



Warwick District Council Net Zero Carbon DPD WMS and NPPF Update Response 2024

Warwick District Council
Prepared for: Warwick District Council
January 2024

Prepared by:	Marina Goodyear, Paul Slater	Project Ref:	2720
Checked by:	Paul Slater, Lewis Knight	Issue:	Final V3
Authorised by:	Andrew Cornfoot	LPA:	Warwick District

Contents

1 WRITTEN MINISTERIAL STATEMENT (WMS) 2
2 NPPF UPDATE DECEMBER 2023 8

1 WRITTEN MINISTERIAL STATEMENT (WMS)

- 1.1 This section forms Warwick District Council’s response to the Written Ministerial Statement (WMS) ‘Planning - Local Energy Efficiency Standards Update’ made on 13 December 2023.
- 1.2 Relevant extracts of the WMS are identified in italics and responded to where considered relevant to the Net Zero Carbon DPD (NZC DPD).
- 1.3 The fourth paragraph of the WMS commences with the following statement:

In 2015, in reference to an uncommenced provision in the Deregulation Act 2015 which amended the Planning and Energy Act 2008, a written ministerial statement (WMS) (HC Deb, 25 March 2015, vol 584, cols 131-138WS) stated that until that amendment was commenced, local plan policies exceeding minimum energy efficiency standards should not go beyond level 4 of the Code for Sustainable Homes...

- 1.4 This statement reiterates the position that amendments to the Planning and Energy Act 2008 were uncommenced. The Planning and Energy Act 2008 continues to permit local authorities to include policies imposing reasonable standards of energy efficiency that are above those set down in Building Regulations.
- 1.5 The fourth paragraph of the WMS continues to state that:

A further change to energy efficiency building regulations is planned for 2025 meaning that homes built to that standard will be net zero ready and should need no significant work to ensure that they have zero carbon emissions as the grid continue to decarbonise

- 1.6 This statement confirms that a further change to energy efficiency building regulations is planned for 2025. The Council considers that the planned further changes to building regulations relate to the Future Homes Standard (FHS). This standard has informed the development of the NZC DPD policies – notably Policy NZC1. The % carbon reductions for new homes under Policy NZC1 reflect those within the Future Homes Standard. This % reduction was identified as 75% reduction on Part L 2013, which is equivalent to a 63% reduction on Part L 2021.

1.7 Paragraph 5 of the WMS states:

The improvement in standards already in force, alongside the ones which are due in 2025, demonstrates the Government's commitment to ensuring new properties have a much lower impact on the environment in the future. In this context, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations...

1.8 In considering this statement it is noted that the Government does not expect plan makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The Council considers that, whilst not expected, the WMS does not restrict plan makers from setting such standards beyond current or planned building regulations as this continues to be permitted by the Planning and Energy Act 2008.

1.9 Paragraph 5 of the WMS continues:

The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale.

1.10 In the case of the NZC DPD policies, the costs to building new homes have been considered through a robust viability assessment.

1.11 Furthermore, the level of complexity to achieve the minimum on site energy efficiency standards set by Policy NZC1 is low and relates to a modest improvement in fabric and addition of efficient heat sources such as a heat pump – products which are already widely available.

1.12 Such improvements to building fabric and use of a heat pump has been forecasted by Government for several years to be part of the Future Homes Standard from 2025. This will now likely be implemented only a few months after the adoption of the NZC DPD policies and in such context it is reasonable that many developers of new homes will have already prepared designs and supply chains for heat pumps and improved fabric to address the Future Homes Standard.

1.13 Having regard to planned improvements to building regulations through the Future Homes Standard in 2025, achieving the minimum on site energy efficiency standards of Policy NZC1, is considered to represent a low level of complexity and is not considered to undermine economies of scale. Rather the Council consider the on-site energy efficiency standards of Policy NZC1 are more likely to stimulate demand in the market and enhance economies of scale albeit at a low level as the DPD will only apply to new development in Warwick District.

