

Record of Decision taken by Executive Councillor

Decision title: Council response to the Government's consultation on the Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings

Executive Councillor making the decision: Cllr Mike Rigby (PH for Planning and Transportation)

Author Contact Details: Graeme Thompson, Strategy Specialist – g.thompson@somersetwestandtaunton.gov.uk, 07768034787

Date of Decision: 05/02/2020

Details of decision:

Endorse the submission of the appended Council response to the Government consultation on the Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings.

The Council's response consists of a letter from SWT and a joint response produced by the Somerset Building Control Partnership (SBCP) on behalf of SWT, Sedgemoor and Mendip. It makes good sense for the SBCP to prepare a joint response as the consultation goes into technical detail beyond the detail that the Council's own planning team or strategy function would be capable of responding on. However, the strategic relevance of the topic area and proposals in relation to the climate emergency work and Local Plan Review should not be lost and as such the strategy team has prepared a letter to accompany that joint response.

The SWT Framework Carbon Neutrality and Climate Resilience Plan refers specifically to responding to this consultation "*to encourage greater national action at an earlier date and/or retaining the ability for local authorities to go above and beyond the minimum standards of Building Regulations*". The appended briefing note contains the SWT letter at Appendix A, the SBCP response at Appendix B, and a summary of the consultation proposals at Appendix C.

In summary, the key points of the SWT letter can be broken down to the following:

- The Future Homes Standard should be brought forward before 2025 if at all possible, and if this is not possible then it should deliver zero carbon homes from 2025. The technology and knowledge exists to go further and faster, but requires regulation to drive wide-scale take-up and delivery.
- The Government is relying on decarbonisation of the grid to progressively deliver the 75-80% carbon reduction proposed by the Future Homes Standard into a net zero carbon emissions over time. This pushes the problem elsewhere rather than tackling at source which would be preferable and ensure that buildings do not require future retrofit. There is no guarantee that the grid will decarbonise as quickly or as fully as might currently be anticipated.
- In time, new build homes should move towards being carbon negative to make the most of the opportunities available through new build, and to compensate for the difficulties around retrofitting much of the existing building stock.

- The 2020 uplift proposals are not ambitious enough and through the removal of the Fabric Energy Efficiency Standard (FEES) could lead to worse fabric energy efficiency than is currently allowed through the existing Part L 2013. A focus on fabric efficiency is paramount as this can reduce heat and electricity demand as well as costs to the occupier and can negate the need for costly fabric retrofit in the future.
- Of the two uplift options, requiring a headline 31% carbon reduction over existing Building Regulations would be preferred, but this option must be tightened to require greater emphasis on improving the building fabric ahead of reliance upon solar PV. Higher-still carbon reductions would be preferred;
- The 2020 uplift proposals reflect to a greater or lesser extent what local authorities are able to require by way of energy performance of dwellings through planning policy anyway, but this is insufficient;
- The Council is extremely concerned with the proposal to remove the ability for local authorities to set more ambitious local standards above and beyond Building Regulations, and strongly request that this ability is retained and unambiguously stated by Government;
- The Council welcomes the Government's acknowledgement that there is currently an issue with developers "locking in" compliance with out of date regulations, and the proposal to address this to an extent on new developments. However, the proposed approach needs to be accompanied with advice as to how this should be considered in terms of development viability in the planning process but also greater focus on identifying potential ways to introduce improved requirements for large development sites with extant planning permissions.
- The Government should bring forward further proposals to ensure all new dwellings are also resilient to the climate change that is already in progress.

The consultation response is being publicised through a Portfolio Holder's decision.

Reasons for proposed decision:

The deadline for submitting responses to the consultation is Friday 7th February. The SBCP joint response was received on Friday 30th January. It has not been possible to finish drafting the response early enough to enable a decision to be made at Executive Committee. However, under the Constitution, Executive Members are empowered to make executive decisions within their portfolio. The decision is not considered to be a "key decision" as defined in the Executive Procedure Rules. Also due to these timescales it has not been possible to allow time for Scrutiny to be able to call the decision in. Therefore, the Chief Executive has designated the decision as "urgent" under article 15.8 of the Constitution. The consultation response has been agreed between the Portfolio Holder (Cllr Mike Rigby) and the Chair of Scrutiny (Cllr Gwil Wren).

Alternative options considered:

Alternatively, the Council could choose to not respond to the consultation. However, in light of the climate emergency and the Local Plan Review, this option has been considered incompatible given the nature of the consultation proposals.

The below has been completed:	Name(s)	Date
Relevant ward councillor(s) consulted	Not applicable.	
The following are if appropriate / applicable: Yes/No. If yes the implications should be attached to this decision notice.		
Finance implications	No.	
Legal implications	No.	
Links to corporate aims	Yes – directly relevant to the objective to work towards making our District carbon neutral by 2030 which is embedded within the “Our Environment and Economy” theme.	
Climate and Sustainability implications	Yes – directly relevant to playing our part in reducing carbon emissions and wider environmental and sustainability impacts.	
Community Safety Implications	N/A	
Equalities Impact	N/A	
Safeguarding Implications	N/A	
Risk management	Increased risk from climate change if appropriate action is not taken. Responding to the consultation to encourage greater ambition from Government is mitigation as part of this.	
Partnership implications	The consultation response includes the joint response prepared by SBCP. The Somerset local authorities are working in partnership in preparing a Somerset Climate Emergency Strategy, and this response sits within this context.	

Any conflicts of interest declared by Leader or Executive Members consulted on the proposed decision. If Yes provide confirmation from Chief Executive to grant dispensation for the Leader’s / Executive Member’s views to be considered.

