

## Bath and North East Somerset Council: Core Strategy Examination

### Written Statement: Issue 5 Climate change policies

#### Are the policies to respond to climate change justified and deliverable?

##### Policy CP2

Part 3 of policy CP2 requires compliance with the full Code at varying levels until Code 6 is required from 2016 onwards.

This is not justified. Firstly, the Code is a voluntary national standard devised by the house building industry to assist developers. It is not mandatory and cannot be proscribed by the Council. The DCLG website confirms this. It states on the website that:

*“The Code is not a set of regulations. The Code goes further than the current building regulations, but is entirely voluntary”*

Secondly, in accordance with paragraph 33 of the *Planning & Climate Change Supplement to PPS1* the Council is required to assess the impact of any requirements that exceed those set nationally for their impact on development viability and the pace of housing delivery.

The Council has commissioned an assessment that is supposed to assess the impact on viability of specifying the Code in its Renewable Energy and Planning Research – Update (CD4/S8). However, this report includes no such viability analysis (sections 7.4 and 7.5). It merely states that there will be costs and developers need to consider these. This does not meet the policy requirements of the Supplement to PPS1, paragraph 33 that requires any requirements for building sustainability that exceed the Building Regulations to be evidence based and has regard to the overall costs of bringing sites to the market. The council will also need to assess the potential impact of specifying the full Code on housing delivery.

Its affordable housing viability assessment (CD4/H8)) considers only the cost of building to Code 3, but since this would only apply up to 2012 (assuming the Council’s policy is adopted) then this fails to assess the true impact of the Council’s policy of development costs over the main part of the plan period.

Part L of the Building Regulations (relating to energy efficiency) is mandatory. But stipulating the whole Code will add many other costs to development. If local authorities wish to set more ambitious targets in advance of those set out nationally then this must be evidence based having regard to the costs on development and any impact this may have on housing delivery (paragraph 33).

We have been unable to locate any such assessment of the impact of these targets on development viability and the pace of housing delivery. The Affordable Housing Viability Assessment (SD 24) only models the impact of Code 3, not the higher Code levels (see paragraph 3.53).

Without such an assessment which considers the impact of specifying the whole Code (as opposed to Part L of the Building Regulations) then the policy is unjustified and unsound.

### **Implications for the affordable housing target (policy CP 9)**

The viability modelling for the affordable housing policy (CD4/H8) also underestimates the cost of complying with the Council's policy requirements for the Code for Sustainable Homes. The report also fails to factor in the higher costs associated with building to Part L of the Building Regulations, zero carbon homes, which are national mandatory requirements.

The report assumes only Code 3 for its modelling, despite policy CP 2 stipulating Code level 4 from 2013 and then Code 6 from 2016. Since these policy requirements are intended to apply for the majority of the plan period then it is essential that they are factored into the viability assessment for affordable housing. There is clearly a disconnection between the Council's own assessment of the viability of its affordable housing target and the Council's aims with regard to the Code and the consequences that the latter target could have on the ability for developments to achieve the 35% affordable housing requirement.

As we have stated in our Written Statement on the soundness of the affordable housing policy, stipulating varying levels of the Code could mean that the reduction in residual land values is greater than the report has allowed for. Moreover, the report relies on an out-dated DCLG cost assessment report from 2008. This has been updated twice subsequently, once in 2010 and again more recently by a report published in August 2011 entitled *Cost of Building to the Code for Sustainable Homes: updated cost review*. This calculates (page 11) that the extra cost of building to Code 6 could increase construction costs by some 45-53% on construction costs on the 2006 Part L baseline when modelled against various scenarios. In none of the scenarios does the additional cost of building to Code 6 add less than 45.7% to construction costs. Since the Part L accounts for 80% of the cost of the Code this represents a very significant increase in construction costs and will have a profound impact on viability when other regulatory and policy demands are factored-in. The Government's Zero Carbon Homes programme is non-negotiable and so these costs must be taken into account when setting

a deliverable affordable housing target or considering the impact of the housing delivery of specifying the full Code. For example, the viability report acknowledges the greater impact on residuals of specifying Code 4 (let alone Codes 5 or 6) in the weaker market areas such as Norton, Radstock, Paulton, Peasedown (paragraph 3.43).

Looking forward, the draft NPPF, paragraph 39, requires that the costs of any local authority requirements likely to be applied to development – those over and above the normal cost of development and on-site mitigation – requirements such as affordable housing, local standards (including the cost of diverging from the Building Regulations), infrastructure contributions or other requirements, are to be assessed for their impact on viability. This will be necessary to ensure that development is viable and deliverable while still providing acceptable returns to the landowner and developer. The assumption that new policy and regulation can be absorbed by reductions in land value is one no longer shared by Government.

### Policy CP3

Bullet 2 of the policy is contrary to national planning policy by requiring developers to complete a Sustainable Construction Checklist to cover matters that are already covered by the Building Regulations. Paragraphs 11 and 45 of the *Planning and Climate Change Supplement to PPS1* do not allow for duplication of the Building Regulations and requirements from developers for additional, standalone assessments of new developments.

Bullet 5 addresses the issue of “allowable solutions”. The details about what constitutes an allowable solution and the mechanisms for implementing such solutions have yet to be consulted upon and defined by Government. So it is not possible at this stage for the Council to adopt a policy that conforms to what Government policy might say on this matter.

**James Stevens**  
**Strategic Planner**  
**HBF**

[James.stevens@hbf.co.uk](mailto:James.stevens@hbf.co.uk)

0207 7960 1623

1<sup>st</sup> Floor, Byron House  
7-9 St James's Street  
London  
SW1A 1EE