

Planning

HEAD OF SERVICE: [REDACTED]



Listening Learning Leading



Contact Officer: [REDACTED]

Email: [REDACTED]

Telephone: [REDACTED]

Sent by email:

FutureHomesandBuildingsStandards@levellingup.gov

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Dear Department for Levelling Up, Housing and Communities,

Consultation for The Future Homes and Buildings Standards: 2023 consultation

Thank you for providing South Oxfordshire and Vale of White Horse District Councils (South and Vale) with the opportunity to comment on the Consultation for The Future Homes and Buildings Standards: 2023 consultation.

I would be happy for DLUHC to contact me to clarify or get further information on the responses provided.

Yours sincerely

[REDACTED]

[REDACTED]

C.Build E FCABE BSc(hons)

South Oxfordshire and Vale of White Horse District Councils
Abbey House, Abbey Close, Abingdon, OX14 3JE

Tel: [REDACTED] Mob: [REDACTED]

Web: www.whitehorsedc.gov.uk & www.southoxon.gov.uk

Email: [REDACTED]

Question 7. Which option for the dwelling notional buildings (for dwellings not connected to heat networks) set out in The Future Homes Standard 2025: dwelling notional buildings for consultation do you prefer?

- a. Option 1 (higher carbon and bill savings, higher capital cost)

Question 8. What are your priorities for the new specification? (select all that apply)

- lower bills
- carbon savings
- Other: Homes which are high quality, cost-effective, affordable, practical, and safe.

Question 9. Which option for the dwelling notional buildings for dwellings connected to heat networks set out in The Future Homes Standard 2025: dwelling notional buildings for consultation do you prefer?

- Option 1 (higher carbon and bill savings, higher capital cost)

Question 10. Which option do you prefer for the proposed non-domestic notional buildings set out in the NCM modelling guide?

- a. Option 1

Question 11. What are your priorities for the new specification?

- lower bills
- carbon savings
- Other: Non-domestic buildings which are high quality, cost-effective, affordable, practical, and safe.

Question 12. Do you agree that the metrics suggested above (TER, TPER and FEE) be used to set performance requirements for the Future Homes and Buildings Standards?

- c. No, I think delivered energy should be used.

We support the delivered energy metric, as it can be measured post occupancy. Primary energy is a confusing metric.

It should also include an estimate for unregulated energy which is not currently covered by building regulations.

We are also in favour of a fabric energy efficiency metric, i.e. an absolute metric based on space heating demand because it is much more accurate.

Question 13. Do you agree with the proposed changes to minimum building services efficiencies and controls set out in Section 6 of draft Approved Document L, Volume 1: Dwellings?

- a. Yes

Question 14. Do you agree with the proposal to include additional guidance around heat pump controls for homes, as set out in Section 6 of draft Approved Document L, Volume 1: Dwellings?

a. Yes

Question 15. Do you agree that operating and maintenance information should be fixed to heat pump units in new homes?

a. Yes

Question 17. Do you agree with the proposed changes to Section 4 of draft Approved Document L, Volume 1: Dwellings, designed to limit heat loss from low carbon heating systems?

b. Yes, and I want to provide additional suggestions or information to support my view.

Paragraphs 4.16b to 4.18b of the approved document states an “onsite audit should be undertaken to confirm that the designed details have been constructed” and that “photographs of the details taken”.

In our experience the photographic evidence that is required as part of the current 2021 uplift/ change in Regulations is still not being provided in every instance. Some Energy Assessors have informed us a caveat has been agreed as an interim measure because developers were not aware of the requirement.

Based on the slow take up by industry to adopt this new standard it would seem the message about bridging the performance gap is not reaching the intended audience. Whilst our Building Control Team do their best to educate developers it is an uphill battle to achieve compliance and so far, there seems little progress to bridge the performance gap/ improve poor build quality in some instances. Better information and messaging to address this situation which will inform developers and help them understand what is expected from them would be welcomed.

