

Warwick District Council  
Planning Policy Team  
Riverside House  
Milverton Hill  
Leamington Spa  
CV32 5HZ

SENT BY EMAIL ONLY TO  
[planningpolicy@warwickdc.gov.uk](mailto:planningpolicy@warwickdc.gov.uk)

13 September 2021

Dear Sir / Madam

## **WARWICK DRAFT NET ZERO CARBON DEVELOPMENT PLAN DOCUMENT (DPD) CONSULTATION**

Thank you for consulting with the Home Builders Federation (HBF) on the above-mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. The HBF submit the following comments on the Draft Net Zero Carbon DPD.

### **Proposed Draft Policies NZC1 – NZC2(A-D)**

Under **Draft Policy NZC1 - Achieving Net Zero Carbon Development**, new development should achieve net zero carbon emissions. To achieve this, developments will be expected to demonstrate that three critical elements have been considered holistically :-

- 1. reducing energy demand by bringing forward and implementing proposals that minimise demand for energy ;
- 2. incorporating and utilising zero or low carbon energy sources ; and
- 3. offsetting any residual carbon to bring the total operational carbon emissions to net zero.

**Draft Policies NZC2(A-D)** set out the detailed policy requirements for new development.

**Draft Policy NZC2(A) - Making buildings energy efficient.** Using the most up to date Standard Assessment Procedure (SAP), developments should demonstrate improved energy efficiency in design and operation of 75% over and above 2013 Building Regulations standards. Certification to demonstrate the predicted energy performance across the entire development should be provided as part of any reserved matters application, full application, Section 73 or 96a application. To ensure the performance gap between design and



construction is minimised, applicants will be required to demonstrate, prior to occupation, that building performance on completion has been tested and any energy efficiency performance gap between design and construction is identified and the resulting additional carbon emissions are calculated. Where this results in additional carbon emissions over and above those identified in the design, **Draft Policy NZC2(D)** will apply.

Under **Draft Policy NZC2(B) - Zero or Low Carbon Energy Sources**, new development proposals must include an Energy Statement, which demonstrates that zero and low carbon sources of energy have been considered and, where possible, incorporated or utilised. The Energy Statement should give full consideration to the following :-

- the potential for onsite renewable energy generation ;
- utilisation of onsite heat sources ;
- utilisation of any existing or planned local offsite renewable energy generation ;
- utilisation of any existing or planned heat networks ;
- other low carbon energy sources. Alternatives to fossil fuels (such as heat pumps) should be used for heating in all housing unless the costs or configuration of the development can be demonstrated to make this unviable or impractical. Use of fossil fuels as sources of energy should be avoided unless it can be clearly demonstrated that (a) renewable or low carbon options are unviable or (b) the nature of the use is such that renewable or low carbon options are unable to fully meet the energy demands.

**Draft Policy NZC2(C) - Zero-Carbon-Ready Technology.** Where the Energy Statement required in **Draft Policy NZC2(B)** demonstrates that renewable or low carbon options are unable to fully meet demand or are unviable, developments will be required to incorporate “zero carbon-ready” technology that will allow future decarbonisation of energy as the national energy grids or any other local energy sources decarbonise. Where fossil fuel based energy sources are utilised, residual emissions will be offset through **Draft Policy NZC2(D)**.

**Draft Policy NZC2(D) - Carbon Offsetting.** Where a development proposal cannot demonstrate that it is net zero carbon at the point of determination of planning permission, it will be required to address any residual carbon emissions by :-

- 1) a cash in lieu contribution to the District Council’s carbon offsetting fund : or
- 2) at the Council’s discretion, a verified local off-site offsetting scheme, provided that the scheme is properly quantified and is verified by the Warwickshire County Council’s Ecology team.

Contributions to an offsetting scheme shall be secured through Section 106 Agreements. Developers will be expected to set out and evidence anticipated

carbon emissions for developments taking account of emissions during the operational / occupied phase of the building's life and during demolition if it is reasonable to expect this to occur within 30 years. In determining the level of the development's carbon emissions assessments should consider all emissions that will occur within 30 years of completion. Where "zero-carbon ready" technology is incorporated within the building, associated carbon emissions will be calculated in accordance with the stated national trajectories for the carbon reduction of the relevant energy sources. Where the SAP undertaken at completion shows that there is a performance gap between the design and the performance of the completed building, carbon offsetting contributions will be required to reflect any associated additional carbon emissions not accounted for at the point of determination of the planning application.

