

# Space oddity

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**Although housing space standards are nationally described, there is little incentive and plenty of barriers to their application, argues Andrew Whitaker**

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The Department for Communities and Local Government (DCLG)'s [Technical housing standards ? nationally described space standard](#) , published in March 2015, sets out optional requirements for access and water that exceed the minimum standards in the Building regulations. The same changes also introduced an [optional, nationally described space standard for new dwellings](#) . This means that it is up to the planning system to impose and police space requirements: but this can cause problems for planners and building inspectors.

## Expansion and contraction

State intervention in the control of dwelling size began in the early 1960s. The recommendations published in the Ministry of Housing's Design Bulletin 6 ? Space in the Home in 1963 were modified to become mandatory standards for the government's new towns programme in 1967 and, by 1969, applied to all public sector housing. But the requirements were withdrawn in 1980, primarily due to the public cost of meeting them.

Some of the requirements, such as central heating systems and flushing toilets, were subsequently adapted into Building regulations, though not the space standards. The Housing Corporation dabbled with such standards in the 2000s, but these were not mandatory or applied to private-sector dwellings.

## Adoption and application

Because the DCLG's 2015 standards are not part of the Building regulations, they are applied through the planning system. However, because they are optional, local planning authorities cannot merely apply the standards but must persuade an independent examiner that they are necessary in their area. In making such a justification, authorities must also consider:

- how the provision of potentially larger dwellings affects development viability;
- need for a transition period before applying the requirement.

To date, few councils have successfully adopted local plan policies requiring space standards, mainly due to their inability to justify such a policy, though the London Plan is one notable exception. The difficulty for most councils is that not only must they show that developers in their area are building dwellings below the minimum standards, they also have to show that applying the standards would not affect the affordability of dwellings. Since smaller dwellings are generally less expensive than larger ones, this is a very high hurdle to clear.

However, adopting a policy is only the start of a local authority's problems. Even if it has an adopted policy requiring the nationally described space standard ? and it cannot specify or require any standard other than the government's ? it must subsequently apply and enforce it

when making decisions on planning applications.

Local plan policies do not apply to all development. [Section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#) states that decisions on planning applications should be made in accordance with the policies of the plan 'unless material considerations indicate otherwise'; such conditions could include, for example, site-specific problems caused by topography or viability. Thus an application that does not conform to the minimum space standards can still be approved.

## **Enforcement and inspection**

Enforcement and inspection of properties 'as built' is not as simple, then, as ensuring that all properties meet the space standards, because a dwelling that does not comply with the standards may still not be in breach of its planning consent. This view is seemingly supported by government guidance on the standards? application, which states that local authorities should accept such submissions.

Similarly, bespoke designs should be tested against the policy requirements at the planning stage: dwellings that do not meet the standard should either be refused or approved on the basis of 'material considerations'. There should be no necessity, as some have suggested, for local authorities to impose a planning condition requiring dwellings to fulfil the standards.

Checking that dwellings have been built as approved is not a core planning function for most local authorities, though, who tend to see compliance as a building control issue. While building control bodies may choose to check space standards as an additional service, they are not obliged to do so and there is no provision to levy additional fees on developers for this.

In a competitive service environment, there is little incentive for building control bodies to offer the service if it is going to cost applicants more, and with local authority resources already stretched there is very little chance that they themselves will cover these costs. This suggests that such checks will not happen, and that assessing the application of and compliance with policy can only be dealt with at the stage of making planning decisions rather than as part of building inspection. All of this means that compliance and enforcement will be lax at best, if not non-existent, bringing into question the efficacy of adopting a local space standards policy.

**Andrew Whitaker is Planning Director at the [Home Builders Federation](#)**

## **Further information**

- Related competencies include [Legal/regulatory compliance](#)
- This feature is from the RICS *Building control journal* (April/May 2017)