1.14 Paragraph 5 of the WMS further continues to state:

Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:

- *That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*
- *The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).*

- 1.15 The Council consider that 'local energy efficiency standards for buildings' relates to policies which reduce the amount of energy that is needed for the normal operation of a building (e.g. comfortable temperatures, suitably effective lighting and suitable functioning of other energy-using services in the building). The Council consider this distinct from policies which relate to sources of energy supply.
- 1.16 Policy NZC1 (including its component policy NZC2A) within the DPD is a policy which proposes energy efficiency standards for new buildings.
- 1.17 Policy NZC2B sets requirements for a certain proportion of carbon savings to be achieved through renewable energy supply. This is not a policy which sets energy efficiency standards, as energy supply is a separate issue from energy efficiency. It is noted that some heating technologies provide elements of both renewable energy and energy efficiency. The Council's draft SPD clarifies which technologies should be counted towards the NZC1/2A 'energy efficiency' requirements, and which technologies by contrast should count towards the NZC2B 'renewable energy' requirement.
- 1.18 The Council does not consider policies NZC2C Carbon Offsetting, NZC3 Embodied Carbon and NZC4 Existing Buildings are policies which propose local efficiency standards for buildings. Policy NZC2C provides a Carbon Offsetting mechanism. Policies NZC3 Embodied Carbon and NZC4 Existing Buildings require consideration of energy efficiency in relation to embodied carbon and existing buildings respectively but do not propose or required any standard to be achieved.
- 1.19 In relation to new dwellings, Policy NZC1 requires net zero operational regulated carbon to be achieved through the energy hierarchy and achieving a minimum 63% on site reduction in carbon emissions in new dwellings compared to Building Regulations Part L 2021.
- 1.20 The on-site energy efficiency standard for new dwellings was proposed to align with the carbon saving that Government had stated would be achieved by the Future Homes Standard. To clarify, Government had stated ¹ that:

- Part L 2021 would deliver a 31% reduction compared to Part L 2013;

¹[The Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-future-homes-standard)

- Part L 2025 (FHS) would deliver a 70-80% Target Emission Rate (TER) reduction compared to Part L 2013 – (therefore the mid-point would be 75% reduction)
- The proportional TER reduction from Part L 2021 to Part L 2025 would therefore be just over 63%. Policy NZC1 therefore adopts 63% as the minimum on site target, to avoid going beyond what the Future Homes Standard stated.

1.21 The Government's [latest consultation on the Future Homes Standard](#)² (released in December 2023 alongside the WMS) now proposes two 'options' for the Future Homes Standard.

1.22 The Council's advisors, Bioregional, have prepared a comparison of the building regulation specification in 2013, existing building regulations 2021, the previous FHS consultation (which ran in 2019-20 and Government provided its response in 2021¹), and current 2023 FHS consultation options².

Table 1 Comparison of the building regulation specifications for new dwellings

Building element (lower = better, for all fabric elements)	Part L 2013 ¹	Part L 2021 ³	FHS – as previously indicated ¹	FHS 2023/4 consultation ² Option 1	FHS 2023/4 consultation ² Option 2
Fabric elements					
Roof u-value	0.13	0.11	0.11	0.11	0.11
External wall u-value	0.18	0.18	0.15	0.18	0.18
Floor u-value	0.13	0.13	0.11	0.13	0.13
Window u-value	1.4	1.2	0.8	1.2	1.2
Door u-value	1	1	1	1	1
Air permeability (m ³ /h.m ² at 50Pa)	5	5	5	4	5
Heating and services elements					
Heating	Gas boiler		Air-source heat pump		
Wastewater heat recovery	No	Yes	No	Yes (unless single storey)	No
Ventilation	Natural + intermittent extract fans			Decentralised mechanical extract	
Solar PV	None	40% of foundation area	None	40% of foundation area	None
Lighting efficiency (higher = better)		80lm/w		120lm/w	120lm/w
TER Carbon reduction % on Part L 2013	n/a	n/a	70 – 80%	75%	Not given.