We are also unable to inspect all the different stages of installation – continuity of insulation, thermal bridging, air tightness and limiting heat losses and gains from building services. We know it is the responsibility of the person carrying out the work to meet the functional requirements, but these areas of the construction are often where developers are most likely to cut corners. There is also still a lack of understanding of the importance of good installation and good performance and how poor workmanship can affect the energy efficiency of the building when completed.

Better funding to resource building control bodies so there is additional capacity to inspect work more rigorously is needed.

Better publicity and training to positively promote the Building Regulations to show that it is not just about achieving the minimum standard but about building better – right across the board would be welcomed.

It would also be useful if the Energy Assessor preparing the Home Energy Model (HEM) along with the developer had to sign the as designed BREL as well as the as built. This would provide building control bodies with confidence that the developer is aware of the design being proposed and has also bought into the design.

Question 18. No comment.

Question 19. No comment.

Question 20. No comment.

Question 21. Do you agree that the current guidance for buildings with low energy demand which are not exempt from the Building Regulations, as described in Approved Document L, Volume 2: Buildings other than dwellings should be retained without amendment?

a. Yes

Question 22. Do you agree that lifts, escalators and moving walkways in new buildings (but not when installed withing a dwelling) should be included in the definition of fixed building services?

a. Yes

Question 23. No comment.

Question 24. Do you have any further comments on any other changes to the proposed guidance in draft Approved Document L, Volume 2: Buildings other than dwellings?

a. No

Question 25. Should we set whole-building standards for dwellings created through a material change of use?

a. Yes

Question 26. Should the proposed new MCU standard apply to the same types of conversion as are already listed in Approved Document L, Volume 1: Dwellings?

a. Yes

Question 27. Should different categories of MCU buildings be subject to different requirements?

a. Yes

Question 28. Which factors should be taken into account when defining building categories?

- height of the building, i.e., low versus mid- to high-rise buildings
- floor area of the building
- whether the conversion is a part- or whole-building conversion

Question 29. Do you agree with the illustrative energy efficiency requirements and proposed notional building specifications for MCU buildings?

a. Yes

Question 30. N/A

Question 31. Do you agree with using the metrics of primary energy rate, emission rate and fabric energy efficiency rate, if we move to whole dwelling standards for MCU buildings?

c. No (please provide justification)

For same reasons as stated in Question 12.

Question 32. Under what circumstances should building control bodies be allowed to relax an MCU standard?

a. Building control bodies should be able to relax under the following circumstances (please provide further details).

On the provision of a report prepared by an industry expert. For example, an accredited energy assessor to justify why it is not either technically, economically, or functionally possible to meet the minimum standards.

Question 33. Do you have views on how we can ensure any relaxation is applied appropriately and consistently?

- there should be guidance on circumstances where relaxation of the notional standard may be appropriate and
- there should be monitoring of how relaxation is applied.

Both are important to make sure there is consistency between individual building control bodies and across both the private and public sector building control.

Question 34. Should a limiting standard be retained for MCU dwellings?

a. Yes (please provide further details)

It is important to retain a limiting standard for MCU dwellings to prevent interstitial and surface condensation (mould growth) for health reasons.

Additionally, the purpose of the Future Homes Standards is to improve the energy efficiency of buildings. These improvements should extend to developments where there is a change of use to create dwellings or more dwellings to ensure that the occupants benefit from more energy efficient dwellings.

Carrying out improvements to the energy efficiency of the buildings being converted are practically and economically more feasible at development stage.

Question 35. If a limiting standard is retained, what should the limiting standard safeguard against?

- risk of moisture, damp, and mould
- high energy demand and energy bills (please provide recommended values referring to ADL volume 1 Table 4.3)

The threshold and improved values Table 4.3(a) and (b) have not changed for some while and whilst they may prevent risk of moisture, damp they will not provide anywhere near the minimum standard we expect new dwellings to achieve. Occupants of dwellings formed by change of use deserve better.

