

Surrey Heath Local Plan EIP

HBF comment on SHBC 24

HBF does not support the Council's proposed modification to SS3a and DH8 to adopt the proposed approach to building emission standard that would require development to deliver a space heating standard of less than 30kwh/m2/annum and total energy use of 40kwh/m2/annum. As part of this the Council also expects the performance of every new home to be assessed against the Passivhaus Planning Package, rather than SAP or the Homes Energy Model (HEM) that is currently being developed to support the Future Homes Standard. HBF consider such an approach to be inconsistent with national policy and in particular the Written Ministerial Statement on Energy Efficiency published in December 2023.

HBF would agree with the Councils that there is a need to act to reduce carbon emissions, however we believe improvements in technical building standards should be delivered through building regulations and the Future Homes Standard which will ensure that new homes are Zero Carbon Ready. This has the distinct advantage over delivering a variety of different approaches across the county, in that it provides a single approach that all developers understand and can be rolled out at scale. This allows supply chains and skills to be improved prior to implementation and ensures that improvements to building standards are actually deliverable from the point at which they are introduced. This is a position that continues to be shared by Government with the WMS reflecting HBF's concerns stating that setting local standards increases complexity, reduces economies of scale and adds to the cost of building new homes and states that such policies should be rejected. As such HBF would recommend that the Council does not seek to include additional energy use standards and instead relies on building regulations and the Future Homes Standard.

However, the WMS does recognise that the 2008 Planning and Energy Act means that Councils can go beyond current standards but only if there is a well-reasoned and robustly costed rationale which ensures:

- That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.
- The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).

HBF does not consider the approach being proposed to be consistent with the WMS nor that the implications of such a policy have been properly assessed in the supporting evidence base.

Firstly, the approach proposed by the Council based on energy use is inconsistent with the approach set out in the WMS and as such is unsound. If the Council are to require standards above those set out in building regulations, they

must be expressed as a percentage of the target emission rate and not as an energy use target in order to avoid fragmentation of the standards with different requirements being set in different areas. This was not only a concern expressed in the WMS but also by the Government at time the Planning and Energy Act 2008 was introduced with minister. As noted by Justice Lieven in her judgment in *Rights Community Action v SSLUHC* ([2024] EWHC 1693 Admin) the minister stated at that time that: *“The intention was for local authorities, in setting energy efficiency standards, to choose only those standards that have been set out or referred to in regulations made by the Secretary of State, or which are set out or endorsed in national policies or guidance issued by the Secretary of State. That approach was taken with a view to avoiding the fragmentation of building standards, which could lead to different standards applying in different areas of the country.”* It is clear that the intention of the original legislation was to ensure that local authorities only set higher standards only in relation to existing technical standards endorsed by the Secretary of State. As such any policy that seeks to require development to go beyond building regulations must be set out as a percentage uplift to TER.

The Council point to the reason set out on page 44 of SHBC 17B as justification for going beyond FHS but without the final response from Government we do not know what those standards will eventually be. However, what is more than likely is that by adopting a different standard through planning policy there is likely to be significant confusion as to how to meet planning policy alongside the requirements of the Future Homes Standard. This will lead to delays in the delivery of new homes in Surrey Heath and potentially lead to more sites coming forward outside of the first five years of this plan. Given that a key test outlined in the WMS relates to housing supply, HBF does not consider the approach to be justified, and the Council should not seek to require standards beyond FHS which will deliver zero carbon ready homes.

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