N/A

Decision Maker

I am aware of the details of this decision(s), considered the reasons, options, representations and consultation responses and give my approval / agreement to its implementation.

Signed:



Name: Cllr Mike Rigby

Date: 04/02/2020

Note – This decision record is for decisions taken by Executive Councillors. The decision(s) can be implemented following publication and the period for any call-in has expired.

Note: A copy should also be sent to the Governance Team – governance@somersetwestandtaunton.gov.uk

Appendix – Briefing Note on Government Consultation on The Future Homes Standard: Changes to Part L and Part F of the Building Regulations for new dwellings.

Briefing note:

Government consultation on The Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings

Summary

The Government has published a [consultation proposing amendments to the Building Regulations](#) Part L (conservation of fuel and power) and Part F (ventilation). Part L and Part 6 of the Building Regulations are the means by which minimum energy efficiency standards are regulated in new homes. Part F of the Building Regulations are the means by which appropriate ventilation is regulated in new buildings.

A key element of the consultation are proposals for a Future Homes Standard which will bring forward significant uplifts/improvements to existing Part L of the Building Regulations from 2025; and an interim uplift in Part L from 2020 as an "achievable stepping stone". The proposals build on the commitment set out in the 2019 Spring Statement to introduce a Future Homes Standard from 2025 by setting out what the Government thinks this should be. The consultation also proposes changes to expectations around ventilation in Part F and associated guidance in relation to air tightness and as-built performance which are important elements to bring forward alongside changes to Part L.

The Somerset Building Control Partnership (SBCP) has prepared a collective response to the consultation on behalf of Somerset West and Taunton (SWT), Sedgemoor and Mendip Councils. This makes good sense as the consultation goes into technical detail beyond the detail that the Council's own planning team or strategy function would be capable of responding on. However, the strategic relevance of the topic area and proposals in relation to the climate emergency work and Local Plan Review should not be lost and as such this briefing note includes SWT's own consultation response at Appendix A which should be read in conjunction with the SBCP-penned response at Appendix B. Appendix C summarises the consultation proposals.

In summary, the key points of the SWT letter can be broken down to:

- The Future Homes Standard should be brought forward before 2025 if at all possible, and if this is not possible then it should deliver zero carbon homes from 2025. The technology and knowledge exists to go further and faster, but requires regulation to drive wide-scale take-up and delivery.
- The Government is relying on decarbonisation of the grid to progressively deliver the 75-80% carbon reduction proposed by the Future Homes Standard into a net zero carbon emissions over time. This pushes the problem elsewhere rather than tackling at source which would be preferable and ensure that buildings do not

require future retrofit. There is no guarantee that the grid will decarbonise as quickly or as fully as might currently be anticipated.

- In time, new build homes should move towards being carbon negative to make the most of the opportunities available through new build, and to compensate for the difficulties around retrofitting much of the existing building stock.
- The 2020 uplift proposals are not ambitious enough and through the removal of the Fabric Energy Efficiency Standard (FEES) could lead to worse fabric energy efficiency than is currently allowed through the existing Part L 2013. A focus on fabric efficiency is paramount as this can reduce heat and electricity demand as well as costs to the occupier and can negate the need for costly fabric retrofit in the future.
- Of the two uplift options, requiring a headline 31% carbon reduction over existing Building Regulations would be preferred, but this option must be tightened to require greater emphasis on improving the building fabric ahead of reliance upon solar PV. Higher-still carbon reductions would be preferred;
- The 2020 uplift proposals reflect to a greater or lesser extent what local authorities are able to require by way of energy performance of dwellings through planning policy anyway, but this is insufficient;
- The Council is extremely concerned with the proposal to remove the ability for local authorities to set more ambitious local standards above and beyond Building Regulations, and strongly request that this ability is retained and unambiguously stated by Government;
- The Council welcomes the Government's acknowledgement that there is currently an issue with developers "locking in" compliance with out of date regulations, and the proposal to address this to an extent on new developments. However, the proposed approach needs to be accompanied with advice as to how this should be considered in terms of development viability in the planning process but also greater focus on identifying potential ways to introduce improved requirements for large development sites with extant planning permissions.
- The Government should bring forward further proposals to ensure all new dwellings are also resilient to the climate change that is already in progress.

Why is responding to the consultation relevant?

In February 2019, the Council declared a climate emergency and committed to working towards making the Council and the area as a whole carbon neutral by 2030. According to the 2017-based Local Authority CO₂ emissions estimates dataset (<https://www.gov.uk/government/collections/uk-local-authority-and-regional-carbon-dioxide-emissions-national-statistics>) domestic emissions account for approximately 27.7% of all emissions in Somerset West and Taunton.

These emissions are primarily associated with space heating and cooling, hot water, cooking and electricity use. The choices taken in the construction of new homes with regards to building design, fabric and services have a significant impact on their energy use and associated emissions. During construction, new dwellings must comply with Building Regulations, which set a minimum threshold standard.

The Committee on Climate Change's Net Zero report (<https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>) details the independent advisor's recommendations to Government on what is necessary to deliver net zero emissions in the UK by 2050. The report recommends that achieving this target will require the full decarbonisation of buildings by 2050. As part of this, buildings will require significant improvements in energy efficiency as a precursor to low carbon heat (including ensuring that no new homes are connected to the gas grid from 2025). The homes we build now will exist in 2050, and as such should be fit for the future and not require costly and unnecessary retrofit in the future.

In response to this, the [Draft SWT Framework Carbon Neutrality and Climate Resilience Plan](#) identifies (amongst other things) the need to drive towards zero carbon buildings in new development by as early as date as possible; to ensure energy use is reduced and minimised; and to ensure that heat and power consumed in the district is decarbonised as much and as quickly as possible. Responding to this consultation is also identified as a specific early task.

