

## **Guidance note for the implementation of policies in the Core Strategy following the Housing Standards Review**

This note explains how certain parts of Core Strategy policy will be applied in light of the Government's Housing Standards Review and the introduction of 'new national technical standards'.

### **Policy Context**

The Government has published a new approach for the setting of technical standards for new housing. The Government set out its policy on the application of these standards in decision taking and plan making in a [Ministerial Statement](#) issued on 25 March 2015, which also withdraws the Code for Sustainable Homes as a national standard for all but legacy cases<sup>1</sup>. Ministerial Statements are a material consideration in planning decisions. Local planning authorities have the option to set additional technical requirements exceeding the minimum standards for Building Regulations in respect of access and water, and an optional nationally described space standard.

The Planning and Energy Act 2008 sets out the allowance for local authorities to set locally derived energy efficiency targets higher than those in the Building Regulations Part L within their local plans. Accordingly, Core Strategy policy CS22 on Sustainable Construction sets out how residential development is required to comply with tighter energy reduction and water efficiency standards as per the Code for Sustainable Homes.

The Deregulation Act was given Royal Assent on 26 March 2015, but the amendments to the Planning and Energy Act removing the opportunity for local planning authorities to set local energy efficiency targets has not yet received its commencement order. Until the amendment is commenced, Government expect local planning authorities to take the Ministerial Statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent. Until the Government confirms next steps on the path to 'nearly zero energy', the Council will therefore continue to apply water and energy standards equivalent to Code Level 4.

The following guidance sets out the Council's approach to water efficiency, energy efficiency and access taking into account Planning Practice Guidance on 'Housing – Optional Technical Standards'.

### **Approach to Water Efficiency**

As per the Ministerial Statement, from 1 October 2015 existing Local Plan and supplementary planning document policies relating to water efficiency should be interpreted by reference to the nearest equivalent new national technical standard. Decision-takers should only require compliance with the new national technical standards where there is relevant current Local Plan policy.

Policy CS22 sets out how from 1 April 2016 new residential development will be required to meet the water components of Code Level 5 "or any future national requirement". The policy allows scope for future national policy to be applied within the context of the policy as it exists. The Council will therefore implement the new optional requirements for water efficiency as set out within Building Regulations 2010 (as amended), and in light of new Government policy as follows:

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<sup>1</sup> Legacy cases are where planning permission has been granted prior to the date of the Statement (25 March 2015) stipulating discharge of a code level - where conditions have been imposed relating to the Code these will need to follow the normal process for discharge.

**All new residential development will be required to achieve as a minimum the optional requirement set through Building Regulations for water efficiency that requires estimated water use of no more than 110 litres/person/day.**

The optional requirement is set out under Part G of Schedule 1 and regulation 36(2b). Effectively, the optional requirement is exactly the same as the previous Code for Sustainable Homes Level 3 requirement of 105 litres/person/day as this was a measure of internal water use only and did not include external water use in the calculation. Code Level 3 is well below the requirements of policy CS22, which is supported by local evidence demonstrating need and viability. It is therefore envisaged that this could have a positive effect on development viability.

#### *Complying with the requirement*

The Council will ensure compliance by means of planning conditions specifying that the optional requirement as set out above will apply to the development. Applicants are encouraged to submit the required evidence at the earliest opportunity – preferably at planning application validation stage. If sufficient evidence is not submitted at planning application validation stage, or during the life of a planning application, a pre-commencement planning condition will be used to confirm that the development will be able to achieve the required standard prior to construction starting; and evidence should be in the form of a design stage water efficiency calculator (as per the methodology set out in Appendix A of Approved Document G). In all cases, a pre-occupation planning condition will be used to conclusively show that the standard has been achieved prior to the occupation of dwellings; and evidence will be in the form of the notice submitted to the local authority under Regulation 37 of the Building Regulations 2010, as amended (see paragraphs 2.13-2.16 of Approved Document G for guidance).

People who are responsible for building work (e.g. agent, designer, builder or installer) must ensure that the work complies with all applicable requirements of the Building Regulations. Where an optional requirement is made a condition of the planning permission the developer has a statutory obligation to inform the Building Control Body that an optional requirement has been imposed. A local authority may not issue a completion certificate under regulation 17 of the Building Regulations or an approved inspector a final certificate under section 51 of the Building Act unless satisfied that any imposed optional requirement has been complied with.

