

Bath & North East Somerset Council

Sustainable Construction Checklist Supplementary Planning Document (SPD)

Consultation Report September 2018

Description of consultation

We are very grateful to consultees for providing detailed and constructive comments through the process below. A total of 19 formal responses were received.

- **First round of consultation:** This took place in November 2017 when the draft Checklist was presented to the B&NES Agents' Forum and Developers' Forum and circulated to the membership for comment. At this stage, the Checklist was intended to replace the previous Sustainable Construction Checklist which has the status of guidance, and is a registration requirement rather than a full SPD. 8 responses were received.
- **Second round of consultation:** This took place in July 2018 when the decision was taken to convert the Checklist into an SPD to provide further planning weight. This was a full public consultation undertaken in line with the statutory requirements in The Town and Country Planning (Local Planning) (England) Regulations 2012 for SPDs. 11 responses were received.
- **Expert consultees:** AECOM was commissioned to review the technical elements of the Checklist.

Respondents

Organisation/s
First consultation November 2017
Planning Sphere
Curtis Cryer Architects
Casa Architects
Arena Global Management Ltd
Fenton Energy
Galliford Try
Ashford Homes
Taylor Wimpey (Barton Willmore)
Second Consultation July 2018
Chris Bocci Architect Ltd
Greenguage
Private individual
Private individual
Argyll Design Partnership
Barton Willmore on behalf of Bell Hammer
Bath Preservation Trust
Curo
Energiesprong
Transition Bath
Buro Happold

Summary of main issues, the Council's response and action taken

The majority of consultees expressed support for the aim of the Checklist to tackle climate change. Key issues, our responses and actions taken as a result of comments are summarised below.

Issue / query	Council Response
<p>GENERAL COMMENTS</p> <p>The Checklist does not go far enough to meet climate change targets; models suggest an 80% reduction in CO2 from buildings by 2050 is needed. So if we only aim for 19%/10% now then these new buildings will need to be revisited and significantly improved which will be costly and disruptive. Building to a low-standard now 'locks us in' to that particular level of performance to at least the first point of major refurbishment, normally at least 20 years.</p> <p>Suggestion to remove all exemptions to the 19% carbon reduction benchmark and the other requirements of the Checklist meaning all development meets all requirements</p>	<p>The Checklist requirements are differentiated to reflect commercial and practical factors that vary by building scale and type. They are more rigorous for major new build developments. This is to encourage large developers to take the lead and build the market. The intention is to increase the requirement over time as sustainable construction experience and supply chains develop. A strong preference was indicated in the consultation for the Checklist to not unduly penalise smaller scale developers who may not have access to the same resources as larger developers.</p>
<p>The SPD does not address the environmental impact of knocking down existing buildings and replacing them with new ones.</p>	<p>The retention of existing buildings is a complex issue which is considered case-by-case through the planning process. Safeguards are in place for important historic assets and the Sustainability Construction and Retrofitting Supplementary Planning Document, which accompanies this Checklist SPD, sets out how existing buildings can best optimise their energy performance.</p>
<p>The Checklist should include other aspects of Sustainability not just climate change; e.g. transport and ecology</p>	<p>Action: Consider whether to include other elements of sustainability in the next version of the Checklist</p> <p>There may be merits to consolidating as suggested. We have focussed on energy in the first edition of the revised Checklist since this was the area where guidance was lacking. Other areas of sustainability e.g. transport ecology have their own scrutiny processes in the planning system.</p>
<p>Sustainable construction should be dealt with through Building Regulations not the planning system</p> <p>Will the Checklist be revised when Building Regulations change?</p>	<p>National policy and legislation acknowledges the importance of the planning system in delivering a low carbon future and allows Local Planning Authorities (LPAs) to set standards that exceed Building Regulations where it is demonstrated that this will not be an undue burden on development.</p> <p>Action: Revisions to Part L of the Building Regulations are anticipated in 2019/20. The Checklist will be revised to reflect any changes.</p>

