

Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	26 th May 2015

IMPLICATIONS OF THE DEREGULATION ACT 2015 ON CORE STRATEGY POLICY 27: SUSTAINABLE RESOURCES AND NEW DEVELOPMENTS

PURPOSE OF REPORT

1. To inform Members of the implications of the Deregulation Act 2015 on the Council's sustainability requirements for new dwellings set out in Core Strategy Policy 27: Sustainable Resources and New Developments.

RECOMMENDATION(S)

2. To note the contents of the report.

EXECUTIVE SUMMARY OF REPORT

3. Recent legislative changes have impacted on how Core Strategy Policy 27: Sustainable Resources and New Developments should be implemented, particularly in matters relating to the determination of planning applications. The legislative changes impact as a material consideration in regard to Policy 27 in that the Code for Sustainable Homes has been withdrawn, and such matters will be dealt with through Building Regulations. It should be noted that changes to Building Regulations are unlikely to be in force until next year, and in the meantime transitional arrangements will apply. This report and its appended statement details the impact on Policy 27 and the approach to be taken in determining planning applications.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

4. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	x	An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

5. The Core Strategy was adopted in July 2012. Policy 27: Sustainable Resources and New Developments sets out requirements to reduce the carbon emissions of new buildings and increase their energy efficiency.

6. In relation to new dwellings it requires all new dwellings to comply with the Code for Sustainable Homes, which is a standard designed to improve the sustainability of new homes. All dwellings built from 1st January 2013 are required to achieve Level 4 of the Code increasing to Level 6 for dwellings built from 1st January 2016.
7. In relation to the other new buildings, they are required to comply with the Building Research Establishment's Environmental Assessment (BREEAM) which is a method of assessing, rating and certifying the sustainability of buildings. All new buildings are required to achieve a 'very good' rating.
8. In 2010 the government announced the need for a review of housing standards to find a way to simplify them due to the huge range of standards available such as the Code for Sustainable Homes. A Housing Standards Review consultation took place in 2013 and the government announced in March 2014 that all necessary technical standards for new dwellings would be consolidated into Building Regulations.

THE DEREGULATION ACT 2015

9. The Deregulation Bill received royal assent on 26th March 2015 and makes the provision for changes to legislation relating to the energy efficiency of dwellings, amongst other things.
10. It proposes changes to the subsection (1)(c) of the Planning and Energy Act 2008 which currently states in section 1:
 - “(1) A local planning authority in England may in their development plan documents, include policies imposing reasonable requirements for:
 - (a) a proportion of energy used in development in their area to be energy from renewable sources in the locality of the development;
 - (b) a proportion of energy used in development in their area to be low carbon energy from sources in the locality of the development;
 - (c) development in their area to comply with energy efficiency standards that exceed the energy requirements of Building Regulations.”
11. The Deregulation Act sets out the following amendment to be inserted:
 - “(1A) Subsection (1)(c) does not apply to development in England that consists of the construction or adaption of buildings to provide dwellings or the carrying out of any work on dwellings.”
12. This means that once the Planning and Energy Act 2008 has been amended, local planning authorities will no longer be able to include policies in their development plans requiring energy efficiency standards that exceed the energy requirements of Building Regulations, such as the Code for Sustainable Homes.

IMPLICATIONS FOR CORE STRATEGY POLICY 27

13. The Government have set out transitional arrangements that allow local planning authorities to continue to apply policies in their Local Plans which require compliance with energy efficiency standards that exceed Building Regulations. Where a local planning authority has an existing policy that sets requirements relating to the Code for Sustainable Homes, as is the case in Chorley, they can continue to require dwellings to achieve an energy efficiency equivalent to Code for Sustainable Homes Level 4, but they will not be able to require compliance with other aspects of the Code for Sustainable Homes as it has now been withdrawn.

14. A position statement is included in Appendix 1 which sets out how Policy 27 will be implemented in the transitional period.
15. Once the Building Regulations have been revised and implemented, which is expected to be in April 2016, Policy 27 will need to be withdrawn or amended. In order to achieve zero carbon dwellings, the on-site housing standards will be set through the Building Regulations with the remaining carbon to be abated through allowable solutions and a zero carbon homes policy will be published in 2016 setting out how allowable solutions will be implemented. It may be that allowable solutions will need to be enforced through a local policy in which case Policy 27 can be amended to set out allowable solution requirements.

IMPLICATIONS OF REPORT

16. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

17. The power of local authorities referred to in paragraph 10 above has not yet been repealed. In Grand Committee of the House of Lords the Government Minister stated that it will not be repealed until building regulations have been tightened to deliver zero carbon housing anticipated in late 2016. The interim policy under which Chorley continues to require energy standards in new dwellings until the amended building regulations are introduced is therefore lawful. The Government has stated that until the amendment is commenced it expects local planning authorities not to set conditions with requirements above a Code level 4 equivalent.

JAMIE CARSON
DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

Background Papers			
Document	Date	File	Place of Inspection
Central Lancashire Core Strategy	July 2012	***	www.chorley.gov.uk/planning
Deregulation Act 2015	March 2015		www.legislation.gov.uk
Planning and Energy Act 2008	November 2008		www.legislation.gov.uk

Report Author	Ext	Date	Doc ID
Katherine Howarth	5281	13/05/2015	***