Currently, it is within the gift of local authorities to set planning policy requirements that exceed Building Regulations (though in relation to energy performance of new dwellings this is limited to a 19% reduction improvement in carbon emissions over Part L 2013 – equivalent to the energy requirements of the former Code for Sustainable Homes Level 4). There are options available to uplift that overall carbon reduction of new dwellings beyond simply their energy performance, for example through effective masterplanning and building orientation, renewable energy generation and connection to heat networks. As examples, the emerging London Plan includes a net zero target and a requirement for 35% on-site reduction; the recently adopted Plan:MK includes a policy requiring the equivalent of a 39% reduction, and the emerging Oxford Local Plan is looking set to require a 40% reduction from adoption, rising to a 50% reduction from 2026 and zero carbon from 2030.

The consultation proposes to remove the ability for local authorities to set planning policy requirements that exceed Building Regulations.

Appendix A – SWT response

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white curved element at the bottom right.

Future Homes Standard Consultation
2SW, Fry Building
2 Marsham Street
London SW1P 4DF
United Kingdom

Our Ref:

Your Ref:

Date: INSERT

Dear Sir/Madam,

Thank you for giving the opportunity to comment on Government proposals for improvements to Building Regulations Part L, Part 6 and Part F and associated guidance documents. This opportunity is timely as the Council recently declared a climate emergency and is working on a Somerset Climate Emergency Strategy and a Carbon Neutrality and Climate Resilience Plan for the district as well as being in the process of reviewing its Local Plan. Tackling the climate emergency is identified in the emerging Corporate Strategy as the number 1 priority of the Council. Ensuring new dwellings and non-residential buildings are built to the highest possible sustainability standards is an important strand to all of the above. The response below picks up on strategically relevant points raised by the consultation in relation to the above. It should be read in conjunction with the technical and detailed response to the consultation submitted by the Somerset Building Control Partnership on behalf of SWT, Sedgemoor and Mendip District Councils.

The Future Homes Standard

The proposals to bring in a Future Homes Standard which pushes the carbon and energy performance of new dwellings to much improved levels is welcomed. In particular, the suggested focus upon taking a fabric first approach and decarbonising heat. However, until the detailed requirements of the Future Homes Standard are identified it is difficult to know exactly how ambitious the "very high fabric standards" will be – we therefore look forward to the proposed future consultation on the technical details.

The consultation document suggests that the Future Homes Standard is expected to deliver homes with 75-80% less carbon emissions than current Part L requirements. This is a good uplift, but not sufficient on its own.

The Committee on Climate Change Net Zero report requires “full decarbonisation of buildings by 2050”¹ and the CCC Fit For the Future report calls for ultra-high levels of energy efficiency by 2025 at the latest². We must start constructing buildings to be futureproofed for a net-zero future now to avoid the need for costly retrofit, suitability and fuel poverty issues being stored up for years to come. The issue of retrofitting the existing building stock is already a massive challenge, and cannot be made even more difficult by being added to by new builds built to insufficiently ambitious standards. It is therefore the opinion of the Council that the Government should be setting a pathway towards zero carbon homes and beyond to carbon negative rather than aiming for 75-80% carbon reduction. This might require an element of offset through on-site/connection to nearby renewable energy generation or through contribution to an offsetting scheme such as through the previously proposed “Allowable Solutions” approach to start with, but should progress to minimise this offset over time.

The proposal to implement the Future Homes Standard in 2025 is a significant improvement on the national policy/regulatory silence that has existed since the then Government cancelled the Zero Carbon Buildings Policy in 2015. We recognise the necessity for a lead-in period to significantly enhanced standards. However, considering the fact that before its revocation, the Zero Carbon Buildings Policy was due to come into force in 2016, further delay to at least 2025 is insufficient ambition. The Council recommends pushing for greater ambition that would bring forward zero carbon buildings as soon as practically and viably possible. It is right to state that supply chains, trained installers and product availability might be issues if the transition is too quick, but equally setting high ambition will lead to greater certainty and urgency and the market will respond appropriately. If the 2025 date must remain, then we strongly request that it is explicitly amended to ensure that it leads to zero carbon buildings upon completion, not “over time” as the grid decarbonises. Relying on decarbonisation of the grid is not appropriate or guaranteed. Whatever the case, if we are to move towards greater electrification of heat, this policy needs to be supported by greater government policy support and incentives for renewable energy including on-shore wind and solar.

2020 Uplift

The consultation proposes an interim uplift of Building Regulations from 2020. An immediate uplift is welcomed as a national uplift on the minimum standards for new build dwellings. However, the proposals are not considered to be ambitious enough on their own. The uplift options reflect to a greater or lesser extent what local authorities can already seek to deliver through planning policy and which many reasonable developments already achieve. Therefore, this uplift would essentially level the playing field across the country between those authorities that have been able to set and achieve improvements above existing Building Regulations, and those which have not. This brings into focus again, why the Future Homes Standard should either be brought forward or uplifted further if it remains at 2025.