It is the Council's intention that the above-mentioned Draft Policies will supersede adopted Policy CC3 - Building Standards & other Sustainability Requirements, partially replace adopted Policy CC2 - Planning for Renewable Energy & Low Carbon Generation and expand upon adopted Policies SC0 - Sustainable Communities, BE1 - Layout & Design, HS1 - Healthy, Safe & Inclusive Communities and CC1 - Planning for Climate Change Adaptation.

### **HBF Response to Proposed Draft Policies NZC1 – NZC2 (A-D)**

Today's new homes are already very energy efficient with lower heating bills for residents in comparison to older existing homes. Energy performance data has shown that 8 out of 10 new build dwellings have an A or B energy efficiency rating, compared to only 3% of existing properties. In November 2019, the average new build buyer in England saved £442.32 every year on heating costs compared to owners of existing dwellings.

Nevertheless, the HBF recognise the need to move towards greater energy efficiency via a nationally consistent set of standards and timetable, which is universally understood and technically implementable. The Government Response to The Future Homes Standard : 2019 Consultation on changes to Part L (conservation of fuel and power) and Part F (ventilation) of the Building Regulations for new dwellings dated January 2021 provides an implementation roadmap, the Government's aim is for the interim Part L (Conservation of fuel and power), Part F (Ventilation) & Overheating Regulations to be regulated for in late 2021 and to come into effect in 2022. The 2021 interim uplift will deliver homes that are expected to produce 31% less CO<sub>2</sub> emissions compared to current standards. To ensure as many homes as possible are built in line with new energy efficiency standards, transitional arrangements will apply to individual homes rather than an entire development and the transitional period will be one year. This approach will support successful implementation of the 2021 interim uplift and the wider implementation timeline for the Future Homes Standard from 2025. The Future Homes Standard will ensure that new homes will produce at least 75% lower CO<sub>2</sub> emissions than one built to current energy efficiency requirements. By delivering carbon reductions through the fabric and building services in a home rather than relying on wider carbon offsetting, the

Future Homes Standard will ensure new homes have a smaller carbon footprint than any previous Government policy. In addition, this footprint will continue to reduce over time as the electricity grid decarbonises.

The HBF support the Government's approach to the Future Homes Standard but there are difficulties and risks to housing delivery given the immaturity of the supply chain for the production / installation of heat pumps and the additional load that would be placed on local electricity networks in combination with Government proposals for the installation of EVCPs in new homes under changes to Part S of the Building Regulations and the Council's own requirements under adopted Policy TR1. In autumn 2020, the HBF established a Future Homes Task Force to develop workable solutions for the delivery of the home building industry's contribution to meeting national environmental targets and objectives on Net Zero. Early collaborative work is focussed on tackling the challenges of implementing the 2021 and 2025 changes to Building Regulations successfully and as cost-effectively as possible, as well as providing information, advice and support for SME developers and putting the customer at the centre of thinking.

On 27 July 2021, the Future Homes Delivery Plan was published (see attached Appendix A : The Future Homes Delivery Plan – Summary of the goals, the shared roadmap & the Future Homes Delivery Hub). To drive and oversee the plan the new delivery Hub will be launched in September, with the support and involvement of Government. The Hub will help facilitate a sector-wide approach to identify the metrics, more detailed targets where necessary, methods and innovations to meet the goals and the collaborations required with supply chains and other sectors. It will incorporate the needs of all parties including the public and private sector and crucially, consumers, such that they can all play their part in delivering environmentally conscious homes that people want to live in.

The HBF consider that the Council should comply with the Government's intention of setting standards for energy efficiency through the Building Regulations. The key to success is standardisation and avoidance of individual Council's specifying their own policy approach to energy efficiency, which undermines economies of scale for product manufacturers, suppliers and developers. The Council should not need to set local energy efficiency standards to achieve the shared net zero goal because of the higher levels of energy efficiency standards for new homes proposed in the 2021 Part L uplift and the Future Homes Standard 2025.

It is noted that in its Response to the Future Homes Standard consultation, the Government has confirmed that the Planning and Energy Act 2008 will not be amended, therefore for the moment the Council retains powers to set local energy efficiency standards for new homes. However, the Government has acknowledged the need to clarify the role of Councils in setting energy efficiency requirements for new homes that go beyond the mandatory standards set out in the Building Regulations. The Housing, Communities & Local Government Committee have opened a new inquiry into "Local Government and the path to net zero". The aim of the inquiry is to scrutinise the Government's plans to make

all new homes “zero carbon ready” by 2025, through the introduction of the Future Homes Standard, and to explore how Local Government can help the UK to reduce its carbon emissions to “net zero” by 2050. The deadline for the submission of evidence on the role of Councils in determining local energy efficiency standards was 30th April 2021.

