

M8. Environment

SP06 Towards net zero carbon

The Council declared a climate emergency in 2019. To achieve the national target of 100% reduction in emissions below 1990 levels by 2050, the Council considers that three significant changes are needed: making existing buildings more energy efficient; ensuring new development is zero carbon; and reducing private car mileage by around 15-20% by 2040¹.

National planning policy expects development to be planned for in ways that help to reduce greenhouse gas emissions, such as through its location, orientation and design². Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned building regulations 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 NPPF.*
- 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)³.*

Q8.1. Is policy SP06 consistent with national policy and will it be effective in supporting the transition to a low carbon future? In particular:

(a) The requirement in part 1 for all development to meet the highest technically feasible and financially viable standards and minimise the effects on climate change across the whole life cycle of the development.

1. The HBF does not consider that Part 1 of this policy is sound. The HBF considers that if the Council is to introduce a policy in relation to zero carbon development it will need to be clear what they are expecting. It is not clear how the applicant will determine which standards to take into consideration when considering the feasibility and viability of the standards, and how the applicant or the decision-maker would weigh these up against other viability implications. It is also not clear how an applicant would be expected to demonstrate how they have minimised their effects on climate change across the whole life cycle of the development.
2. The HBF continues to 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. This is in line with the Written Ministerial Statement of December 2023 (WMS)⁴, which states that the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations.

¹ Plan paragraphs 4.43 to 4.49.

² NPPF 159b.

³ WMS Energy Efficiency December 2023.

⁴ WMS December 2023 <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/hcws123>

3. The WMS clearly states that any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned building regulations 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 NPPF; and the additional requirement is expressed as a percentage uplift of a dwellings Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).
4. The HBF does not consider that the Council have a well-reasoned and robustly costed rationale. The HBF does not consider that development remains viable and the HBF does not consider that the impact on the housing supply and affordability have been fully considered by the Council.
5. The justification text suggests that the Council is looking to achieve net zero buildings, with both embodied and operation carbon considered. Whole life carbon emissions are the sum total of all emissions both operational and embodied over the life cycle of an asset. The Council may need to consider how easily accessible any data is, how much of the responsibility for emissions will lie in areas outside of the control of the homebuilding industry, including material extraction and transportation, occupation and maintenance, demolition and disposal. The Council will also have to consider how this element of the policy will interact with other policies as well as the viability and delivery of development.
6. The HBF is also concerned that planning may be too early in the building process to fully assess the carbon impact of a design. It may be that further decisions are made post planning, which do not require further consent which would impact on the carbon emissions.
7. The HBF is concerned that the Council setting their own standards over and above those set nationally may lead to issues for home builders as this adds to the cost and complexity of development. The impact of this requirement may have considerable viability implication and may lead to the non-delivery homes. The HBF continues to consider that Building Regulations is the correct process for conforming with standards and improving building performance, and that planning policy should not try to create an alternative standard. The Future Homes Hub have published Future Homes, One Plan⁵ which sets out the roadmap for new homes for 2025, 2030 and 2035, and provides the Sustainability Performance Framework developing a single set of metrics with homebuilders, Homes England, the NextGeneration Initiative and NHBC to set best practice in line with the pathway of future regeneration. The Partnership Imperative set out in this document clearly states that local planning requirements must align with the overall plan for improving performance standards at national level by avoiding divergence of local energy standards that make it harder to accelerate improvement in standards at national level, and avoiding conflict between local planning conditions and new requirements of building regulations.

⁵ https://irp.cdn-website.com/bdbb2d99/files/uploaded/Future%20Homes%20One%20Plan_Future%20Homes%20Hub%20Prospectus-%20FINAL%20WEB.pdf

8. Building Regulations Part L 2013 is often used as a base line for measuring future building performance in terms of carbon reduction. Part L 2021 sees a 31% reduction in carbon use when compared to that of Part L 2013, it still sees the use of gas or fossil fuel heating used in new properties. The 31% improvement is achieved through enhanced performance to the design of the building fabric and within the appliances used within the home. Part L 2025 (known as the Future Homes Standard (FHS)) is expected to see a 75% to 80% reduction in carbon use when compared to Part L 2013. Any new home built to the Part L 2025 will not utilise any form of fossil fuel heating within the home, it will only contain sources of electric heating and electrical appliances. This means that the homes built to the FHS will be 'zero carbon ready'. This in turn means that as the National Grid decarbonises, no additional work will be needed to be carried out to those properties in order for them to function as 'zero carbon homes'.
9. The HBF considers that if this policy were to be introduced then the Council should provide a transitional period to give the industry time to adjust to the requirements, to upskill the workforce as needed and for the supply chain to be updated or amended as required.

(b) The requirement in part 2 for development to incorporate small scale renewable and low carbon energy generation where appropriate, feasible and viable.