Of the two options proposed, option 1 would achieve a 20% carbon reduction improvement over existing Building Regulations, whilst option 2 would achieve a 31%

¹ The CCC (2019) Net Zero – The UK’s contribution to stopping global warming, available at <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>, p.200

² The CCC (2019) UK Housing: Fit for the future?, available at <https://www.theccc.org.uk/wp-content/uploads/2019/02/UK-housing-Fit-for-the-future-CCC-2019.pdf>

improvement. However, option 1 is a fabric-based solution, whilst option 2 has a small fabric uplift but is primarily met through installation of solar PV. Installation of solar PV can achieve high carbon reductions now, but over time as the grid decarbonises, these relative savings will reduce. Meanwhile, option 2's lower level of energy efficient fabric will retain greater space heating requirements for instance than option 1. A fabric first approach should always be encouraged alongside measures to ensure that PV can be easily installed in the future by the occupier (particularly if coupled with improved/replacement incentives for the installation of renewables) – retrofitting energy efficient fabric is much more costly and intrusive to an occupier. Research commissioned by the West of England local authorities (see <https://ggbec.co.uk/wp-content/uploads/2019/12/Evidence-to-Support-Responses-to-The-FHS-Consultation-1.pdf>) suggests that due to the proposed removal of Fabric Energy Efficiency Standards, the 2020 uplift proposals could in fact lead to worse fabric energy efficiency than is currently allowed through the existing Part L 2013. Therefore, the Council strongly recommends that the higher carbon reduction levels of option 2 should be sought in 2020, but that must be tightened to require greater emphasis on improving the building fabric ahead of reliance upon solar PV. If possible, higher-still carbon reductions should be sought.

We welcome the recognition that unless appropriately regulated, the decarbonisation of the electricity grid may lead to developers installing cheap to install but expensive to run direct electric heating. Failure for regulations to adequately address this could lead to major fuel poverty issues in the future. Direct electric heating should be explicitly restricted to highly insulated buildings. We also welcome the recognition of the decarbonising potential of heat networks in improved regulations, though heat networks require greater support and regulation in themselves if they are to play a major part of decarbonising buildings in the UK. .

We welcome the holistic approach of amending regulations and guidance in relation to ventilation, airtightness and other aspects of building design as well as ensuring in-use performance alongside the changes to energy efficiency. However, the details of these elements is being left to the Somerset Building Control Partnership to respond to.

Ensuring certainty and consistency

The consultation proposes to enact Section 43 of the Deregulation Act 2015, which would bring forward amendments to the Planning and Energy Act 2008 with the effect of removing the ability for local authorities to set planning policy requirements that exceed Building Regulations. The Council is extremely concerned by this proposal in the absence of sufficiently ambitious or strong national policy. We understand the desire for national standards, however, it is important to understand the gulf in ambition between Government and local authorities in relation to tackling the climate emergency (the SWT target is working towards achieving carbon neutrality by 2030, as opposed to 2050 nationally). Local authorities have already waited for a number of years for Government to bring in a delayed national zero carbon buildings policy and this has still not materialised. Local authorities with ambition in this area are taking things into their own hands because track record suggests there is no security in waiting for national Government on this issue.

The planning system is an important tool in ensuring that new developments are playing their part in tackling the climate emergency, and this should be recognised by providing the planning system with the tools, regulations and resources necessary to deliver on

this. The RTPI Planning for a Smart Energy Future research identifies the necessity for strong national standards, but also the role that local authorities can play in driving up ambition through local authority standards in parallel to this. "Restricting the ability of LPAs to set higher energy efficiency or zero carbon standards seems at odds with the overall direction of government policy on decarbonisation and localism"³.

It is also important to note the impact that local ambition can have in pushing the development industry to improve faster and deliver greater benefits to communities as well as being a differentiating factor in local economies. Some areas can and want to achieve greater ambition in this regard than others, and local authorities should not be artificially penalised for wanting to pursue this ambition. It enables the development industry and supply chains to gradually develop and test solutions in these areas before the mainstream "catches up", and local economies also see the benefit of this.

The Council therefore strongly advises that the ability for local authorities to set more ambitious local standards is retained and unambiguously stated by Government.

Transitional arrangements

We welcome the Government's acknowledgement that there is currently an issue with developers "locking in" compliance with out of date regulations. The proposal to shift to a building-by-building approach for these arrangements is seen as credible and appropriate. However, this approach needs to be accompanied with advice as to how this should be considered in terms of development viability in the planning process. In addition to this, we feel there should be a tightening in terms of how long it is possible to lock into regulations for. We also feel that there should be a review of large planned development sites with extant planning permission in particular and the building regulations that they are locked into in order to identify potential ways to introduce improved requirements on these sites where appropriate. Option 3 of the proposed transitional arrangements for the Future Homes Standard sounds like it might help to address this issue best, so long as it applies to sites that have already been through the system, but bringing this proposal forward to 2020 would be preferred.

Climate resilience

The Committee on Climate Change Net Zero report also states that "in addition to being low-carbon, these new buildings must be energy and water efficient and climate resilient"⁴. The UKCP18 climate projections identify "a move towards warmer, wetter winters and hotter, drier summers"⁵ and in particular that we should plan for a 16-fold increase in hot spells exceeding 30C on more than two consecutive days⁶. The consultation document does not refer to the need to bring forward improvements in

³ RTPI (2019) Planning for a Smart Energy Future, available at <https://www.rtpi.org.uk/media/3488060/Planning%20for%20a%20Smart%20Energy%20Future.pdf> pp 28-29.

⁴ The CCC (2019) Net Zero – The UK's contribution to stopping global warming, available at <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>, p.201

⁵ Met Office (2019) UKCP18 Science Overview Executive Summary, available at <https://www.metoffice.gov.uk/binaries/content/assets/metofficegovuk/pdf/research/ukcp/ukcp18-overview-summary.pdf>, pp.2-3

⁶ Met Office (2019) UKCP: New Local (2.2km) results presentation, available at https://www.metoffice.gov.uk/binaries/content/assets/metofficegovuk/pdf/research/ukcp/ukcp18_cpm_launch_kendon_sept19-20190926_with-notes.pdf

water efficiency or wider climate resilience in new buildings, with the exception of stating that there will be further consultation in relation to overheating in new dwellings within the next year. Again, buildings built today should include responses to the climate change that we expect to see over their realistic expected lifespan. Failure to do so will again lead to future costly retrofit in addition to that required to improve existing stock, but it may also lead to significant public health concerns arising from overheating and/or lead to unintended higher energy use and carbon emissions from use of avoidable cooling services such as air conditioning for instance.

