on sites designated as a result of this change. Additionally Councils should be given a period of time to establish the Article 4 directions prior to the changes to permitted development being introduced.

As well as the potential costs to local authorities in respect of compensation claims there are concerns regarding the significant costs associated with the publication, consultation and justification of Article 4 directions as well as the cost of dealing with planning applications, as the fee is waived where Article 4 directions have been made.

Question J:

Do you consider there is any justification for considering a national policy to allow change of use from C to certain B use classes?

Yes No

Please give your reasons:

These decisions should be taken locally on the basis of local circumstances and through the submission of a planning application.

Question K:

Are there any further comments or suggestions you wish to make?

The impact assessment questions

Question 1:

Do you think that the impact assessment broadly captures the types and levels of costs and benefits associated with the policy options?

Yes No

If not why?

The consultation fails to acknowledge that the proposals are unlikely to mitigate the adverse impacts and poor residential environment. The costs associated with the impact of the development locally and the effects of poor residential environment on health and wellbeing of the occupants will be borne by assessment the broader costs to the local community of inappropriate accommodation.

Question 2:

Are there any significant costs and benefits that we've omitted?

Yes No

If so, please describe including the groups in society affected and your view on the extent of the impact:

As above. The proposal fails to acknowledge the benefits to society of planning controls, and the costs of removing regulation. The unregulated provision of dwellings risks unsatisfactory living accommodation without sufficient internal space to adapt to changing mobility or adequate play space.

The impact of the residential environment on the mental, physical and developmental health is well documented – eg the recently published IDEA “Plugging health into planning: evidence and practice”

<http://www.idea.gov.uk/idk/core/page.do?pagelId=28367945>

The building regulations set standards for alterations to existing buildings but are limited in scope. They do not consider planning matters such as the quality of the living environment on new and current occupants, the need for amenity space and parking provision or the pressures new development places on local facilities. Additionally the building regulations are currently under review with “a particular focus on deregulation and streamlining of the technical and procedural aspects of the regulations.”

It is unlikely that the voluntary system suggested will deliver appropriate contributions and thus the costs of mitigating the impacts of the development, rather than being borne upfront through the planning process, will be borne over the longer term by the local community and the tax payer.

Question 3:

Are the key assumptions used in the analysis in the impact assessment realistic?

Yes No

If not, what do you think would be more appropriate and do you have any evidence to support your view?

Para 28 makes the assumption that the market will make sensible decisions. Whilst the market may make sensible commercial decisions it will not ensure sensible social or environmental decisions. This is particularly problematic in London where demand for housing increases the commercial pressure for residential dwellings.

Question 4:

Are there any significant risks or unintended consequences we have not identified?

Yes No

If so please describe:

The consequences in respect of health, wellbeing, the environment and local amenity are not easily quantifiable in financial terms and have not therefore been recognised.

Question 5:

Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options?

Yes No

If not, why not?

The assessment does not adequately reflect the impacts on

- Children and families. No requirement for play provision would be contrary to the London Plan and mayoral SPG "Providing for Children and Young People's Play and Informal Recreation".
- People with limited mobility (permanent or temporary). There is no Lifetime Homes requirement (ensuring homes are adaptable to changing circumstances) & requirement for a proportion of Wheelchair accommodation.
- People reliant on public transport. Particularly in respect of conversions from B2 / B8 uses which are less likely to be accessible by public transport.

Question 6:

Do you think there are any groups disproportionately affected?

Yes No

If so please give details:

As above

Question 7:

Do you think this proposal will have any impacts, either positive or negative, in relation to any of the following characteristics – Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion or belief, Sex, Sexual Orientation and Age?

Yes No

Please explain what the impact is and provide details of any evidence of the impact:

- Age - SPG "Providing for Children and Young People's Play and Informal Recreation" details the importance of adequate play provision.
- Disability – "Lifetime Homes, Lifetime Neighbourhoods" CLG 2008
- Gender (carers of the above predominantly female will be affected)

Question 8:

Do you have any information on the current level of planning applications for change of use from B use classes to C3 in your local authority area which might be helpful in establishing a baseline against which to measure the impact of this policy?

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