10. Part 2 of the policy looks for small-scale renewable and low carbon energy generation to be incorporated into the design of new development where appropriate. The HBF does not consider that it is a reasonable requirement to for development to incorporate small-scale renewables or low carbon energy generation. The HBF recognises that there may be potential for energy to come from renewable or low carbon sources, however, it may be more sustainable and efficient to use larger scale sources rather than small-scale, it is also noted this policy also takes no account of the fact that over time energy supply from the national grid will be decarbonised. It also doesn't consider the energy efficiency of the development, which may mean small scale renewables or low carbon energy generation are not necessary.

(c) Is it clear how proposals that do not meet some or all of the design measures set out in part 3 would be considered (if not favourably)?

11. The HBF does not consider that it is clear how proposals would be considered if they do not meet all of these elements, and considers that the wording should be amended to offer support for the provision for some or all of these elements.

(d) The requirement in part 4 for "domestic" developers to meet independently accredited energy and sustainability standards.

12. Part 4 of the policy states that developers should seek to meet independently accredited energy and sustainability standards, such as Passivhaus Standard and the BRE Home Quality Mark.

13. The HBF does not consider that it is necessary for Pendle to look for developers to meet independently accredited energy and sustainability standards. The HBF does not consider that the Council have provided any evidence or justification for why residential development should need to meet the Passivhaus Standard or the BRE Home Quality Mark or why developments should need to be assessed using the Home Quality Mark. The HBF recommends that this element of the policy is deleted.
14. The HBF considers that it is important that the Council does not set its own standards for development which may differ from the approach being taken by national Government, and that any such policy in relation to low carbon, local heat and energy solutions are implemented on a flexible basis, and that the Council recognise the decarbonisation of the national grid. This would be in line with the Written Ministerial Statement of December 2023⁶.

(e) The requirement in part 5 for major residential and mixed use development to show how the energy hierarchy (Figure 4.1) has been used to make the fullest contribution to reducing greenhouse gas emissions.

15. The HBF considers that it is unnecessary for an applicant to provide an Energy Statement or for this to show how the energy hierarchy has been used to make the fullest contribution to reducing greenhouse gas emissions. This is adding additional cost to the development, and increasing professional fees for someone to prepare this statement. The HBF is not clear how this would be used by the decision-maker in determining a planning application, as each site and each development will need to be considered on their own merits, and therefore they each make varying contributions to each level of the hierarchy, and will have other benefits which will need to be considered.

(f) The requirement in part 6 for non-residential development to meet the BREEAM excellent standard.

DM01 Climate change resilience

Q8.2. Is policy DM01 consistent with national policy and justified? In particular, the requirement for development to achieve all of the design responses set out in part 3 (“as a minimum, where feasible”) and part 4 including:

- (a) The building regulations optional technical standards for water efficiency [3(d)63].***
- (b) A water butt with capacity of at least 200 litres [3(e)].***
- (c) Provision of street trees [3(h)].***
- (d) Community allotments and promoting home grown produce [3(i)].***
- (e) Major development demonstrating compliance with a cooling hierarchy [4(b)].***

16. Part 3 of this policy states that proposals should minimise the use of natural resources, increase self-sufficiency and lower carbon emissions. It suggests that development should, as a minimum and where feasible: promote energy efficiency; make use of low carbon materials, take opportunities to provide on-site renewables, adopt measures within building

⁶ <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/HCWS123>

design to limit water usage including the implementation of the optional technical standards for water efficiency in the Building Regulations, promote rain water capture to recycle water and reduce pressure on the water supply, it suggests that new homes should be equipped with a water butt, provide EV Charging Points, provide cycle storage, the provision of street trees and encouraging food production.

17. Firstly, the HBF is concerned that it is not clear how this policy would be used in decision-making, and whether a decision maker would expect all or some of these elements to be met, and what would happen if they were not. Secondly, the HBF considers that a number of elements of this policy are not necessary and should be deleted.
18. The HBF does not consider that it is necessary for development to adopt, as a minimum, measures to limit water usage including the implementation of the optional technical standards for water efficiency. The optional water standard is 110 litres per person per day, the Building Regulations require all new dwellings to achieve a mandatory level of water efficiency of 125 litres per day per person, which is a higher standard than that achieved by much of the existing housing stock. This mandatory standard represents an effective demand management measure.
19. A policy requirement for the optional water efficiency standard must be justified by credible and robust evidence. If the Council wishes to adopt the optional standard for water efficiency of 110 litres per person per day, then the Council should justify doing so by applying the criteria set out in the PPG. PPG⁷ states that where there is a '*clear local need, Local Planning Authorities (LPA) can set out Local Plan Policies requiring new dwellings to meet tighter Building Regulations optional requirement of 110 litres per person per day*'. PPG⁸ also states the '*it will be for a LPA to establish a clear need based on existing sources of evidence, consultations with the local water and sewerage company, the Environment Agency and catchment partnerships and consideration of the impact on viability and housing supply of such a requirement*'. The Housing Standards Review was explicit that reduced water consumption was solely applicable to water stressed areas. The North West and Pendle are not considered to be an area of Water Stress as identified by the Environment Agency⁹. Therefore, the HBF considers that requirement for optional water efficiency standard is not justified nor consistent with national policy in relation to need or viability and should be deleted.
20. The HBF considers that the suggestion for new homes to be equipped with a water butt is unnecessary and not justified or evidenced.
21. The HBF considers that the provision of electric vehicle charging capability is unnecessary as Part S of the Building Regulations now provides the requirements for Electric Vehicle charging, including where exceptions may apply.