Summary

In summary, SWT are concerned by the proposals set out in the Government's consultation documentation.

- The Future Homes Standard should be brought forward before 2025 if at all possible, and if this is not possible then it should deliver zero carbon homes from 2025. The technology and knowledge exists to go further and faster, but requires regulation to drive wide-scale take-up and delivery.
- The Government is relying on decarbonisation of the grid to progressively deliver the 75-80% carbon reduction proposed by the Future Homes Standard into a net zero carbon emissions over time. This pushes the problem elsewhere rather than tackling at source which would be preferable and ensure that buildings do not require future retrofit. There is no guarantee that the grid will decarbonise as quickly or as fully as might currently be anticipated.
- In time, new build homes should move towards being carbon negative to make the most of the opportunities available through new build, and to compensate for the difficulties around retrofitting much of the existing building stock.
- The 2020 uplift proposals are not ambitious enough and through the removal of the Fabric Energy Efficiency Standard (FEES) could lead to worse fabric energy efficiency than is currently allowed through the existing Part L 2013. A focus on fabric efficiency is paramount as this can reduce heat and electricity demand as well as costs to the occupier and can negate the need for costly fabric retrofit in the future.
- Of the two uplift options, requiring a headline 31% carbon reduction over existing Building Regulations would be preferred, but this option must be tightened to require greater emphasis on improving the building fabric ahead of reliance upon solar PV. Higher-still carbon reductions would be preferred;
- The 2020 uplift proposals reflect to a greater or lesser extent what local authorities are able to require by way of energy performance of dwellings through planning policy anyway, but this is insufficient;
- The Council is extremely concerned with the proposal to remove the ability for local authorities to set more ambitious local standards above and beyond Building Regulations, and strongly request that this ability is retained and unambiguously stated by Government;
- The Council welcomes the Government's acknowledgement that there is currently an issue with developers "locking in" compliance with out of date regulations, and the proposal to address this to an extent on new developments. However, the proposed approach needs to be accompanied with advice as to how this should be considered in terms of development viability in the planning process but also greater focus on identifying potential ways to introduce

improved requirements for large development sites with extant planning permissions.

- The Government should bring forward further proposals to ensure all new dwellings are also resilient to the climate change that is already in progress.

Yours faithfully,

Cllr Mike Rigby (Portfolio Holder for Planning and Transportation)

Tel: 07800 858828

Email: cldr.m.rigby@somersetwestandtaunton.gov.uk

**Appendix B – Somerset Building Control Partnership
response**



**Somerset
Building Control
Partnership**

**Response to the Governments consultation
The Future Homes Standard: changes to Part L
(Conservation of fuel and power) and Part F
(Ventilation) of the Building Regulations for new
dwellings**

Respondent Details

- **Nigel Hunt**
- **Building Control Partnership Manager**
- **Somerset Building Control Partnership**
- **Bridgwater House, Kings Square, Bridgwater, TA6 3AR**
- **nigel.hunt@sedgemoor.gov.uk**
- **03003037790**

This document has been submitted by the Somerset Building Control Partnership on behalf of the following Local Authorities for whom the Partnership carries out the building control function.

- **Sedgemoor District Council**
- **Somerset West and Taunton Council**
- **Mendip District Council**

Whilst the partnership can be considered to be a small business, it is representing organisations referenced as large within the context of the consultation

Response to New Homes Standard

The consultation is extremely limited in scope, as in effect there are only two options to be considered. Also, by not adopting a fabric first approach 'add on' solutions will have a limited life span and will need replacing. If replacement proves to be too costly then buildings will no longer achieve the desired standards.

In effect the document/consultation does nothing to address the build quality.

2.18 – The statement is misleading due to a number of factors, including the above.

Q1 – C. Too low a reduction. The law says that we need to be zero carbon by 2050 and we will not be able to treat all the existing housing stock down to this level. We need to generate negative carbon in new builds to compensate for the older housing.

Q2 – Heat networks can be very effective but this largely depends on the ownership and maintenance of them, if this is contracted out problems with delays and poor maintenance can occur which would encourage people to use localised low efficiency electric heating. Direct electric is becoming more effective but only within well insulated buildings and renewable generation should be made a condition, this can often be expensive for the end users but suit the developer.

Q3 – C. We don't feel that enough specific and enforceable information has been provided here to make an assessment. We know that the passive house standard works and has been extensively tested to should be the benchmark.

Q4 – D. The consultation proposes to enact Section 43 of the Deregulation Act 2015, which would bring forward amendments to the Planning and Energy Act 2008 with the effect of removing the ability for local authorities to set planning policy requirements that exceed Building Regulations. The Partnership Councils are extremely concerned by this proposal in the absence of sufficiently ambitious or strong national policy. We understand the desire for national standards, however, it is important to understand the gulf in ambition between Government and local authorities in relation to tackling the climate emergency (Local targets are working towards achieving carbon neutrality by 2030, as opposed to 2050 national). Local authorities have already waited for a number of years for Government to bring in a delayed national zero carbon buildings policy and this has still not materialised. Local authorities with ambition in this area are taking things into their own hands because track record suggests there is no security in waiting for national Government on this issue.

