

THE FUTURE HOMES STANDARD: CHANGES TO PARTS L & F OF THE BUILDING REGULATIONS – CONSULTATION



Written Evidence Submitted by the British Property Federation

British Property Federation

The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £100bn to the economy in 2018 and supported more than 2 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.

The BPF has a committee dedicated to sustainability issues, reflecting the priorities that its leading members place upon issues of resource efficiency, environmental enhancement, and climate change. We are committed to the sustainability agenda and have a leading role to play in addressing the impacts of climate change. We also convene 17 other committees touching on real estate sectors and issues spanning Residential Property, Planning, and Finance to name but a few. In response to the Ministry of Housing, Communities & Local Government consultation on changes to Parts L and F of the Building Regulations for new dwellings, we have sought views from across disciplines and operational models, given the scope of these proposals, and the potential impact across dwelling types.

Top Line Response

Within the specific parameters outlined in these consultation proposals we support the government's preferred policy option to deliver a 31% reduction in carbon emissions compared to the current standard, and more broadly, we support the overdue review of Parts L and F of the Building Regulations given the importance of ensuring that the decarbonisation of the built environment is driven by up to date building, design, and construction standards. We hope that the government commits to regular reviews and updates to the building regulations.

Notwithstanding our support for the preferred policy option, we would encourage the government to give careful thought to the ultimate ambition of achieving a net zero emitting economy by 2050. The UKGBC estimates that 80% of the buildings that will exist in 2050 have already been built. This statistic not only emphasises the need to direct attention to decarbonising the UK's existing building stock but also highlights the longevity of many buildings, and thus the importance of setting efficiency targets/regulations that futureproof for desired outcomes. To this end the government must be certain that the standards proposed within this consultation are sufficient, either in themselves or in combination with other planned measures, to hit net zero in the required timescales.

Further, whilst we support the government's overarching objectives, we have through this submission highlighted a number of matters that require further attention, including but not limited to: the proposed restrictions on local authorities, the absence of embodied carbon considerations, and the broader necessity to assess and create efficiencies with respect to the in-use energy performance of buildings.

Where possible we have sought to provide BPF Comments in relation to the questions posed within the MHCLG consultation document (where indicated, question numbers therefore directly relate to those within the [consultation document](#)).

However, due to the technical nature of the consultation we have provided general feedback where views did not fit within the structure of the consultation questions.

Q4: When, if at all, should the government commence the amendment to the Planning and Energy Act 2008 to restrict local planning authorities from setting higher energy efficiency standard for dwellings?

- a) In 2020 alongside the introduction of any option to uplift the energy efficiency standards of Part L*
- b) In 2020 but only in the event of the introduction of a 31% uplift (option 2) to the energy efficiency standards of Part L*
- c) In 2025 alongside the introduction of the Future Homes Standard***
- d) The government should not commence the amendment to the Planning and Energy Act*

1. The government is right to acknowledge that the disparate application of energy efficiency standards across local authority boundaries can cause confusion and lead to homes being built to different technical specifications. This can also create complications for those planning for and building homes across local authority boundaries, whereby processes, materials and expertise cannot be sufficiently standardised, thus effecting the efficiency of the housing delivery process. The reasoning for the government's recommendation to restrict local authorities from setting higher energy efficiency standards in this regard is sound.

However, the scale of the challenge to address climate change cannot be overstated, nor can the necessity to decarbonise the built environment. Given the scale of the challenge and the need for strong leadership in this sphere, the recommendation to limit local authorities to the new building regulation standards may disincentivise such leadership and in some cases represent a regression.

London is an excellent example of where setting local targets beyond that of Building Regulations has proven viable and successful. Requiring the Greater London Authority to roll back these targets in the immediate term may cause a degree of market uncertainty. The London Plan currently requires a 35% reduction in CO₂ with a 10% reduction in CO₂ through fabric alone. The GLA's 2018 Energy Monitoring Report shows that, of the 129 applications approved by the Mayor in 2017, domestic buildings achieved an average CO₂ reduction of 38.7%, comfortably exceeding the 35% reduction target against Building Regulations. The government's preferred option is a regression on this. Therefore, even with the introduction of a 31% uplift to Part L hard fought progress may be lost. We acknowledge the differences in values across the country and therefore note that any implementation of this policy will need to balance the region specific capacity for delivery.

It is for these reasons that on balance we would support option c), which would allow the government sufficient time to give greater thought to the desired outcomes of these policies. We would emphasise that in amending the *Planning and Energy Act 2008* this should ideally be done in the context of sufficient building regulation standards which ensure that nation-wide consistency is not delivered to the detriment of overall impact. Should this criteria not be met, we would struggle to support the government's proposal to limit local authorities in the standards they can set.