If the problem of poor performing homes is to be tackled where there is a change of use the threshold and improved limiting values need to be decreased (improved). If it is not possible to meet better standards, then this should be justified by a report prepared by an industry expert. For example, an accredited energy assessor to justify why it is not either technically, economically, or functionally possible to meet the minimum standards.

Question 36. Do you wish to provide any evidence on the impacts of these proposals including on viability?

b. No

Question 37. Do you agree that a BREL report should be provided to building control bodies if we move to energy modelling to demonstrate compliance with MCU standards?

c. Yes, and photographic evidence is needed.

Question 38. Do you agree that consumers buying homes created through a material change of use should be provided with a Home User Guide when they move in?

- a. Yes

Question 39. Do you agree that homes that have undergone an MCU should be airtightness tested?

- b. Yes, and I'd like to provide further information

Consideration should be given to testing before works commence to record the air tightness of the original building with a second test once works are completed. This will provide evidence that the works have not made the building any less satisfactory. It will also help building control bodies to determine compliance and agree with developers what is technically, functionally, and economically feasible.

Question 40. Do you think that we should introduce voluntary post occupancy performance testing for new homes?

- a. Yes

Question 41. Do you think that the government should introduce a government-endorsed Future Homes Standard brand? And do you agree permission to use a government-endorsed Future Homes Standard brand should only be granted if a developer's homes perform well when performance tested? Please include any potential risks you foresee in your answer.

- c. Yes, but I think there are risks associated with introducing a government-endorsed brand

We support building to high standards however Government endorsement is not the only way to praise high standards and we would welcome alternative proposals being investigated to endorse good brands.

Question 42. Do you agree with the proposed changes to Approved Document F, Volume 1: Dwellings to improve the installation and commissioning of ventilation systems in new and existing homes?

- b. No (please provide justification)

The guidance in paragraph 1.5a says "the person carrying out the work is suitably competent (for example, they are a registered competent person)."

We do not have the expertise within our Local Authority to check installation and commissioning of ventilation systems to ensure they meet with the requirements of the building regulations.

Ventilation systems are specialist areas like electrical, solid fuel appliances and gas and oil boilers installations. Currently we have to engage external contractors to undertake checks of electrical and solid fuel burners on our behalf because these are offered as options to achieve compliance.

Contractor costs are usually high due to demand (more profitable work is available on more lucrative projects). In our experience, in particular with electrical installation customers request a quotation for us to control the works but invariably never make an application. We assume that the works are then carried out by an electrician who is not registered under a CPS or may be a DIYer. IN these instances there is no safety checks being undertaken which is in complete contrast to what the regulations set out to achieve.

Question 43. Do you agree with the proposal to extend Regulation 42 to the installation of mechanical ventilation in existing homes as well as new homes?

a. Yes

Question 44. No comment.

Question 45. No comment.

Question 46. No comment.

Question 47. Do you agree with proposed changes to Approved Document L, Volume 1: Dwellings and Approved Document F, Volume 1: Dwellings to (a) clarify the options for certifying fixed building services installations and (b) set out available enforcement options where work does not meet the required standard?

a. No (please provide justification)

Response to a) clarify the options for certifying fixed building services installations.

The guidance in paragraph 1.5a says “the person carrying out the work is suitably competent (for example, they are a registered competent person).”

As mentioned in Question 42 we do not have the expertise within our Local Authority to certify fixed building services installations meet with the requirements of the building regulations. Fixed building services are specialist areas and currently we have to engage external contractors to undertake checks of electrical and solid fuel burners on our behalf because these are offered as options to achieve compliance.

Contractor costs are usually high due to demand (more profitable work is available on more lucrative projects). In our experience, in particular with electrical installation customers request a quotation for us to control the works but invariably never make an application. We assume that the works are then carried out by an electrician who is not registered under a CPS or may be a DIYer. IN

these instances there is no safety checks being undertaken which is in complete contrast to what the regulations set out to achieve.