The planning system is an important tool in ensuring that new developments are playing their part in tackling the climate emergency, and this should be recognised by providing the planning system with the tools, regulations and resources necessary to deliver on this. The RTPI Planning for a Smart Energy Future research identifies the necessity for strong national standards, but also the role that local authorities can play in driving up ambition through local authority standards in parallel to this. "Restricting the ability of LPAs to set higher energy efficiency or zero carbon standards seems at odds with the overall direction of government policy on decarbonisation and localism"

It is also important to note the impact that local ambition can have in pushing the development industry to improve faster and deliver greater benefits to communities as well as being a differentiating factor in local economies. Some areas can and want to achieve greater ambition in this regard than others, and local authorities should not be artificially penalised for wanting to pursue this ambition. It enables the development industry and supply chains to gradually develop and test solutions in these areas before the mainstream “catches up”, and local economies also see the benefit of this.

The constituent Councils therefore strongly advises that the ability for local authorities to set more ambitious local standards is retained and unambiguously stated by Government.”

Q5 – C. Not ambitious enough. The technology to achieve a much better reduction in CO2 from new build construction already exists, although this does need to be disseminated more effectively.

Q6 – D. The knowledge to go to an ambitious 50% exists, although industry would require more time to adjust to this, especially in terms of air tightness. It would make more sense to set a higher standard and gave industry until 2021 to achieve it.

3.15 – At this stage this is just an assumption and not evidence based, we have concerns that this standard is based on this paradigm.

Q7 – A. Yes. It is an easier metric for the end user to understand, and the correlation between CO2 and energy is so close as to have negligible impact.

Q8 – B. No, they are basically just measuring the same thing here and it will be easy to manipulate the data with building ‘add ons’. The fabric energy should be the secondary metric as this is the longest term approach and requires high quality building and testing.

Q9 – A. Reducing fuel poverty is a significant challenge and introducing a standard such as this for new builds helps strengthen the measures required to tackle some of the existing housing stock. It also gives the end user a more tangible assessment of a buildings performance and costs. However, the Government has yet to describe how ‘affordability’ will be defined and calculated.

Q10 – A. Only because there doesn’t appear to be a metric that would be more effective. We would recommend setting the rating high, A or B

Q11– The U-values here are not particularly impressive and in some cases have not improved at all from the 2013 level. This does not represent the type of improvement in fabric that we require if we wish to decarbonise the construction industry. These proposed values are not going to fundamentally change the way a building requires heating or cooling, so the overall impact will be limited. Removing the more complex fabric energy approach and replacing it by the elemental values removed the ability to compensate for design features. It is not an approach that should be adopted in Listed Buildings where it could make site choices more limited.

Q12 – B. The approved documents; easier to change if they increase on an incremental level, more accessible to builder and designers, more flexibility in application

Q13 – B. The fabric is the key element as its longevity far exceeds the proposed ‘bolt on’ technologies which might only last 20 years, this needs to be the emphasis in creating quality buildings

Q14 – A

Q15 – A

Q16 – A

Q17 – A. Still don’t think it goes far enough

Q18 – A

Q19 – A. Through a minimum standard as this means that it can’t be ‘adjusted’ within the notional building and is easier for the consumer to understand

Q20 – B. They have provided an inadequate explanation of how this is to be monitored and enforced once it has been removed from the building regulations

3.47 – Why are new showers allowed to be more wasteful than existing showers?

Q21 – A. Generally but have concerns about some of the details

Q22 – A

Q23 – A

Q24 – B. I would question are they not being updated to meet the new standard? These provide useful default details for construction and can be used by smaller companies on building notices which make up a significant proportion of the sector

Q25 - D. Again this reliance of heat pumps generation rather than fabric energy conservation is flawed, the COP is around 1:4 meaning a huge demand in electricity consumption and therefore cost to the consumer. This is also likely to unfairly penalise properties not able to access heat networks, such as small scale developments.

Q26 – B. Fail to understand what will be achieved, some of this is useful as open access information

Q27 - A

Q28 – A

Q29 – B

Q30 – A

Q31 – A

Q32 – A

Q33 – A. Buildings running from biomass would find it harder to achieve this

Q34 – A

Q35 – A

Q36 – A

Q37 – A

Q38 – A. But not currently measurable and therefore not enforceable.

Q39 – A. However it needs to be made clear that such installations could still satisfy the requirements if part of a specialist installation.

Q40 – B. If the desire is to create more airtight, better ventilated homes why remove the guidance? Would Building Control Providers be asking for a ventilation design as part of the plan check?

Q41 – B. This could make it very hard for very airtight buildings. We do not understand the point about needing background ventilation as well? If the system has been designed and installed correctly why would you need additional ventilation / heat loss?

Q42 – A

Q43 – A

Q44 – B. If the system has been designed and installed correctly why would you need additional ventilation / heat loss? If it's not working change the design guidance.

Q45 – A

Q46 – A

Q47 – A

Q48 – B. If the issue is lack of ventilation then provide more of that rather than allow higher levels of air infiltration and the associated risks to the building fabric. A ventilation design would make more sense here and allow more higher levels of energy saving

Q49 – B. See above

Q50 – A

Q51 – A

Q52 – A

Q53 – A

Q54 – B. Don't know enough about the test, but buildings can achieve lower than this if built carefully

Q55 – A

Q56 – A

Q57 – A

Q58 – Yes

Q59 – A

Q60 – A

Q61 – A

Q62 – A

Q63 – A

Q64 – A. To include the importance of ventilation and cooling strategies, O&M manual stuff

Q65 – A. 1 year

Q66 – A. The proposals do not go far enough to reduce the impact of the construction sector and the standards set out here are generally weak and lack vision. There is also no framework to assess the impact of the material used since CSH was removed so how is this to be considered? Overall, lacks depth and vision.

