
SPD CO2 and H2O– Supporting Information

1. Introduction/Background

1.1 At the September meeting of Council the following motion was submitted:

“This council notes that it has declared a climate emergency and adopted a policy of achieving carbon neutrality by 2030. Given that private dwellings account for around 20% of carbon dioxide emissions, it is essential for measures to be urgently taken to reduce the emissions from new dwellings and extensions to be reduced by the maximum possible. This council also notes concerns by the Environment Agency and others about the effect of water abstraction on our watercourses and, particularly, on our chalk streams. Thames Water is classified as being under serious stress.

This council therefore resolves to draw up and adopt a Supplementary Planning Document within six months requiring new dwellings and extensions to be built to standards requiring carbon dioxide emissions and water consumption to be minimised to the maximum extent consistent with government guidance”.

1.2 The Chairman informed the Council that the Motion would not be debated at the meeting. In accordance with Procedure Rule 4.9.8, it would be referred to the Planning Advisory Group for consideration and a response would be brought back to Council.

2. Supporting Information

2.1 West Berkshire District has approximately 68,000 dwellings and has on average 525 new build additions every year. Each of these dwellings must comply with both the national and local planning regulations as well as the nationally approved Building Regulations 2010 (as amended).

2.2 Planning Regulations

- (1) The NPPF was introduced in 2012 and updated in June 2019. This sets out the Government’s planning policies for England and how they should be applied. It provides a framework within which locally-prepared plans for housing and other developments can be produced.
- (2) However, the Motion to Council specifically requests that a Supplementary Planning Document be produced within six months to cover the issue raised.
- (3) SPDs are “Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan”. (National Planning Policy Framework 2019 Annex 2 Glossary page 72).

- (4) The Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the requirements for producing SPDs. Importantly SPDs should not contain new policies and should not be contrary to the Local Development Plan or national policy. In addition, SPDs should be prepared only where necessary and in line with the NPPF
- (5) Further clarification is provided in the Planning Practice Guidance (PPG) which states;

Can a local planning authority set higher energy performance standards than the building regulations in their local plan?

Different rules apply to residential and non-residential premises. In their development plan policies, local planning authorities

Can set energy performance standards for new housing or the adaptation of buildings to provide dwellings, that are higher than the building regulations, but only up to the equivalent of Level 4 of the Code for Sustainable Homes.

Are not restricted or limited in setting energy performance standards above the building regulations for non-housing developments.

The Planning and Energy Act 2008 allows local planning authorities to set energy efficiency standards in their development plan policies that exceed the energy efficiency requirements of the building regulations. Such policies must not be inconsistent with relevant national policies for England. Section 43 of the Deregulation Act 2015 would amend this provision, but is not yet in force.

The Written Ministerial Statement on Plan Making dated 25 March 2015 clarified the use of plan policies and conditions on energy performance standards for new housing developments. The statement sets out the government's expectation that such policies should not be used to set conditions on planning permissions with requirements above the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes (this is approximately 20% above current Building Regulations across the build mix).

Provisions in the Planning and Energy Act 2008 also allow development plan policies to impose reasonable requirements for a proportion of energy used in development in their area to be energy from renewable sources and/or to be low carbon energy from sources in the locality of the development.

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2.3 Building Regulations

- (1) Building regulations are the minimum standards for design, construction and alterations and are supported by Approved

Documents which set out detailed guidance on how to comply with the regulations.

(2) The Approved Documents are:

Part A – Structure;

Part B – Fire Safety;

Part C – Site preparation and resistance to contaminants and moisture;

Part D – Toxic Substances;

Part E – Resistance to the passage of sound;

Part F – Ventilation;

Part G – Sanitation, hot water safety and water efficiency;

Part H – Drainage and Waste Disposal;

Part J – Combustion appliances and fuel storage systems;

Part K – Protection from falling, collision and impact ;

Part L – Conservation of fuel and power;

Part M – Access to buildings;

Part N – Glazing safety (Withdrawn);

Part P – Electrical Safety;

Part Q – Security;

Part R – Physical infrastructure for high speed electronic communications networks; and

Regulation 7 - Materials and workmanship.

2.4 Therefore the standards relating to CO2 are contained in Part L and the standards relating to H2O are in Part G.

3. Options for Consideration

3.1 A new SPD

- (1) The motion asks for a new SPD to cover both CO2 and H2O relating to new residential development.
- (2) However as outlined above in 2.2 (4) an SPD should not contain new policies and should not be contrary to the Local Development Plan or national policy.

- (3) Following an Examination in Public the adopted West Berkshire Core Strategy (2012) Policy CS 15 Sustainable Construction and Energy Efficiency which covered both CO2 and H2O considerations.
- (4) This policy in relation to residential development requires;

Residential Development

New residential development will meet the following minimum standards of construction:

- Minor development - Code for Sustainable Homes Level 3
- Major development⁽⁶⁹⁾ - Code for Sustainable Homes Level 4
- From 2013: All development - Code for Sustainable Homes Level 4
- From 2016: All development - Code for Sustainable Homes Level 6

- (5) And

Renewable energy

Major development shall achieve the following minimum reductions in total CO₂ emissions (regulated and unregulated energy use) from renewable energy or low/zero carbon energy generation on site or in the locality of the development as long as a direct physical connection is used, unless it can be demonstrated that such provision is not technically or economically viable.