Response to b) set out available enforcement options where work does not meet the required standard.

The approved documents would only appear to refer the reader to “For further information on enforcement and sanctions in the existing system, see Chapter B in Volume 2 of the Manual to the Building Regulations.”

The wording in The Manual is only six short paragraphs B7 to B12. We would suggest the section on Enforcement action” is incorporated into each of the approved documents (like the inclusion of the Regulations relating to change of use) so the reader doesn’t have to hop from one document to another.

If the enforcement action is readily available to read it may help to act as a deterrent against non-compliance and encourage compliance.

Question 48. Do you think the additional information we intend to add to the Home User Guide template, outlined above, is sufficient to ensure home occupants can use their heat pumps efficiently?

a. Yes

Question 49. N/A

Question 50. Do you have a view on how Home User Guides could be made more useful and accessible for homeowners and occupants, including on the merits of requiring developers to make guides available digitally? Please provide evidence where possible.

a. Yes, (please provide further details)

We agree that digital copies instead of paper copies of the Home User Guides stored in a centralised database would be a very useful way of ensuring the longevity of the information passed from homeowner/ occupant to the next. We consider this is essential if the fixed building services are to be operated and maintained correctly throughout their life cycle.

We do also recognise that in some instances paper and other formats of providing the Home User Guide may also be necessary and still need to be accommodated for.

Question 51. Do you think that there are issues with compliance with Regulations 39, 40, 40A and 40B of the Building Regulations 2010? Please provide evidence with your answer.

a. Yes (please provide justification)

The correct operation and maintenance of the fixed building services is paramount to the system operating efficiently. If the systems do not operate

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efficiently, they will not perform as expected. The consequence is the building will not perform as efficiently as it should and meet the aims of the future home standard.

Question 52. Do you think that local authorities should be required to ensure that information required under Regulations 39, 40, 40A and 40B of the Building Regulations 2010 has been given to the homeowner before issuing a completion certificate?

b. Yes, and I'd like to provide further information

We consider that both Local Authorities AND private building control bodies should be required to ensure the information is provided under Regulations 39, 40, 40A and 40B. This would ensure that the homeowners/ occupants receive the correct information to be able to operate and maintain the fixed building services.

Question 53. Do you agree that new homes and new non-domestic buildings should be permitted to connect to heat networks, if those networks can demonstrate they have sufficient low-carbon generation to supply the buildings' heat and hot water demand at the target CO2 levels for the Future Homes or Buildings Standard?

a. Yes

Question 54 to 58. No comments.

Question 59. Do you agree that the draft guidance provides effective advice to support a successful smart meter installation in a new home, appropriate to an audience of developers and site managers?

b. No

Smart meters only appear to be mentioned under "Metering in new dwellings" page 46 and then it is simply a NOTE and a recommendation.

This is not adequate in our opinion to support a smart meter being installed. Please clarify what guidance is being referred to.

Question 60. Do you agree that voluntary guidance referenced in draft Approved Document L, Volume 1: Dwellings is the best approach to encouraging smart meters to be fitted in all new domestic properties?

b. No. If not, is there anything else you think the government should be doing to ensure that smart meters are fitted in all new build properties?

Yes, we would recommend it is mandatory that every new dwelling is fitted with a smart meter.

Smart meters are an extremely effective way of occupiers monitoring energy use.

Used in conjunction with PV they enable homeowners to visually see performance and take advantage of solar power to supply household appliances e.g. do the washing when the solar is at the necessary output.

Question 61. Do you agree that it should be possible for Regulation 26 (CO2 emission rates) to be relaxed or dispensed with if, following an application, the local authority or Building Safety Regulator concludes those standards are unreasonable in the circumstances?

b. No (please provide justification)

We have not had any instances where it has not been possible for developers to comply with the new regulations, neither have we had to relax Regulation 26. We therefore see no reason to relax the requirements of Regulation 26 (CO2 emission rates).