The Council has not provided any evidence specifying the local circumstances in Warwick to justify **Draft Policies NZC1 – NZC2(A-D)**, which require standards above and ahead of 2025 implementation for Future Homes Standard. As set out in the 2021 NPPF, all policies should be underpinned by relevant and up to date evidence which should be adequate, proportionate and focus focussed tightly on supporting and justifying the policies concerned (para 31). It is the HBF’s opinion that the Council should comply with the Government’s intention of achieving net zero carbon development through the Building Regulations, the Council’s proposed policy approach is unnecessary because of the higher levels of energy efficiency standards for new homes proposed in the 2021 Part L uplift and the Future Homes Standard 2025.

### **Viability and Deliverability**

Under **Draft Policy NZC2(E) - Viability**, where the nature or location of the site means that complying with the requirements of this DPD can be demonstrated to result in a development proposal becoming unviable, Policy DM2 of the adopted Local Plan will apply.

In plan-making, viability is inseparable from the deliverability of development. At Examination, viability will be a key issue in determining the soundness of the Warwick Net Zero Carbon DPD. The viability of individual developments and plan policies should be tested at the plan making stage. As set out in the 2021 NPPF, the contributions expected from development including the level & types of affordable housing provision required and other infrastructure for education, health, transport, flood & water management, open space, digital communication, etc. should be set out (para 34). As stated in the 2021 NPPF, development should not be subject to such a scale of obligations that the deliverability of development is threatened (para 34). Viability assessment should not be conducted on the margins of viability especially in the aftermath of uncertainties caused by the Covid-19 pandemic and Brexit. Without a robust approach to viability assessment, the DPD will be unsound, land will be withheld from the market and housing delivery targets will not be achieved.

The Council’s viability assessment is set out in Net Zero Carbon DPD Viability Study dated June 2021 by BNP Paribas Real Estate. The Council’s Viability Study should accurately account for all costs for affordable housing provision, CIL, S106 contributions and sought policy requirements. The HBF understand that the Council does not propose to change any existing adopted Local Plan policies. As well as adopted Local Plan policy requirements, there is an adopted Community Infrastructure Levy (CIL) Charging Schedule. There are four residential zones across the District with CIL rates ranging from £76.93 to £214.31 per square metre including indexation. The aim of the Council’s viability assessment is to test the ability of developments to absorb additional costs from

policy requirements relating to the Net Zero Carbon DPD. Twenty development typologies are tested. Viability assessment is highly sensitive to changes in its inputs whereby an adjustment or an error in any one assumption can have a significant impact.

The Council's viability assumptions include :-

- A range of sales values from circa £3,305 per square metre (£307 per square foot) to £4,394 per square metre (£408 per square foot) ;
- BCIS build costs (adjusted for local circumstances) for general flats – median cost plus 10% external works and general estate housing - median cost plus 15% external works ;
- No exceptional / abnormal costs ;
- Benchmark Land Values of £250,000, £370,000, £750,000 and £1,250,000 per hectare ;
- 40% affordable housing on sites of 11 or more dwellings as per adopted Policy H2 ;
- £1,500 per dwelling for active electric vehicle charging points as per adopted Policy TR1 ;
- a cost allowance for green roof space of £150 per square metre as a proxy for protection, enhancement and restoration biodiversity requirements of adopted Policy NE3 ;
- market housing 50% M4(2) & 10% M4(3)(a) and affordable housing 100% M4(2) & 10% M4(3)(b) costed at a percentage of base construction cost for M4(2) of 1.15% for flats / 0.54% for houses, for M4(3)(a) of 9.28% for flats / 10.77% for houses and for M4(3)(b) 9.47% for flats / 23.8% for houses ;
- 10% professional fees ;
- 6% development finance ;
- 2.5% for marketing costs plus 0.25% for legal fees ;
- CIL rates as above plus S106 contribution of £3,000 per dwelling ; and
- profit margin of 17.5% of GDV for private housing & return on the affordable housing GDV of 6%.

