

Briefing Note

Planning policy energy standard ambitions and the Written Ministerial Statement (December 2023)

This briefing note provides information on local energy standards, and in particular how the December 2023 Written Ministerial Statement impacts the ability to introduce ambitious standards through the Local Plan Update.

Legislation background

The Climate Change Act (2008) (as amended) commits the UK to reduce greenhouse gas emissions by 100% by 2050 from 1990 levels. While earlier carbon reduction targets have been achieved, the Climate Change Committee (CCC) advises that the UK is not on track to achieve future targets.

In order to achieve further carbon reductions, significant improvements will be required to the energy performance of both the existing building stock and ensure high energy performance of new developments.

Subsequent to the Climate Change Act, the UK signed the Paris Agreement. The purpose of the agreement is to strengthen the global response to the threat of climate change by holding global temperature increases well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.

Wokingham Climate Emergency

Wokingham Borough Council (WBC) declared a Climate Emergency in 2019 where it committed to do as much as possible to become carbon neutral by 2030. WBC adopted a Climate Emergency Action Plan (CEAP) to deliver reductions in greenhouse gas emissions directly resulting from and influenced by organisational activities. The CEAP contains a target for major residential development to be designed and built to achieve zero carbon by the end of 2025.

Current building regulations, the Future Homes Standard and industry best practice

Building regulations set minimum environmental standards for new buildings. The most relevant part of the building regulations for residential dwellings and energy performance is Part L (2021). It sets requirements on energy performance in terms of building envelope and building services. A new building must not have higher regulated carbon emissions than the "Notional Building" demonstrated through energy modelling. The Notional Building has the same shape, location and typology as the Actual Building being proposed. It therefore does not allow for any rationalisation of the building's form in order for energy reduction to be incentivised. The 2021 regulations are estimated to be a 31% improvement in regulated CO₂ emission performance compared with the 2013 regulations. The 2021 regulations require: "Where a building is erected, it must be a nearly zero-energy building". It is not clear what this means in practice and is not aligned with meeting our climate targets.

The Conservative government consulted on changes to building regulations, with the proposed introduction of the Future Homes Standard (FHS), from 2025. Consultations have stated that the FHS will require new build homes to be futureproofed with low carbon heating and world-leading levels of energy efficiency with 75-80% less carbon emissions than homes delivered under the now

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superseded 2013 building regulations. Achieving zero carbon performance is therefore reliant on the decarbonisation of the energy grid, rather than striving for best practice design and building standards (through things like orientation, fabric performance, etc). Analysis suggests that the FHS would achieve space heating demand of 50-60 kWh/m²/yr. This is not aligned with meeting the 1.5°C Paris Agreement target.

By comparison, the Climate Change Committee (CCC), an independent, statutory body established under the Climate Change Act 2008 to advise government, recommends a space heating demand of 15-20 kWh/m²/yr. The Low Carbon Energy Transformation Initiative (LETI) defines a net zero space heating demand of 15 kWh/m²/yr. Multiple Local Planning Authorities (LPAs) have proposed comparable energy-based metrics through their local plans, which have been found viable and sound. WBC has been developing a suite of policies which reflects this best practice.

In summary, current building regulations do not require good energy performance. Whilst the introduction of the FHS would be an improvement, it falls short of best practice by not applying the energy hierarchy and relying on the decarbonisation of the national grid. A number of local authorities have adopted planning policies that reflect best practice, with them being found sound and viable through examination.

December 2023 Written Ministerial Statement

The Conservative government published the Written Ministerial Statement 'Planning – Local Energy Efficiency Standards Update' in December 2023 (2023 WMS). This states that the government does not expect plan makers to set local energy efficiency standards that go beyond current or planned building regulations. Any policies that do so should be rejected at examination if they do not have a well reasoned and robustly costed rationale that development remains viable and the requirements are expressed as an uplift of a dwelling's Target Emission Rate.

The 2023 WMS is a direct challenge to the use of energy-based metrics as advocated by the CCC, LETI and various industry experts. With regard to WBC, the 2023 WMS increases the risks of our climate change ambitions not being realised, with the preferred policy approach being at odds with this aspect of national policy.

The 2023 WMS has been condemned by industry experts, including the Town and Country Planning Association and multiple local authorities including Reading Borough Council and Wokingham Borough Council for unnecessarily seeking to limit the ability of local authorities to respond to the climate emergency and for being at odds the UK climate commitments.

The Conservative government's justification for the 2023 WMS was to rationalise what they saw as a "*proliferation of multiple, local standards*" to provide certainty for house builders and ensure housing delivery isn't slowed.

For clarity, local plans adopted elsewhere have actually only introduced two standards: one that specifies best practice energy performance; and another that specifies an uplift to building regulations.

The lawfulness of the 2023 WMS has unsuccessfully been challenged in the High Court. The claimant has indicated they will be seeking leave to appeal. Notwithstanding, it should be understood that a challenge can only be made around lawfulness. It is not the role of the courts to consider planning judgement.

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WBC is sympathetic to the need to ensure sufficient homes are delivered. However, no robust analysis was undertaken by the Conservative government to quantify any negative impact that wider use of energy performance standards might have. WBC is committed to achieving its climate emergency aims and places considerable value on delivering homes which maximise energy efficiency from the outset to avoid the need for future retrofitting and to assist with fuel poverty through cheaper energy bills.

Ask of the new Labour government

That the Labour government set out a positive framework that supports ambitious local energy standards where demonstrably achievable. This may be achieved through a new WMS or amendments to the National Planning Policy Framework. As a minimum, the December 2023 WMS should be withdrawn.

It is noted that the Labour government have already acted to reverse the Conservative government's restrictive approach to on shore wind development. A similar revocation of the 2023 WMS could be done immediately and wouldn't require debate in parliament or consultation.