² <https://www.gov.uk/government/consultations/the-future-homes-and-buildings-standards-2023-consultation/the-future-homes-and-buildings-standards-2023-consultation>

³ [Conservation of fuel and power: Approved Document L - GOV.UK \(www.gov.uk\)](#)

- 1.23 In this latest 2023 Future Homes Standard consultation, Option 1 would result in a 75% carbon reduction from Part L 2013 – the same reduction used as the basis for Policy NZC1. This is achieved through improvements to fabric, and addition of a heat pump and solar panels.
- 1.24 It follows that the minimum on site energy efficiency standard required for new homes through Policy NZC1 continues to align with the Future Homes Standard and therefore it also continues to align with planned building regulations. In relation to new dwellings the required minimum on site energy efficiency standard, expressed as a % reduction in carbon emissions, does not go beyond planned building regulations. This accords with the WMS and there is no reason to reject the policy.
- 1.25 The WMS, as a statement from the Minister of State for Housing, with multiple references to homes, dwellings and housing supply is considered to relate principally to new homes. The Council does not consider that it is intended to relate to non-residential buildings.
- 1.26 For non-residential development, Policy NZC1 requires a minimum 35% reduction in carbon emissions compared to Building Regulations 2013. While the residential target was set to reflect the Future Homes Standard, this could not be replicated for non-residential target, because at the time of developing the Warwick policy, Government had not stated the % regulated carbon reduction that will be delivered by the Future Buildings Standard (FBS) (albeit it is identified that this is planned in the Future Homes and Buildings Consultation 2023²).
- 1.27 The current (2023/24) consultation² (Section 6.3) does offer some information on the probable content of the FBS, including that it will stipulate that “all heating and hot water demand should ... be met through low-carbon sources”, unlike today’s regulations in which gas and other fossil fuel heating is permitted. However, the current consultation document still does not appear to set out a definitive figure for the % reduction that will be achieved.
- 1.28 As set out in the Council’s Examination Statement in relation to Matter 2 Question 2.3, Government states that the current 2021 non- residential standard represents a 27% reduction on that of 2013. The non-residential target for 35% carbon reduction (compared to Building Regulations 2013) in policy NZC1 is a minor uplift on current Building Regulations. The Council consider it is likely to be surpassed by the Future Buildings Standard, especially given the Government’s current statement about low-carbon heating as noted above.
- 1.29 Notwithstanding, the Council note that the WMS permits planning policies which propose energy efficiency standards for buildings subject to certain criteria. The Council considers Policy NZC1 complies with these criteria in any event as follows:
- *Well reasoned* – the policy is an appropriate response to the declared Warwick Climate Emergency as it delivers improved low-carbon building standards and an offsetting mechanism, to ensure new development supports the target of getting the District as

close to net zero as possible by 2030 (as set out in the Council's Examination Statement in relation to Matter 2)

- *Robustly costed* – the NZC DPD is supported by a robust costing and viability assessment as summarised in the Council's examination statement in relation to Matter 3 and the Matter 3 Additional Viability Note Addendum (EXAM 11)
- *That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework* – The NZC DPD is supported a robust viability assessment that confirms that most schemes across the District generate viable outcomes alongside adopted Local Plan Policies including in relation to affordable housing (as set out in the Council's Examination Statement in relation to Matter 3).
- *The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP)* – Policy NZC1 expresses the % uplift as a % reduction in carbon emissions which is equivalent to a % uplift of a dwellings TER as identified in the WMS. As already noted, for new dwellings the policy requires an on-site minimum 63% reduction in carbon emissions compared to the baseline emission rate (equivalent to TER) set by Building Regulations Part L 2021 (SAP 10.2). This also aligns with planned improvements to building regulations through the Future Homes Standard.