<p>SPDs are not supposed to be used to set policy that has an undue financial impact on development.</p>	<p>Local and national studies have found that meeting the benchmarks in the Checklist whilst delivering the required quantum of affordable housing is widely viable. By setting a compliance method and performance benchmarks that are widely viable, the SPD provides applicants and officers a way to better assess whether an application has met the policy requirement. This conforms to the National Planning Policy Guidance that states that SPDs should build upon and provide more detailed advice or guidance on the policies in the Local Plan and not add unnecessarily to the financial burdens on development. Section 7 “Non Compliance” allows for developers to put forward their case if compliance would prevent development coming forward</p>
<p>The requirement to demonstrate sustainable design at the planning stage may result in increased costs at the design stage whilst the project is at risk of not getting consent. It may therefore affect viability and stop development coming forward.</p>	<p>To be meaningfully addressed, sustainability issues need to be considered from the first stages of the design. We have tried to minimise costs to developers where possible by using the Building Regulations process which is an existing cost to the project, and limiting overheating assessments to large scale developments.</p>
<p>The Checklist should not apply at Outline stage where insufficient detail is known but at the Reserved Matters stage.</p>	<p>Outline applications vary in the level of detail that is proposed. In some cases, key matters relating to sustainability are determined at Outline stage e.g. appearance. The Checklist addresses this by setting reduced requirements for Outline applications where key matters are Reserved.</p>
<p>The Checklist will require applicants to engage specialists to do modelling and may limit value engineering opportunities</p>	<p>It is understood that this may be the case. It has been found that as markets adjust to policy requirements, costs fall. To properly address energy performance, energy specialists have an important role to play.</p>
<p>Will the assessment of Checklists submitted at the application and condition Discharge Applications cause delay?</p>	<p>The Checklist consists of a simple format and tables that can be quickly and easily checked for compliance by officers to discharge the condition.</p> <p>Only in cases where there is an irregularity in evidence will a delay be required to verify compliance, e.g. through a site visit or specialist input.</p>
<p>The Checklist may cause delays to planning consent because the Council may not have sufficient staff capacity to support the workload of implementing the Checklist.</p> <p>Does the Council have the expertise to assess the specialist information?</p>	<p>Action: Support and training will continue to be provided for officers as the Checklist is rolled out to minimise delays</p> <p>The Checklist has been designed to be very simple for both Registration and Development Management officers to check and verify.</p>

<p>The Checklist may disproportionately impact smaller development.</p> <p>Could a more bespoke, less standardised approach be taken for smaller developments?</p>	<p>There are several ways in which Checklist is simpler and more flexible for smaller developments, for example they can choose to meet the carbon reduction requirements through renewables or energy efficiency and do not have to submit overheating assessments.</p> <p>The previous edition of the Sustainable Construction Checklist allowed developers to take a bespoke, case by case approach. This did not result in improvements in line with the Council's climate change objectives. This is in part because there was no clear requirement for developers to aim for. Hence a more standardised approach with clear requirements is being taken in this Checklist.</p>
<p>Will the pre-application process be more important after the introduction of the Checklist?</p> <p>The Council should provide support to applicants in completing the Checklist</p>	<p>The pre-application process enables applicants to get advice on how to comply with and complete the Checklist, potentially minimising the need to revise the proposal once the application has been submitted. Completion of the Checklist is encouraged, but cannot be required, at the pre-application stage.</p>
<p>How will other planning considerations, e.g. heritage, be balanced against the new sustainability requirements?</p>	<p>Action: We will continue to provide support and training for officers as the Checklist is rolled out to enable officers to balance competing issues</p> <p>The Checklist allows for balance between planning issues e.g. by setting a lower energy benchmark for existing buildings and allowing them to use energy efficiency for SCR1 compliance.</p>
<p>Can the Checklist be simplified?</p> <p>The document appears technical and hard to follow. A different format might help, including a flow diagram.</p>	<p>We have kept the Checklist as simple as possible whilst requiring a level of detail necessary to demonstrate compliance.</p> <p>Action: Table 1.2. is now provided to summarise the requirements and signpost applicants to the relevant sections and the Overheating section has been streamlined.</p>
<p>Is there a transition period?</p>	<p>This document has been under consultation with applicants since Autumn 2017.</p>
<p>Will the Checklist be required for applications in the "free go" system?</p> <p>Will the Checklist be required for applications who have had submitted pre-applications prior to the Checklist's adoption?</p>	<p>Yes it will. Applicants are expected to be aware of the Checklist as a result of the long consultation period that has been undertaken.</p>
<p>Will the Checklist be reviewed?</p>	<p>The Checklist is a living document and is intended to be reviewed and updated to reflect changing standards and practices and to improve its usability</p>

COMMENTS ON THE CHECKLIST SECTIONS

ENERGY

Building design may change through the planning process and insufficient detail may be known for a meaningful energy assessment. This may reduce the accuracy of Part L energy assessments by necessitating use of proxy figures in the modelling.

