

REVISED DRAFT NPPF AND SETTING OF ENERGY PERFORMANCE STANDARDS IN NEW HOMES

INTRODUCTION

A changing national policy context for housing in recent years has led to confusion and uncertainty about what can and cannot be done at the local level to raise the sustainability of new build homes – particularly on energy and carbon. UKGBC, in association with Core Cities UK, provided guidance on this topic in a new ‘policy playbook’ published in March 2018: <https://www.ukgbc.org/wp-content/uploads/2018/03/Driving-sustainability-in-new-homes-UKGBC-resource-1.pdf>

This briefing provides detail on the background and the opportunity presented by the consultation on the draft revised NPPF to provide clarity for local authorities.

WRITTEN MINISTERIAL STATEMENT OF 2015

In early 2015 the Housing Standards Review reported and Government announced the withdrawal of the Code for Sustainable Homes, except for legacy projects. As a result, a number of changes to existing Building Regulations were introduced, along with new technical optional standards on Access, Water and Space. At the time, the policy for all new homes to be ‘zero carbon’ from 2016 was still in place (despite unresolved issues as to exactly what that entailed).

In a [Written Ministerial Statement](#) (WMS) in March 2015, Government stated that ‘*local planning authorities...should not set...any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.*’ The exception was energy performance, where the WMS said that local authorities would continue to be able to require energy performance standards higher than Building Regulations up to the equivalent of Code for Sustainable Homes Level 4 ‘*until commencement of amendments to the Planning and Energy Act 2008*’.

The amendments in question would have removed the ability of local authorities to require energy performance standards for new homes that are higher than Building Regulations. It appeared as though they would be enacted at the same time that Government introduced higher energy performance requirements nationally in 2016, through Building Regulations, which according to the WMS were to be “*set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4.*” However, after the General Election in 2015, Government scrapped the Zero Carbon policy and the planned Building Regulations uplift. The powers (to amend the 2008 Act) have not been enacted.

PARLIAMENTARY ANSWER IN HOUSE OF LORDS 2017

During the passage of the Neighbourhood Planning Bill through the House of Lords on 6th February 2017 Baroness Parminter asked in relation to carbon reductions: “*Can the Minister confirm that the Government will not prevent local councils requiring higher building standards? There is some lack of clarity about whether local authorities can carry on insisting in their local plans on higher standards. Will the Government confirm that they will not prevent local authorities including a requirement for higher building standards?*”

Lord Beecham replied: “*The noble Baroness asked specifically whether local authorities are able to set higher standards than the national ones, and I can confirm that they are able to do just that.*” No further explanation was provided as to exactly what standards the minister was referring to.

DRAFT REVISION TO THE NPPF AND CLEAN GROWTH STRATEGY

The draft revision to the NPPF (Paragraph 149b) says: “*New development should be planned for in ways that...can help to reduce greenhouse gas emissions through its location, orientation and design.*” This is consistent with Section 182 of the Planning Act 2008, which puts a legal duty on local authorities to include policies on climate change mitigation and adaptation in Development Plan documents.

Paragraph 149b goes on to say: “*Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards.*” There is not a national technical standard for carbon reduction in the same way that there are technical standards for space, water and access (for example). However, we understand this to be a reference back to the 2015 WMS and (in respect of energy performance) the enabling of standards equivalent to Code for Sustainable Homes Level 4.

The consultation document itself provides more commentary: “*Paragraph 149b reflects that local planning authorities are tied to national technical standards, and there is limited scope to extend local ambition. The Clean Growth Strategy sets out the Government’s plans for consulting on energy performance standards in Building Regulations later this year. Local authorities can play an important role in improving the energy performance of buildings, in line with the ambitions of the Clean Growth Strategy, and this will be considered further as the Government develops its consultation proposals.*”

It goes on to specifically ask for feedback on whether paragraph 149b needs further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings.

RECOMMENDATIONS

1) Revise the wording of the draft NPPF currently being consulted on

The following sentence should be removed from Paragraph 149b: “*Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards.*” This would leave the paragraph 149 as follows:

149. New development should be planned for in ways that:

a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and

b) can help to reduce greenhouse gas emissions through its location, orientation and design.

2) Issue a new Ministerial Statement

MHCLG should take appropriate steps to provide confidence and clarity to local authorities and combined authorities on their powers to raise energy performance standards in homes. Specifically, this should enable them to go beyond the equivalent of Code for Sustainable Homes Level 4 should they wish. It should also recognise that some, such as Greater Manchester Combined Authority, are considering or have already committed to the introduction of ‘net zero carbon’ policies and commit to supporting these efforts.