The percentage reductions in CO₂ emissions should be based on the estimated CO₂ emissions of the development after the installation of energy efficiency measures related to either the Code for Sustainable Homes, BREEAM or equivalent method has been applied.

Residential Development:

- A 10% reduction in CO₂ emissions;
- from 2014: A 20% reduction in CO₂ emissions;
- from 2016: Zero Carbon⁽⁷⁰⁾.

- (6) Footnote 69 states – For dwellings; where 10 or more are to be constructed, or the site is more than 0.5 hectares.
- (7) Footnote 70 states – requirements for zero carbon in line with stated Government aspirations, which may be subject to change.
- (8) At the time the policy was written the Code for Sustainable Homes was the Government's national sustainability standard for new homes. However this was abolished from 27th March 2015 in a Written Ministerial Statement and the Government's intention was to develop the Building Regulations to cover this aspect.
- (9) Therefore, as the Governments stated aspirations had changed the policy was lost.
- (10) However, the national position changed in March 2019 as set out in 2.2 (5) with the Government stating *“Can set energy performance standards for new housing or the adaptation of buildings to provide*

dwellings, that are higher than the building regulations, but only up to the equivalent of Level 4 of the Code for Sustainable Homes”

- (11) This change means that Core Strategy Policy CS15 for new residential development could again be considered enforceable BUT we are unable to go beyond the building regulations and remain in compliance with national and local policies.
- (12) It is therefore possible for the Council to produce an SPD on CO2 and H2O but it would not be able to compel developers to go above and beyond what was in the current Building Regulations and the Core Strategy.
- (13) If the Council was to refuse planning permissions for new development that did not go beyond the existing Building Regulations (which are to Code level 4) for example, a developer could appeal and the Council would be liable for costs for unreasonable behaviour.

3.2 Why have other authorities been able introduce a new policy approach?

- (1) The planning and Energy Act 2008 allows local planning authorities to set energy efficiency standards in development plan policies that exceed the energy efficiency requirements of the building regulations. However it was the government’s intention to remove this provision and section 43 of the Deregulation Act 2015 allows for this but as yet remains unacted.
- (2) Therefore some authorities like Stroud have been able to write a policy in their Local Plan that is generic and does not mention Code for Sustainable Homes like West Berkshire.
- (3) Core Policy CP14 of the Stroud Local Plan (adopted November 2015) is entitled High Quality Sustainable Development and concludes with

Development proposals will be required to demonstrate how they have responded to the above criteria through the submission of Design and Access Statements and relevant technical reports. It is important that the applicant provides clear and informative plans, elevations and street scenes and, where required, Masterplans, Development Briefs, Concept Statements and Design Codes to show how these criteria have been taken into account where necessary.

- (4) The Stroud local plan also states in paragraph 6.13

matters that developers can consider. It is not intended to duplicate the elements of sustainable construction that are incorporated into the building regulations. It will enable the Council to assess which sustainable construction principles have been considered in development proposals for new build and/or refurbishment of existing buildings, but does not seek to prescribe a set standard or requirement. The Council encourages a holistic approach where sustainable construction considerations are taken fully into account from initial project thinking through to development completion. This

- (5) More locally, Reading, having had their examination (2018) are about to adopt their local plan (4th November 2019) which includes a policy requiring Zero Carbon development stating “All major new-build development should be designed to achieve zero carbon homes”.

3.3 A new Policy in the Local Plan

- (1) The existing local plan had a policy requiring Zero Carbon Homes by 2016 which was overtaken by Government policy and it has been officers intention to provide an updated policy for inclusion in the new local plan, the draft of which will be produced for consultation next summer.
- (2) Officers have been in touch with the Building Research Establishment (BRE) and the Construction Products Association (CPA) to discuss how best to “future ready” such a policy and this dialogue is on-going.
- (3) Further, in order to ensure such an approach remains economically viable, officers have commission separate viability work on the costs associated with creating a zero carbon development. This will enable the Council to rebuke developers at the examination in saying that such a proposal will render development in West Berkshire uneconomical and therefore inconsistent with national policy.

4. Proposals

- 4.1 The motion to the Council seeks the introduction of an SPD for CO2 and H2O, as stated in 3.1(12) while this is possible it would not be advisable to do so as any SPD would not be enforceable under planning legislation as it would not be in conformity with national or local planning policies.
- 4.2 In order for the Council to progress such a policy as proposed it will have to part of the new local plan and subject to consultation and examination in public and this is the current intention.

5. Conclusion

- 5.1 For the reasons set out in this report the motion to Council is not supported.

6. Consultation and Engagement

6.1 Planning Advisory Group

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval



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