⁷ PPG ID: 56-014-20150327

⁸ PPG ID: 56-015-20150327

⁹ 2021 Assessment of Water Stress Areas Update: <https://www.gov.uk/government/publications/water-stressed-areas-2021-classification>

22. The HBF considers that the provision of street trees has potential to have an impact on the street layouts and land uptake for any development and may have significant implications for the density of developments, this in itself has potential to have a significant impact on the viability of developments. The provision of street trees may also have implications in relation to highway provision and highway maintenance and again may need to be given further consideration by the Council and the developers of these sites.
23. The HBF considers that there is no justification or evidence for encouraging food production. The HBF is also concerned in relation to the implications of this policy in terms of viability, efficient use of land and site layouts. The HBF is also not sure whether residents of all new developments would want community allotments or food growing opportunities, and it is not clear what would happen where these facilities are not used in an appropriate manner or are not maintained for food growing.

Flood risk and water management (SP07, DM02a and DM02b)

Strategic policy SP07 relates to water quality, water supply infrastructure, wastewater, water efficiency and flood risk. Development management policies DM02(a) and DM02(b) relate to flood risk, and surface water and foul water management respectively.

Q8.3. Are policies SP07, DM02a and DM02b consistent with national policy and justified? In particular:

(a) The requirement for finished floor levels to be at least 600mm above the highest of three specified reference points [DM02a part 11].

(b) The specified run-off rates and run-off volumes [DM02b part 4]

24. Policy DM02a (Part 11) states that finished floor levels should be a minimum of 600mm above whichever is the higher of the average level of the site, the adjacent road level to the building(s) or the estimated river or sea flood level for the site.
25. The HBF is concerned that this policy is not sound and how it would work in reality has not been thought through. It is not clear how this would work in relation to accessibility of the homes provided or the M4 standards, or what consideration has been given to local topography. It also not clear what consideration has been given to the layout of sites and the implications this may have on viability if homes are expected to meet this requirement. The HBF considers that this requirement should be deleted.

Natural environment

Biodiversity (SP08, DM04, DM05 and DM08)

Strategic policy SP08 relates to the natural environment, and development management policies DM04, DM05 and DM08 relate to biodiversity net gain, ecological networks, and the South Pennine Moors SAC / SPA / SSSI respectively.

The Council's response to PQ10 proposes main modifications to Table SP08a in policy SP08 and to policy DM08 relating to the South Pennines Moors SAC / SPA / SSSI:

Modify the criteria in Table SP08a relating to International Protection to read: "Development

within an Impact Risk Zone (Policy DM08) will be expected to ~~mitigate any adverse impacts~~ show there will be no likely significant effects on the SPA or SAC at the planning application stage.

Modify policy DM08 part 3 bullet point 3 to read:

Zone C – Where residential development results in a net increase of 10 or more dwellings, ~~proposals evidence must be provided must consider how the development may result in recreational pressures to demonstrate that there will be no likely significant effects on the SPA or SAC, and how these can be effectively mitigated.~~

Q8.6. Are policies SP08, DM04, DM05 and DM08 consistent with national policy? In particular:

- (a) The requirement for development to avoid any negative impact on irreplaceable habitats, and the inclusion of “upland peat bogs” in the list of such habitats (SP08 part 2(b)).**
- (b) The criteria relating to the hierarchy of protected sites in Table SP08a, and the list of local sites in Appendix 2.**
- (c) The approach in DM04 aimed at ensuring all development delivers an overall measurable net gain for biodiversity of at least 10% against the baseline conditions of the site.**
- (d) Is the “ecological network” clearly defined in the Plan, and illustrated geographically on the policies map, such that policy DM05 can be effectively applied?**
- (e) The approach in SP08 and DM08 to preventing adverse effects on the integrity of the South Pennine Moors SAC / SPA / SSSI, including the 0.4 km, 2.5 km and 7 km impact risk zones and the proposed mitigation measures (including whether the Council’s proposed main modifications are necessary for soundness).**

26. Policy DM04 states that all development proposals will be expected to deliver an overall measurable net gain for biodiversity of at least 10% against the baseline conditions of the site. It goes on to state that developments that achieve on site or borough-wide enhancements above 10% will be considered favourably. It also states that where a 10% net gain cannot be secured on site, off-site habitat provision should where practicable accord with the LNRS and be made within Pendle or one of the three National Character Areas present within Pendle. Finally, it states that conservation credits may also be accepted, and that they are a last resort according to the mitigation hierarchy.