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2. A plausible alternative route would be to not limit local authorities in the standards they set and to provide a forward trajectory for future uplifts to the building regulations. This would allow local authorities to set higher energy performance standards in line with future national requirements, ensuring there is no long-term divergence between these and the nationally applicable building regulations.

Q6: What level of uplift to the energy efficiency standards in the Building Regulations should be introduced in 2020?

a) No change

b) Option 1 – 20% CO₂ reduction

c) Option 2 – 31% CO₂ reduction (the government's preferred option)

d) Other

3. On balance and in recognition of the government's intention to set a tightened set of standards immediately i.e. this year (2020), we support the preferred option 2. This is on the basis that tighter targets would represent a significant challenge for developers and property investors should they be required to meet these within the next 10 months. A target of 31% in CO₂ reductions (Option 2), whilst likely to require greater construction costs than Option 1, will deliver greater CO₂ savings, will likely save households more on their energy bills, and will provide greater flexibility to property designers and developers. We recognise that Option 1 is to be achieved predominantly through higher fabric standards, whilst Option 2 permits the use of onsite renewable energy technology such as low carbon heat and solar PV. As such, Option 2 will not only help to deliver greater carbon savings but will also better-stimulate the market for sustainable technological solutions such as heat pumps, and help increase installation quality as such technologies are used to a greater extent and more frequently.

However, in the context of reaching the ambition of a zero-carbon economy by 2050 there is compelling evidence to suggest that the government should consider the targets and methodology set out within this consultation. Such evidence can be found in [representations](#) made by the London Energy Transformation Initiative (LETI).

Through previous interrelated consultation responses, the BPF has raised the issue of the building performance gap. To this end we have advocated for greater emphasis to be placed on measuring and acting upon the in-use energy performance of buildings. The Committee on Climate Change [estimates](#) that new homes, on average, lose 50% more heat than design estimates expect. Some form of accountability for the in-use performance of buildings is likely to lead to better design and construction accordingly. We note in this context that the new London Plan is proposing that major new developments are required to monitor actual energy use in new dwellings for 5 years post-construction.

There may also be merit in providing alternative compliance routes based on in-use performance. This is to say that an equivalent level of in-use performance or associated rating could be defined as an alternative (and perhaps more flexible) method for complying with the requirements of the building regulations, and ultimately achieving the necessary reductions in energy consumption.

4. Notwithstanding the above, an ambitious national standard of building regulations is a necessary step to ensure the development of a robust supply chain for low-carbon building technology. This is to say that high standards will drive the necessary level of innovation and process change. It should however be noted that it will likely take a short period of time for the market to adjust to tightened regulations, and as such the viability

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of development projects and associated pinch points may vary in the short-term. This is particularly notable for development sites outside of high value geographical locations. Careful thought must therefore be given to the cumulative impact of costs associated with tightened building regulations and other future regulatory requirements (such as mandatory biodiversity net gain and the provision of EV chargepoints) in areas where development viability is marginal.

5. We would also take this opportunity to highlight the significance of embodied carbon i.e. carbon emitted in the manufacture, transport, and construction of building materials. When attempting to maximise energy efficiency and in-use performance it is also important to consider the carbon impact of the processes and materials being used to create the given building. We encourage the government to explore requirements for the assessment of whole life carbon – currently lacking within the Building Regulations – so that low carbon materials and processes are promoted as alternatives to traditional higher emitting construction methods. This will necessarily have to include communications and advocacy from government who may be in a good position to pilot new building methods and materials in public estate projects (much like Homes England's investment in Modern Methods of Construction). As an initial step, the government should consider requiring the assessment and disclosure of whole life carbon impacts in developments.

Q9: Do you agree with the proposal to set a minimum target to ensure that homes are affordable to run?

- a) Yes
- b) No Please explain your reasoning.

6. Whilst we agree that one of the primary ambitions alongside reducing carbon emissions should be to deliver energy savings and greater affordability to residents, we would neither support nor object to the proposals for a minimum target to be set. We would first request clarity on how this might work in practice as it is unclear what the target will be and how homes will be deemed affordable to run given the limitations of Energy Performance certification when determining in-use consumption. We would also highlight the potential for such a target to prohibit the use of all-electric heating systems, as they currently provide greater carbon savings but at a higher cost to the householder.

Further, the consultation document focusses on the affordability of efficiency solutions and measures for the householder but does not consider potential costs for landlords in circumstances of rental accommodation. More detail is required in order to advocate the use of a householder affordability target.

Q13: In the context of the proposed move to a primary energy metric and improved minimum fabric standards, do you agree with the proposal to remove the fabric energy efficiency target?

- a) Yes
- b) No

If no, please explain your reasoning.

