Draft response to DCLG’s consultation on the Housing Standards technical review
November 2014

Summary
The Combined Heat and Power Association (CHPA) welcomes the opportunity to respond to the Department of Communities and Local Government’s consultation on the Housing Standards technical review. The CHPA is the leading advocate of an integrated approach to delivering energy services using combined heat and power and district heating and cooling.

We are responding to the consultation’s questions related to transitional arrangements and planning issues around energy standards. We understand the review’s aim to decrease overlap between housing standards, and to reduce the cost of unnecessary regulations on house builders.

We welcome the Government’s decision to allow Local Authorities to set minimum energy efficiency standards up to 2016, when the Zero Carbon Homes policy comes into effect.

However, there remains a significant amount of confusion and ambiguity about the ability for Local Authorities to use the Code for Sustainable Homes up to the implementation of the Zero Carbon Homes in 2016. This confusion and ambiguity risk creating regulatory inconsistency, adding costs for developers and slowing house building.

There are several areas where we have some concerns:

- The Impact Assessment fails to fully consider the benefits of continuing to allow Local Authorities to set higher energy efficiency standards and the costs to businesses other than house builders;

- There remains significant uncertainty amongst Local Authorities on their ability to impose reasonable requirements for the use of renewable and low carbon energy sources in their areas. Some of them may be looking at using the National Heat Map tool in their development plans. We recommend the Government issue clear guidance to Local Authorities that clauses 1(1)(a) and 1 (1)(b) of the Planning and Energy Act 2008 to impose reasonable requirements for renewable and low carbon technologies will remain beyond 2016.

- The Government instructions to Local Authorities about the commencement of amendments to the Planning & Energy Act, is creating ambiguity and creates planning risk. Local Authorities should be given clear authority to continue setting minimum energy efficiency standards until the implementation of Zero Carbon Homes.
1. Key benefits not included in the Impact Assessment

The updated consultation Impact Assessment document does not account for the benefits of building new homes to higher energy efficiency levels than those in national regulation.

The Impact Assessment considers separately the costs of local standards to the developers and the costs for society. The policy decision does not appear to have taken into account the benefits of allowing higher local energy efficiency standards to the householder or to UK society in the net present value of the policy. The lack of consideration of the benefits arising from the current position will reduce the Minister’s ability to make an informed judgement about the changes.

Also, under the analysis of costs for business, the Impact Assessment has not considered the cost of less sustainable homes on energy efficiency, renewable and low-carbon energy companies which will invest in and install less products as a result of lower home standards. The Impact Assessment considers only house builders, when other businesses are impacted by these policy changes.

We recommend that the Impact Assessment is updated to reflect both these additional business costs, as well as to include social costs and benefits in determining the policy value.

We also have concerns about the methodology used in the Impact Assessment to value energy savings from higher home standards, and we believe these should be reviewed.

New houses are likely to remain in the housing stock for several decades with heat use more or less constant over their lifetime. In the 2013 Strategic Framework for Heat, the Government identified retrofitting energy efficiency measures in the built environment a key priority to achieve lower energy bills for households and businesses and to curb carbon emissions. Therefore, building new homes to higher energy standards should be recognised as the most cost effective way to reduce households’ energy bills and the overall carbon emissions of the UK’s housing stock.

2. Local Authorities require a clear framework and timetable for changes to energy efficiency policy:

We welcome the Government’s decision to allow Local Authorities to set minimum efficiency standards above national requirements until the Zero Carbon Homes standard is implemented in 2016.

However, current Government policy is confusing to Local Authorities, including CHPA members, and this confusion risks slowing house building.

The timetable:

DCLG sets out in the consultation document its intention to release a Policy Statement in early 2015, when the amendments to the Building regulations will be laid before Parliament. The Regulation is expected to come into force six months after this Policy Statement, subject to Parliamentary approval of amendments to the Building Act 1984 and the Planning and Energy Act 2008.