1.30 In summary, Policy NZC1 aligns with planned building regulations and also complies with the WMS criteria for local energy efficiency standards for buildings. Policy NZC2A is a component policy of NZC1 and is the first step of the energy hierarchy. The energy efficiency improvement sought by Policy NZC2A, expressed as a % improvement on building regulations, contributes to the overall carbon reductions sought by policy NZC1 which as noted above reflect planned building regulations. As a component of Policy NZC1, the Council also considers that Policy NZC2A complies with the WMS. The justification for Policy NZC2A is further summarised in the Council's Examination Statement in relation to Matter 4.

1.31 *Paragraph 6 of the WMS states:*

Where plan policies go beyond current or planned building regulations, those policies should be applied flexibly to decisions on planning applications and appeals where the applicant can demonstrate that meeting the higher standards is not technically feasible, in relation to the availability of appropriate local energy infrastructure (for example adequate existing and planned grid connections) and access to adequate supply chains

1.32 The policies include suitable provision that they are to be applied flexibly to decisions on planning applications. Policy NZC1 states that 'Where full compliance is not feasible or viable, proposals must demonstrate through the energy statement that carbon reductions to the greatest extent feasible have been considered and incorporated through applying the energy hierarchy'.

1.33 *Paragraph 7 of the WMS states:*

To be sound, local plans must be consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework and other statements of national planning policy, including this one

1.34 The NZC DPD is consistent with national planning policy including the NPPF (see the Council's Examination Statements in relation to Matter 1 Question 1.5). The Council also consider the NZC DPD is consistent with the WMS as a statement of national policy and that the NZC DPD is sound in this regard.

1.35 Further consideration of the NPPF update published on 19 December 2023 continues below.

2 NPPF UPDATE DECEMBER 2023

2.1 On 19 December 2023 the Government published an update to the National Planning Policy Framework (NPPF). This section comprises the Council's response on any possible implications for the content of the DPD and procedural arrangements.

2.2 The Council considers it first relevant to note paragraph 230 of the NPPF December 2023 which states:

The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements.

2.3 Paragraph 230 confirms that for the purposes of examining the NZC DPD the policies in the NPPF December 2023 do not apply and that the NZC DPD should be examined under the relevant previous version of the NPPF.

2.4 The Council note that an update to the NPPF was made in September 2023 although this related to updated policy on planning for onshore wind development including an update to paragraph 155 (now paragraph 160 in the NPPF December 2023).

2.5 NPPF December 2023 paragraph 229 states that:

For the purposes of the policy on renewable and low carbon energy and heat in plans in paragraph 160, this policy does not apply to plans that have reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage, or that reach this stage within three months of the date of publication of the previous version of this Framework published on 5 September 2023.

- 2.6 NPPF December 2023 paragraph 229 therefore also directs that the September 2023 updates to paragraph 160 also do not apply to the examination of the NZC DPD.
- 2.7 The Council, therefore, consider that the NPPF 2021 remains the most relevant previous version of the NPPF and that is the version against which the NZC DPD is being examined. The Council does not consider the 2023 updates to the NPPF have any implication for the soundness of the content of the NZC DPD or procedural arrangements.
- 2.8 Furthermore, where specific paragraphs of the NPPF are referenced within the NZC DPD (including at Section 3.1 and in Appendix 1: Policy Context) they are under a clear heading referencing the July 2021 NPPF. The Council do not consider that any modifications to these references or the content of the DPD is, therefore, required.
- 2.9 Whilst the Council does not consider the NPPF December 2023 to be relevant to the examination of the NZC DPD for the reasons given above, the Council is aware of the new paragraph 164 which states:

164. In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.

- 2.10 The Council considers that Policy NZC4 is, in any event, consistent with this new paragraph as it states:

Development proposals which would result in considerable improvements to the energy efficiency, carbon emissions and/or general suitability, condition and longevity of existing buildings will be supported, with significant weight attributed to those benefits.

The sensitive retrofitting of energy efficiency measures and the appropriate use of micro-renewables in historic buildings, including listed buildings, locally listed buildings and buildings within conservation areas will be encouraged, providing the special characteristics of the heritage assets are conserved in a manner appropriate for their significance.

END