7. The Fabric Energy Efficiency Standard (FEES) plays an important role in ensuring lower levels of energy demand. The removal of FEES may lead to technology being used under these current proposals to mask poor fabric performance. New homes should not add to the retrofit burden due to being built with poor building fabric in 2020. Whilst the proposals for a 31% carbon reduction rightly allow flexibility in the way improvements can be delivered, there must be a mechanism in place to ensure a high standard of fabric efficiency and to improve the fabric performance of buildings over time. In the absence of FEES, the 31% improvement could be delivered through the installation of low or zero carbon technologies in buildings with

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sub-optimal fabric standards, leading to avoidable grid demand. A crucial aspect of hitting the UK's decarbonisation targets will be to reduce energy consumption and demand, irrespective of the carbon credentials of the energy sources.

Q60: Do you agree with the introduction of photographic evidence as a requirement for producing the as-built energy assessment for new dwellings?

c) Yes

d) No

8. We support the intent of this policy proposal in that it strives to provide greater certainty that the required building standards are being adhered to. It will help to close the gap between assessed and actual building performance. In this regard the production of photographic evidence is likely to serve as a useful tool to drive an uplift in construction and enforcement standards.

We would however suggest that the government considers circumstances in which photographic evidence is provided but deemed of poor quality (i.e. bad picture quality) and therefore results in delays or abortive construction work.

Further, data and digital records are likely to play an ever-increasing role in creating efficiencies within the built environment. The government may therefore wish to explore the mechanisms that can be used to create and gather digital footprints for buildings. This will not only have implications for the enforcement of standards, but will assist in inevitable future aspirations for the circularity of construction, renovation, and demolition.

Q63 Do you agree with the proposal to specify the version of Part L that the home is built to on the EPC?

a) Yes

b) No

9. We believe the respective Part L version/standard should be specified on an EPC as it will provide greater insight to the consumer and potentially drive a greater understanding of energy efficiency standards in buildings amongst the public. Further, it may act as a useful source of data for future assessment of the UK's domestic building stock.

Q65: Do you agree that the transitional arrangements for the energy efficiency changes in 2020 should not apply to individual buildings where work has not started within a reasonable period – resulting in those buildings having to be built to the new energy efficiency standard?

a) Yes – where building work has commenced on an individual building within a reasonable period, the transitional arrangements should apply to that building, but not to the buildings on which building work has not commenced

b) No – the transitional arrangements should continue to apply to all building work on a development, irrespective of whether or not building work has commenced on individual buildings

If yes, please suggest a suitable length of time for the reasonable period in which building work should have started. If no, please explain your reasoning and provide evidence to support this

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10. We support the proposals for more stringent transitional arrangements as a clear signal to developers that building standards must keep pace with the built environment's ambitions to become iteratively more sustainable. The proposed transitional arrangements will help to expedite the implementation of any tightened standards but will only really deliver maximum impact if the government commits to regular reviews and updates to the Building Regulations.

We suggest that a suitable length of time or 'reasonable period' once a building notice, initial notice or full plans deposit is submitted, is 3 years. This would address the balance between ensuring that the transitional arrangements have the required impact whilst allowing flexibility for projects that have been delayed for practical reasons.

Further, we would welcome clarity on what constitutes 'building work having started'. It would be detrimental to the aspirations of the policy if a broad definition was applied to the commencement of building work and this was subsequently used as a means to defer building to higher standards.

Q67: What is your view on the possible transitional arrangements regarding changes to be made in 2025?

11. Whilst we believe the suggested amendments to transitional arrangements in the short-term appear sound, we would raise some questions over the possible changes that may be considered beyond 2025. The need for a 'reasonable period' is a crucial one, so as to provide developers with certainty and an element of flexibility. The government is right to acknowledge that transitional arrangements exist for good reason – to give assurance to developers on the standards to which they must build and to avoid abortive work. The government is also right to highlight instances in which buildings are being delivered to old standards. We therefore support the tightened transitional arrangements. The government has however identified three potential changes that may be made in 2025.

With reference to the first; should the government consider reducing the reasonable period in 2025, this must be done subject to assessing the use and operation of the transitional arrangements between 2020 and 2025. Whilst we have suggested a reasonable period of 3 years, this should be assessed and tested to ensure that it has not had an adverse impact on delivering phased and/or complex developments. A shortened reasonable period would however be preferable to removal of the transitional protections all together.

With reference to the second and third; it is important to assess the respective cost, resource, and time implications of amending or removing transitional arrangements, as well as preparing and approving fresh full plans. Development projects are often acutely sensitive to delays, as even short or medium-term delays can impact funding arrangements or have implications for construction timescales.

Should you require any further information on any aspect of this submission please contact Alex Green (Assistant Director), on either agreen@bpf.org.uk, or 020 7802 0107.