27. It is the HBF’s opinion that the Council should not deviate from the Government’s requirement for 10% biodiversity net gain as set out in the Environment Act. The Plan should provide certainty for developers and a clear BNG policy with a fixed 10% figure, rather than the policy including the phrase ‘at least 10%’ would help to provide this.

28. The HBF notes that both parts 3 and 4 of the policy refer to the Local Nature Recovery Strategy (LNRS), the HBF considers it is appropriate for the policy to consider the relationship between the plan and the LNRS. However, the LNRS should not be used to restrict development or to limit the requirements of the BNG and metric being met. As the

LNRS emerges it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy and/or its implementation, to reflect the LNRS may be needed.

29. The HBF also notes that there seems to be significant potential for confusion around environmental hierarchy, and suggest particular care is needed to avoid any confusion between the well-established mitigation hierarchy and the new BNG hierarchy. There is need for the policy wording and/or supporting text to be clearer about the differentiation between the mitigation hierarchy (which seeks to avoid harm in the first place, then mitigate and only then compensate it in relation to protected habitats) and the BNG delivery hierarchy (which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits). There seems to be significant potential for confusion between the two difference hierarchies. The HBF therefore suggest that the Council should take particular care to explain how the requirements of the two-part BNG hierarchy work in different ways and that they seek to achieve different aims. As currently drafted the justification text in relation to BNG as currently written is therefore incorrect and confusing.
30. Reference must also be made to the correct BNG metric. Metric 3.0 has been superseded by both Metric 4.0 and the new national statutory biodiversity metric. The justification text needs to reflect this. The HBF welcomes the reference to the small sites metric, but requests that more detail about it is provided within the Plan to explain that this is intended to be a less complex statutory metric that can be used to set out how 10% BNG will be secured on small sites and that it can only be used for on-site BNG delivery.
31. The wording of policy DM04 should therefore be amended to ensure it accurately reflects the current national policy position namely 3. Should refer to 10% BNG, not at least 10% BNG. This would also make it consistent with point 4. Point 5 needs to clearly refer to Statutory BNG credits not 'conservation credits'. The policy could usefully refer to Section 106 agreements and the use of conservation covenants as a way of securing BNG. Reference should also be made to securing BNG for 30 years which is a key part of the national approach.

DM16 Design and placemaking

Q8.15. Is policy DM16 consistent with national policy and will it be effective in helping to create high quality, sustainable buildings and places? In particular:

(a) Is the requirement in part 1 for all proposals to demonstrate how the principles set out in (a) to (e) will be achieved (including "compliance with the Active Design, BREEAM and Home Quality Mark Standards") justified?

(b) How do the requirements in part 3 (a) to (c) relate to other policies in the Plan relevant to valued landscapes, biodiversity, green infrastructure, trees and hedgerows?

32. Policy DM16 states that householder developments, shopfronts and external advertisements proposals accord with the detailed requirements set out in the Design Principles SPD and the Conservation Area Design and Development Guidance SPD, where

applicable. The HBF considers that it is inappropriate to require development to accord with detailed requirements of an SPD, it is not appropriate to give increased weight to an SPD through the Development Plan.

33. This policy proposes to encourage active lifestyles through compliance with the Active Design, BREEAM and Home Quality Mark Standards. The HBF considers that it is inappropriate to require development to comply with these standards.
34. The HBF notes that within the HQM Mark One Technical Manual¹⁰ it states that the final certification is issued after the construction is completed, although an interim assessment and certification at the design stage can be undertaken to estimate the likely HQM performance. The document clearly states that the pre-assessments are not formal assessments certified by HQM, and there is no such thing as an uncertified HQM rating, so the HQM performance based on a pre-assessment is not proven and no-one must claim that a home has been awarded an HQM rating based on pre-assessment. The HBF is concerned how this would work with the policy requirements. The HBF is also concerned that any delays in occupation of a home, which may happen whilst awaiting condition discharge could also cause viability issues. Finally, the HBF is also concerned about the numbers of assessors that available to provide this assessment and the time it may take to train sufficient numbers for this policy requirement to work and for housing delivery to remain at appropriate levels. The HBF recommends that this element of the policy is deleted.

¹⁰ <https://www.homequalitymark.com/wp-content/uploads/2018/09/HQM-ONE-Technical-Manual-England.pdf>