### **Approach to Energy Efficiency**

Policy CS22 sets out how from 1 April 2016 new residential development on both previously developed land and greenfield sites will be required to meet the energy and carbon dioxide component of Code for Sustainable Homes Level 5 “or any future national requirement”. In accordance with the Ministerial Statement, the Council will require standards equivalent to the outgoing Code Level 4 as follows:

**All new residential development will be required to achieve not less than a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the 2013 Building Regulations.**

It is not expected that meeting this standard will compromise development viability based on current evidence underpinning policy CS22 of the Core Strategy.

Guidance is given in Approved Document L1A (2013 edition). Code Level 4 has become a 19% improvement over Part L 2013, rather than a 25% improvement over Part L 2010 (as referred to in policy CS22) – roughly the same performance standard.

*How to meet the requirement*

The advice in the Climate Change SPD still stands in that all schemes should use the energy hierarchy. Passive, fabric based measures such as enhanced insulation and airtightness should always be investigated first as these are the easiest for new residents to use and enhance the longevity of the sustainability measures. After this, energy efficiency measures such as mechanical ventilation with heat recovery should be used. Finally, sources of decentralised energy and renewable power should be considered to further reduce the DER to the required level. Further advice on how to approach energy efficient design is in Section 4 of the Climate Change SPD.

*Establishing compliance with the requirement*

The Council will ensure compliance by means of planning conditions specifying that the requirement as set out above will apply to the development. The required energy efficiency standard is higher than Building Regulations and could require changes to a building regulations compliant design in order to meet it, such as changes to building footprints, materials and LZC energy. Applicants are therefore strongly encouraged to submit the required evidence at the planning application validation stage. If sufficient evidence is not submitted at this stage, or during the life of a planning application, a pre-commencement planning condition will be attached to any planning permission to confirm that the development will be able to achieve the required standard prior to construction starting. Evidence required will be in the form of a design stage SAP worksheet - produced by an accredited energy assessor - submitted with the planning application (or to discharge a pre-commencement condition) showing how the required standard will be met, together with a short method statement setting out the measures which would be put in place.

In all cases, a pre-occupation planning condition will be used to conclusively show that the standard has been achieved prior to the occupation of dwellings; and evidence will be in the form of an as-built SAP worksheet – produced by an accredited energy assessor - clearly demonstrating that the requirement has been met for the completed building.

<b>Schedule of Evidence Required</b>	
<b>Design Stage</b>	<b>Post Construction Stage</b>
Documentary evidence submitted at planning application validation stage confirming the TER, DER and percentage improvement of DER over TER based on design stage SAP outputs*	Documentary evidence submitted to discharge a pre-occupation planning condition confirming the TER, DER and percentage improvement of DER over TER based on as-built SAP outputs*
Short method statement setting out the measures which would be put in place.	
*Dated outputs using SAP methodology according to the requirements defined in AD L1A, with accredited energy assessor name and registration number, assessment status, plot number and development address. An accredited energy assessor is a person registered with an accredited energy assessment scheme provider. The scheme provider will be licensed by Communities and Local Government to accredit competent persons to assess the CO2 emission rates of domestic buildings for the purposes of demonstrating compliance with Building Regulations.	

All new residential development should continue to submit an Energy Statement with the scheme (as per guidance in the Climate Change SPD) setting out the development's approach to energy provision and energy efficiency.

Any schemes which already have planning permission accompanied by conditions requiring compliance with the Code (i.e. legacy cases given planning permission before 25 March

2015) should still meet the required Code standards using Code assessments<sup>2</sup>, unless a variance of condition application is made.

*What if the required standards cannot be achieved?*

Policy CS22 of the Core Strategy is underpinned by evidence demonstrating that the required standards would not compromise development viability. The costs of achieving Code Level 4 energy and water standards have also fallen considerably, so it is not considered that the standards threaten the viability of any scheme. However, if applicants feel that the standards would not be achievable due to technical or financial viability grounds, the Council will require evidence to back up this position as per guidance in section 3.3 of the Climate Change SPD.

**Other Parts of Policy CS22**

For the avoidance of doubt, **all other parts** of Policy CS22 and related guidance in the Climate Change SPD will still apply. Please note in particular that non-residential development must still comply with BREEAM standards in the policy, and reduction of carbon emissions for non-residential development where total energy consumption is high. The Ministerial Statement also confirmed that the National Planning Policy Framework policy allowing the connection of new housing development to low carbon infrastructure such as district heating networks would *not* be modified.

**Approach to accessibility and wheelchair housing standards**

Core Strategy policy CS13 Older people and vulnerable groups requires new specialist accommodation to incorporate “Lifetime Homes” standards and be capable of being readily adapted to meet the needs of those with disabilities and the elderly. A percentage of new specialist accommodation is required to be fully wheelchair accessible.