Question 62. N/A

Question 63. Do you think that local authorities should be required to submit the applications they receive, the decisions they make and their reasoning if requested?

Yes. This is essential to ensure transparency within the system. These decisions should also be published in a similar way to determinations published by Government. This would provide useful examples of what has been accepted by other building control bodies.

We understand that only the Local Authority can “formally” relax a building regulation, but we believe that informal relaxation goes on within private sector and we would expect ANY relaxing of a regulation including an exemption to be treated the same way and should be reported on. In our opinion this is essential to provide a clear picture of where energy efficiency measures are being accepted that are lower than the minimum standards. This is important to understand why some buildings may not be performing as anticipated, provide transparency within the sector and create a level playing field between private and public sector building control.

Question 64. Are there any additional safeguards you think should be put in place to ensure consistent and proportionate use of this power?

See 63 above.

Question 65. Do you agree that Part L1 of Schedule 1 should be amended, as above, to require that reasonable provision be made for the conservation of energy and reducing carbon emissions?

a. Yes

Question 66. Do you agree that regulations 25A and 25B will be redundant following the introduction of the Future Homes and Buildings Standards and can be repealed?

c. No (please provide justification)

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We do not agree that the standards homes, and non-domestic buildings will be 'zero-carbon ready', meaning that no further work will be necessary to ensure they have zero carbon emissions as the electricity grid continues to decarbonise.

Question 67 & 68. No comments.

Question 69. Minimum standards already state that heat pumps should have weather compensation and we would like to understand if stakeholders think this is enough to ensure efficiency of heat pumps under the varying weather conditions across England. Should the notional building use local weather?

a. Yes

Question 70. No comment.

Question 71. Do you agree with the revised guidance in Approved Document L, Volume 1: Dwellings which states that you should not provide a chimney or flue when no secondary heating appliance is installed?

a. Yes

Question 72 to 77. No comment

Question 78. Which option describing transitional arrangements for the Future Homes and Buildings Standard do you prefer? Please use the space provided to provide further information and/or alternative arrangements.

a. Option 1 - a 6-month period between the laying date of the Future Homes and Buildings Standard regulations and publication of full technical specification and the regulations coming into force.

Question 79. Will the changes to Building Regulations proposed in this consultation lead to the need to amend existing planning permissions? If so, what amendments might be needed and how can the planning regime be most supportive of such amendments?

a. Yes (please provide further information)

Where building works is not sufficiently commenced the energy efficiency of the building will need to be reviewed and very likely redesigned to incorporate additional energy efficient systems. This may involve measures that had not been considered at the original planning stage and may require an amendment to the original planning permission granted.

Question 80. Do you agree that the 2010 and 2013 energy efficiency transitional arrangements should be closed down, meaning all new buildings that do not meet the requirements of the 2025 transitional arrangements would need to be built to the Future Homes and Buildings Standards?

a. Yes

Question 81. What are your views on the proposals above and do you have any additional evidence to help us reach a final view on the closing of historical transitional arrangements?

We fully support closing of historical transitional arrangements. In our experience some developers (not all) are still trying to game the system and build to historical standards.

We had a development of 12 houses where the original developer excavated foundations for one plot, never laid the foundation concrete for that plot and contested why we would not accept works had commenced on the whole development when the land was resold last year (about 4years after the original foundation excavation).

Question 82. Part O does not apply when there is a material change of use. Should it apply?

b. Yes, but only for some types of conversion (please list from reg 5a-k or describe the type).

Consideration should be given to conversions under Regulation 5a, 5b, 5f and 5g.

We acknowledge that it is unlikely the exact same assessment could be applied to both a new dwelling and an existing building being converted to a flat or dwelling but there should be an assessment carried out on the likelihood of the building overheating where there is a conversion. This is vitally important to make ensure tenable living conditions for occupants.

Question 83 to 93. No comment.