Q67 – See Q65 & Q66 above.

Overall summary

Working in the right direction but some of the underlying assumptions are a concern, there seems to be an emphasis on electricity as a clean energy source, which while correct, is not occurring at the moment, and has no realistic set date when this will be!

The lack of emphasis on the fabric of a building is a massive oversight, as this is the longer term solution to building not only more sustainable housing but delivering better quality outcomes on site.

The targets set are not ambitious enough and many builders and designers achieve these standards already, these should be more challenging and standard details to help deliver it should be produced.

Appendix C – Summary of the consultation proposals

The Future Homes Standard – proposed for implementation in 2025

The consultation states: “*We expect that an average home built to [the Future Homes Standard] will have 75-80% less carbon emissions than one built to current energy efficiency requirements (Approved Document L 2013). We expect this will be achieved through very high fabric standards and a low carbon heating system. This means a new home built to the Future Homes Standard might have a heat pump, triple glazing and standards for walls, floors and roofs that significantly limit any heat loss*”.

Therefore the Future Homes Standard will be a fabric first approach. However, it is recognised that fabric only measures will not on their own enable new dwellings to play their part in achieving the national 2050 net zero target, and these measures will need to be supported by low carbon heat, most likely from heat pumps, heat networks and in some cases direct electric heating.

Heat pumps

Heat pumps (particularly air-to-air and air-to-water heat pumps) are expected to play a major role. Heat pumps run on electricity and are therefore increasingly attractive as the electricity grid decarbonises, however, they are far more efficient than direct electric heating, meaning lower energy usage and running costs. However, they are not currently a mass market solution (capital upfront cost inhibitive primarily).

Heat networks

Heat networks are expected to play a strong role. Heat networks distribute heat generated by a centralised source (from large scale renewables e.g. biomass, solar thermal, or recovered waste heat e.g. from industrial processes or waste treatment) around a network of connected buildings. They are attractive as the heat source can be improved / decarbonised without interfering in individual households. However, they are only appropriate in certain circumstances.

Direct electric heating

Direct electric heating is expected to play a minor role. It has the same attractiveness linked to grid decarbonisation as heat pumps and is efficient, though not nearly as efficient as a heat pump. It is a well-established technology that has low capital upfront costs, but can be exceedingly expensive to run (a particular concern re fuel poverty), and if deployed at scale can place more significant strain on the already capacity constrained electricity grid. It is suggested that direct electric heating might be best used only in new homes built to the very highest fabric standards (therefore having very low heat demand).

A fabric first approach improving energy efficiency requires a holistic approach considering heat loss, thermal bridging, airtightness, overheating and ventilation. Failure to take a holistic approach (e.g. delivering high levels of thermal insulation but neglecting to provide appropriate ventilation services can lead to poor air quality and issues of condensation, mould growth and overheating for instance). For this reason, it is proposed to improve Part F (ventilation) and air tightness guidance alongside Part L, and to bring forward further consultation on overheating in new dwellings later in 2019/early 2020.

There will be further consultation on the technical details and costings of the Future Homes Standard in due course, but currently it is expected that it will set minimum in-

performance levels of primary energy and CO₂ emissions, limiting fabric standards and building services standards, without prescribing the technologies to be used, allowing flexibility within the overall requirement envelope.

The Government suggest that they will bring forward further consultation exploring options for future tightening of Building Regulations beyond the 2025 Future Homes Standard in due course, in the context of the Grand Challenge Buildings Mission to halve energy use of new buildings by 2030. However, they also suggest that as the electricity grid decarbonises, homes built to the Future Homes Standard will progressively become net zero carbon over time without the need for further adaptations.

An interim uplift from 2020

The Government suggests that it will not be feasible to bring in the Future Homes Standard until 2025. The consultation states that "not all home-builders are ready to build to higher fabric specifications yet", and that "there may not be the necessary supply chains, trained installers and product availability needed for every home-builder to do so". Supply chain issues and numbers of qualified installers are identified as issues in relation to heat pumps in particular. The lead-in to 2025 is suggested to be an opportunity to establish a mass market solution to low carbon heating, build the skills and supply chain and to give home-builders sufficient notice to gear up to the proposed changes.

In the interim, the consultation proposes bringing in changes to Part L of the Building Regulations in late 2020 that would see an "achievable stepping stone" between current Building Regulations and the Future Homes Standard proposals. The consultation proposes two performance-based options for this interim uplift:

Option 1: 20% reduction in carbon emissions compared to the current standard for an average home. We anticipate this could be delivered by very high fabric standards (typically with triple glazing and minimal heat loss from walls, ceilings and roofs). This option would use the same fabric requirement as the Government currently anticipates would be used in the Future Homes Standard, but would be reliant on a gas boiler and a waste water heat recovery system. It is anticipated to add c. £2,557 to the build cost of a new home but save households in the region of £59 per year on energy bills over current standards.

Option 2: 31% reduction in carbon emissions compared to the current standard. We anticipate this could be delivered based on the installation of carbon-saving technology such as photovoltaic (solar) panels and better fabric standards, though not as high as in option 1 (typically double not triple glazing). This option would be built to a lower fabric standard than above, continue to use a gas boiler and waste water heat recovery but include solar PV panels. It is anticipated to add c. £4,847 to the build cost of a new home and save households in the region of £257 a year on energy bills over current standards.

The Government is consulting on Option 2 as their favoured option.