However, the consultation document sets out that “until the amendment is commenced, we would expect local planning authorities to take the statement of the Government’s intention into account in applying existing policies and not set conditions requiring energy efficiency requirements above a Code level 4 equivalent”.

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Although Government also recognises in the same paragraph that "From the date of the statement, local planning authorities will continue to be able to set and apply policies in their local plan requiring development in their area to comply with energy efficiency standards that exceed the energy requirements of building regulations until the zero carbon home policy has been put in place."

We have heard concerns among our local authorities’ members that the uncertainty around the timing of policy changes is causing delays in new development application process, with some plans being refused on the grounds that they are not in line with Government’s intent whilst others may be approved. This lack of consistency is already impacting property developers trying to navigate the regulations, subsequently curbing investments and slowing house building.

Consequently, the uncertainty about Local Authorities’ ability to use the Code for Sustainable Homes until the Zero Carbon Homes policy is commenced is creating a further degree of complication. Some Councils are already struggling to obtain planning plans’ approval by Planning Inspectors when they require demanding energy efficiency levels, whereas these development plans have been developed accordingly to the previous policy framework.

The policy framework:

Due to serious concerns over the threat of the Merton rule being removed through the 2013 Housing Standard review, the CHPA was involved alongside a significant number of major green sector organisations in writing a letter to The Rt. Hon Stephen Williams¹ further noted in a 07 May 2014 response to stakeholders that “The amendment which has been tabled (…) does not remove the ability of authorities to support planning policies for district heating schemes and other low carbon infrastructure.”

Nonetheless, for many local authorities the implementation of government’s policy is not entirely clear and this is causing several problems in local areas where planning documents are being refused on the grounds that they are based on the “Merton Rule”.

We recommend the Government issue clear guidance to Local Authorities that clauses 1(1)(a) and 1(1)(b) of the Planning and Energy Act 2008 to impose reasonable requirements for renewable and low carbon technologies will remain beyond 2016.

Responses to the consultation’s questions:

Question 19. - Do you agree the proposed approach will be sufficient to ensure local planning authorities and neighbourhood planning qualifying bodies in future only set policies requiring compliance with the optional requirements and nationally described space standard to address a clear and evidenced need? If not, please indicate why.

No, additional clarity for Local Authorities is required.

We welcome the Government’s decision in June 2014 to retain clauses 1(1)(a) and 1(1)(b) of the Planning and Energy Act, to allow local authorities to continue setting requirements for low

¹ Letter from Stephen Williams available on the CHPA website
carbon and renewable energy. The amendment passed to the Deregulation Bill\(^2\) aimed at removing only clause 1(1)(c) of the Act which states that Local Authorities can require “development in their area to comply with energy efficiency standards that exceed the energy requirements of building regulations.”

However, for many local authorities, some of them who are looking at using DECC’s national heat map\(^3\) tool in their development plans, the impact of government’s proposal is not entirely clear.

We would welcome a clear statement by government to local authorities that they are able to use clauses 1(1)(a) and 1(1)(b) of the Act to impose reasonable requirements for “a proportion of energy used in development in their area to be energy from renewable sources” and for “a proportion of energy used in development in their area to be from sources low carbon energy” in the locality of the development beyond 2016.

**Question 20 – Do the proposed arrangements provide the correct balance between allowing time for developers and local authorities to adapt to the new regime whilst delivering benefits as quickly as is reasonable? If not, please indicate why.**

No. Local authorities should not be prevented or discouraged from using their statutory powers ahead of the implementation of the Zero Carbon Home policy.

Local authorities who are currently looking for approval of their development plans with energy efficiency standards set up above Code level 4 have been acting in the regulatory framework that granted them this option.

Therefore, we would expect Government to take into account that transitional arrangements should not wind down the work accomplished by local authorities and local communities over the last years to develop sustainable homes.

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\(^3\) [National Heat Map, DECC](http://www.chpa.co.uk)

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