Key energy decisions are made by the time a design is submitted to planning. It is acknowledged that proxy figures may have to be used. However factors such as orientation and glazing are planning considerations and should be assessed at the application stage in conjunction with other issues.

Suggestion that Part L assessments are required at a later stage through a pre-commencement condition instead of with the planning application.

The pre-commencement stage would be too late to change the design without significant cost and delay if the standards have not been met.

Will developers need to submit further calculations as the design changes during the planning process? The cost of this could be prohibitive.

Applicants need to submit the Checklist twice – once at the application stage and once post-completion to discharge conditions. Additional calculations are not required as the design evolves, however applicants should be keeping track of the impact of design changes on performance to avoid non-compliance at the condition discharge stage.

Would a solar study be suitable instead of Building Regulations documentation to demonstrate that design has been maximised for energy performance?

Solar orientation is only one aspect of an energy strategy. A Part L assessment considers orientation as well as other important factors such as glazing, fabric and heating systems.

A “block compliance” approach should be taken to buildings with multiple units, as per Building Regulations.

Action: This approach has now been adopted

Overheating assessments should be required for representative dwellings within an apartment block instead of the whole block.

Action: This approach has now been adopted

Why do developers of major proposals have to deliver carbon savings through renewables to comply with SCR1 rather than energy efficiency?

Action: We are reviewing our approach to energy efficiency and renewable energy in the Local Plan.

Energy efficiency is rewarded through the baseline for compliance with SCR1 and required through the overarching 19% carbon reduction benchmark. On-site renewables are an important component of decarbonisation.

Can the SPD clarify whether gas-fired Combined Heat and Power is counted towards the renewable energy target?

Action: It has been further clarified in the text that gas CHP is not renewable energy however it can be counted as an energy efficiency measure.

Concern that gas CHP still uses fossil fuel.

Proposals for heat networks are to state their decarbonisation strategy.

HEAT NETWORKS	
SPD should address issues that have arisen around heat networks regarding cost to users.	These are not issues that can be addressed through the planning system. National guidance and regulation is emerging which seeks to address these issues.
Is biomass heating suitable for heat networks in Bath given air quality issues?	Air quality is of paramount importance in Bath. Air quality will be a consideration if biomass is proposed in any location.
WATER	
Part G is seldom properly enforced. Suggested alternative is the AECB Water Standard	National policy limits the ability of LPAs to set water efficiency standards to the Part G "Optional" 100 litre standard
Suggestion to allow the Part G "fittings" approach as an alternative to completing the water calculator.	Action: The Checklist has been amended to allow a "Fittings" approach to be used.
Can there be an exemption for rainwater harvesting on dense flatted schemes?	Most schemes should be able to incorporate some form of rainwater harvesting, from a simple water butt to rainwater or greywater use. If there are practical reasons why it is not possible, applicants can submit this for consideration in Section 7: Non Compliance
OVERHEATING	
The overheating requirement should be strengthened since this is an increasingly important issue. Applicants should be required to pass more of the compliance criteria for CIBSE methodology and for more scenarios. Also local methodologies could be developed to specify optimal inputs for the model.	Action: Review for Local Plan Action: The consultation draft SPD stated that overheating assessments would be required by a pre-commencement condition. To increase the ability to scrutinise overheating performance, this requirement has been moved forward to the application stage.
The Passivhaus methodology allows for an equally rigorous approach to overheating	Action: A "Passivhaus Track" for overheating will be considered for the new Local Plan.
Include Waste Water Heat Recovery as an energy efficiency measure, a section on Thermal bridging and glazing percentages.	Action: The Checklist has been updated accordingly.
NON-COMPLIANCE	
The wording is too vague. A zero-tolerance approach to non-compliance should be taken to reflect the urgency of climate change.	We aim to be as rigorous as possible whilst retaining some flexibility in cases where developers are not able to meet the requirements.

<p>There is no policy basis for requiring a viability test; rather the standards should be applied flexibly.</p>	<p>It is standard practice to require evidence to accompany cases for non-compliance. The wording allows for a high degree of rigour whilst retaining the ability for officers to assess how to determine non-compliance on a case by case basis.</p>
<p>Will the Checklist lead to protracted viability assessments?</p>	<p>Our evidence shows that the standards in the Checklist should be viable to deliver so we do not expect viability assessments often. If an applicant proposes non-compliance on viability grounds the Council may require a full viability assessment and for the applicant to cover the cost of the Council to conduct an independent review of the viability assessment as per existing practice in other policy areas.</p>