The proposals also look to shift the primary performance target for assessing buildings against Part L from Fabric Energy Efficiency Standards and CO₂ emissions to primary energy (whilst retaining CO₂ emissions as a secondary performance metric) and to introduce a new requirement to ensure energy costs to the householder are reasonable.

These proposals are in response to the fact that the electricity grid has decarbonised far quicker than expected and is expected to continue to do so. As a result of this decarbonisation, it could, unless appropriate checks and balances are introduced lead to developers installing (cheap to install) direct electric heating solutions which are low carbon, but which could well have very high running costs to householders/residents and in turn lead to a proliferation of fuel poverty issues.

The proposals also look to set requirements that would ensure that even where a low carbon heat source is not delivered in the first place, buildings are designed to be ready for easy retrofit in the future. Heat pumps and heat networks operate most efficiently at lower temperatures than a traditional gas-fired heating system, as such the consultation proposes two alternative ways to ensure that wet heating systems operate at 55°C or lower. This may result in dwellings with oversized radiators in the first instance, but a heating system that would be easier and less costly to upgrade to a low carbon heat source in the future.

The consultation also proposes introducing "new technology factors" which would enable the potential for decarbonisation of heat networks to be factored into calculation within the Standard Assessment Procedure (SAP).

There is often a large difference between how buildings are designed and how they perform in reality. This "performance gap" a significant issue and means that homes are not being built as energy efficient as expected amongst other things. This is down to three main factors: energy model limitations, different behaviour patterns of occupiers, and poor build quality – this being of particular relevance and importance. The consultation proposes a number of improvements to standards designed to improve build quality and reduce that performance gap.

The EU Energy Performance of Buildings Directive (EPBD) requires all new buildings to be nearly zero energy buildings (NZEBs) by January 2021. Whether or not the latest amendments to the EPBD will apply to the UK depends on the terms of Brexit, but the proposed interim changes to Part L have been set out to align with these requirements and the Government considers that both of the uplift options would meet the EPBD definition of an NZEB as well as the 'cost optimal' definition.

The consultation brings forward a number of other proposals about more detailed and technical changes to Building Regulations and associated guidance notes including in relation to specific fabric standards, fuel factors, building services, how compliance is calculated through the SAP and in relation to ventilation and airtightness standards. However, due to their technical nature, these are best responded to by the Building Control Partnership.

Ensuring certainty and consistency

Currently, under the Planning and Energy Act 2008 (as amended), local planning authorities are able to set and apply planning policies that require compliance with energy efficiency standards which exceed the energy requirements of the Building Regulations.

In March 2015, the then Government issued a Written Ministerial Statement which stated:

"For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015.

*This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code level 4 equivalent. This statement does not modify the National Planning Policy Framework policy allowing the connection of new housing development to low carbon infrastructure such as district heating networks."*⁷

This statement was made at a point in time when the Government (at least in public) remained committed to implementing the zero carbon homes standard in 2016. It essentially set out an expectation that where local planning authorities did set energy efficiency standards exceeding Building Regulations, they would be limited to being no higher than the energy requirements set out in level 4 of the Code for Sustainable Homes – which equates to approximately a 19% improvement reduction over Part L 2013 (current Building Regulations). The NPPF expects plans to *"take a proactive approach to mitigating and adapting to climate change"*, yet also states that *"Any local requirements for the sustainability of buildings should reflect the government's policy for national technical standards"*. Despite this, as set out earlier in this note, a number of authorities have successfully set policies which go much further.

The Government suggests that this has led to a patchwork of different policy positions and requirements across the country which is confusing to developers and creates inefficiencies in supply chains amongst other issues. They also raise concerns that some of these policies require overly-technical decisions to be made by planning officers, planning committees and planning Inspectors rather than building inspectors.

The statement refers to proposed changes to the Planning and Energy Act emanating from the Deregulation Act 2015, which (if brought into force) would stop local authorities from being able to set planning requirements on energy efficiency exceeding Building Regulations. However, this section of the Deregulation Act have never been enacted, but as a result of the above, the Government is now considering doing so. They suggest that they could look to do this alongside the interim uplift in 2020, or alongside implementation of the Future Homes Standard in 2025. This would mean that local planning authorities would from that point be unable to set local planning policies that require higher ambition than Building Regulations.

Transitional arrangements

At present, the Building Regulations include transitional arrangements which mean that a development must be built out to the Building Regulations that were in place when

⁷ Eric Pickles, SoS for Communities and Local Government (2015) Planning update March 2015, available at <https://www.gov.uk/government/speeches/planning-update-march-2015>

they applied. However, this has led to developments being built to out of date versions of Part L introduced in 2010 and even 2006. This leads to lower levels of energy efficiency and higher fuel bills than occupiers might expect from a new home as well as higher levels of CO₂ emissions. As such, the consultation proposes to bring in more stringent transitional arrangements.

The consultation proposes that where a development submits an initial notice, building notice or full plans deposit to a building control body before the 2020 changes to Building Regulations come into force, then the transitional arrangements will only apply where work has begun on an individual building covered by that notice/plan. This means that other buildings within that development that have not yet been started by the time the 2020 changes are implemented will have to comply with the new regulations. Developers will no longer be able to lock in earlier standards for long periods.

Proposals in relation to the 2025 Future Homes Standard

The consultation proposes three options for how transitional arrangements might work in relation to the Future Homes Standard:

1. to reduce the reasonable period for an individual building to start being built to be shorter than the 2020 period, while retaining the application of transitional arrangements to individual buildings only;
2. to amend or remove existing Part L transitional protections applicable to those already building to previous standards;
3. to amend section 32 of the Building Act 1984 so that full plans would lapse after a period of time for all individual buildings not yet built (which would require fresh full plans, therefore building to updated standards).