The 2015 edition of Approved Document M – Access to and use of buildings: Volume 1 – Dwellings introduces three categories of dwellings:

Category 1	Visitable dwellings	M4(1)	This is mandatory for all new dwellings and is not optional. This means that reasonable provision should be made for people to gain access to and use the dwelling and its facilities. This should include most people, including wheelchair users.
Category 2	Accessible and adaptable dwellings	M4(2)	This optional standard is broadly equivalent to Lifetime Homes standards. This requires that provision is made within new dwellings to meet the needs of occupants with differing needs including some older and disabled people and <i>allow for the adaptation of the dwelling</i> to meet changing needs of occupants over time. This means that features are provided to enable common adaptations to be carried out in the future to increase the accessibility and functionality of the building.
Category 3	Wheelchair user dwellings	M4(3)	An optional standard with two sub-categories: M4(3)(2)(a): wheelchair adaptable: a dwelling constructed with the potential to be adapted for occupation by a wheelchair user e.g. providing space for the future

<sup>2</sup> The Code will remain open to new registrations at [www.thecsh.co.uk](http://www.thecsh.co.uk).

			installation of a lift; or M4(3)(2)(b): wheelchair accessible: a dwelling constructed to be suitable for immediate occupation by a wheelchair user e.g. by installing a lift.
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The requirements in policy CS13 will now be interpreted by reference to the nearest equivalent new national technical standards. The standards sought by the Council are clarified as follows:

**New specialist accommodation should incorporate ‘Optional requirement M4(2): Category 2 – Accessible and adaptable dwellings’, and thus be capable of being readily adapted to meet the needs of those with disabilities and the elderly.**

Part M of the Building Regulations sets a distinction between wheelchair accessible (a home readily useable by a wheelchair user at the point of completion) and wheelchair adaptable (a home that can be easily adapted to meet the needs of a household including wheelchair users) dwellings. Planning Practice Guidance (paragraph 009) states that policies for *wheelchair accessible homes* should be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling. The Category 3 optional standard M4(3)(2)(b) may therefore only apply to social rented and affordable rented homes. The Category 2 optional standard M4(2) and Category 3 optional standard M4(3)(2)(a) can be applied irrespective of tenure because they relate to *wheelchair adaptable dwellings*.

Where policy CS13 states that “a percentage of new specialist accommodation will be required to be fully wheelchair accessible”, this will be set through ‘Optional requirement M4(3): Category 3 – wheelchair user dwellings’. However, as per Planning Practice Guidance this optional standard will only be applied to dwellings where the local authority is responsible for allocating or nominating a person to live at that dwelling (e.g. social rented and affordable rented specialist accommodation).

The Council will *encourage* new specialist accommodation to incorporate M4(3)(2)(b) standards irrespective of tenure – and particularly where the accommodation is clearly destined for occupation by wheelchair users (e.g. retirement homes or care homes) – in order that it fully meets the needs of future occupants who use wheelchairs.

Core Strategy policy CS21 Design requires proposals for new development to meet a series of criteria, including ensuring that the building is adaptable to allow scope for changes to be made to meet the needs of the occupier (e.g. life time homes and modern business needs). This requirement can be achieved in a number of ways - not necessarily through Building Regulations. The Council will, however, encourage all new dwellings which do not fall under the scope of policy CS13 to meet M4(2) standards where relevant, practical and viable. It is recognised that a key feature of M4(2) homes is that they provide step free access to and within a dwelling, and to any private amenity space. Where step free access would be unviable or impractical, such as in a block of flats providing four storeys or less, any such homes will only be required to meet M4(1) standard.

#### *Complying with the requirement*

The Council will establish compliance with these requirements by means of a planning condition specifying which optional requirement(s) will apply to the development. Where an optional requirement is made a condition of the planning permission the developer has a statutory obligation to inform the Building Control Body that an optional requirement has been imposed. A local authority may not issue a completion certificate under regulation 17

of the Building Regulations or an approved inspector a final certificate under section 51 of the Building Act unless satisfied that any imposed optional requirement has been complied with.

### **Other Parts of Policy CS13**

For avoidance of doubt, all other parts of Policy CS13 will still apply.

### **Useful Guidance**

The following are all available on the Planning Portal at [www.planningportal.co.uk/info/200135/approved\\_documents](http://www.planningportal.co.uk/info/200135/approved_documents):

- Approved Document G – Sanitation, hot water safety and water efficiency (2015 edition with 2016 amendments)
- Approved Document L1A: Conservation of fuel and power in new dwellings (2013 edition with 2016 amendments)
- Approved Document M – Access to and use of buildings: Volume 1 – Dwellings (2015 edition incorporating 2016 amendments)