The viability of development should not be over-stated, which would lead to overly ambitious policy requirements. The HBF submit the following comments on the Council's assumptions :-

- the exclusion of all abnormal costs implies that all abnormal costs should be fully deducted from the assumed BLV. The reduction of BLV to account for site-specific abnormal costs is only valid where that reduction maintains a sufficient incentive for the landowner to sell as required by the NPPG (ID 10-013-20190509), which states that the BLV should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The NPPG confirms that the premium above the Existing Use Value (EUV) should provide a reasonable incentive for the landowner to sell. Whilst the NPPG (ID 10-014-20190509) requires the BLV to reflect the implication of abnormal

costs and site-specific infrastructure costs, this reflection is not equitable to full deduction because this may result in insufficient incentive for a landowner to sell, which will stagnate land supply as landowners will not bring land forward for development. The HBF acknowledge that BLV should reflect the implications of abnormal costs in accordance with NPPG, however, there is a tipping point beyond which the land value cannot fall as the landowner will not be sufficiently incentivised to release their site for development ;

- The Council's affordable housing tenure mix should comply with the 2021 NPPF expectation that at least 10% of homes will be available for affordable home ownership (para 65) and the 24 May 2021 Written Ministerial Statement requirement for 25% of affordable housing to be First Homes. The impact of cost increases associated with First Homes on viability should be assessed by further sensitivity testing ;
- The Environment Bill will require development to achieve a 10% net gain for biodiversity, which will be a mandatory national requirement. There are significant additional costs associated with biodiversity gain. The DEFRA Biodiversity Net Gain & Local Nature Recovery Strategies : Impact Assessment Table 16 : Net gain delivery costs per greenfield development (residential) West Midland cost of £1,003 per dwelling (based on 2017 prices and the central estimate) and Table 17 : Net gain delivery costs per brownfield development (residential) West Midland cost of £268 per dwelling (based on 2017 prices and the central estimate). However, there are significant cost increases for off-site delivery under Scenario C to £3,496 and £864 per dwelling respectively. There may also be an impact on the ratio of gross to net site acreage. The impact of cost increases associated with biodiversity net gain on viability should be assessed by further sensitivity testing.

The impact of **Draft Policies NZC1 – NZC2 (A-D)** are tested using the capital cost figures from the '*Cornwall Climate Emergency DPD – Energy review and modelling*' by Currie Brown and Etude (February 2021). In the tested residential scenarios cost uplifts range between 3% (Option A), 5% (Option B) to 6% (Option C) of build costs. Option C for 6% uplift to build costs is based on Currie & Brown route to net zero regulated and unregulated emissions using SAP 10 emissions factors and air sourced heat pumps. This is estimated to achieve the objectives of **Draft Policies NZC1** and **NZC2(A-B)** in full and therefore **Draft Policies NZC2(C-E)** would not come into effect.

It is noted that Cornwall Council's Sustainable Energy & Construction Topic Paper dated February 2021, which accompanied the Cornwall Climate Emergency DPD pre-submission consultation, identified that further work and supporting evidence were needed to justify its proposals including further viability testing work to understand impacts.

The Council acknowledges that the impact of its emerging DPD policy requirements can be significant. The viability assessment appraisals indicate that some schemes will not be able to meet the proposed requirements of **Draft**

**Policies NZC1 – NZC2 (A-D)** and full compliance with adopted policy requirements including affordable housing.

The impact of additional costs varies between development typologies and locations within the District. Where viability is marginal and in lower value areas, there will be a trade-off between other policy requirements and / or affordable housing to compensate for higher climate change costs. In higher value areas, the trade-off required is likely to be less significant. There are situations where **Draft Policies NZC1 – NZC2 (A-D)** will tip the balance from 'viable' to 'unviable'. A flexible policy approach will be necessary including a relaxation of the Net Zero Carbon policy requirements.

Before the Net Zero Carbon DPD pre-submission consultation, the Council should clarify the proportion of its Housing Land Supply (HLS) represented by each typology and the proportion of its HLS in each Value Area to properly assess the impact of proposed Net Zero Carbon Policies on housing delivery. Most sites should be deliverable at planning application stage without further viability assessment negotiations. Viability negotiations should occur occasionally rather than routinely. Trade-offs between policy requirements, affordable housing and infrastructure provision should not be necessary. However, if the viability of sites is overstated, policy requirements will be set at unrealistic levels. Landowners and developers will have to submit site-specific assessments to challenge assumptions in the Council's Viability Study. Such negotiations at planning application stage causes uncertainty for both the Council and developers, which may result in significant delay to housing delivery or even non-delivery.

## **Conclusion**

For the Warwick Net Zero Carbon DPD to be found sound under the four tests of soundness as defined by the 2021 NPPF (para 35), the DPD must be positively prepared, justified, effective and consistent with national policy. The afore-mentioned Policies are considered unsound. If any further information or assistance is required, please contact the undersigned.

Yours faithfully  
for and on behalf of **HBF**



**Susan E Green MRTPI**  
**Planning Manager – Local Plans**