



Report of	Meeting	Date
Director of Development, Preston City Council	Central Lancashire Strategic Planning Joint Advisory Committee	28 July 2015

CENTRAL LANCASHIRE CORE STRATEGY 27: SUSTAINABLE RESOURCES AND NEW DEVELOPMENTS

PURPOSE OF REPORT

1. To advise members of the Joint Advisory Committee of the implications of enactment of the Deregulation Act 2015 for continued implementation of Policy 27 of the Central Lancashire Core Strategy, which is concerned with incorporating sustainable resources into new development.
2. There are also implications for a review of the Community Infrastructure Levy, which are considered in a separate report.

RECOMMENDATION(S)

3. The Joint Advisory Committee is recommended to note the implications for implementation of the Policy and also to note the position with regard to advising developers of the standards required in new housing.

EXECUTIVE SUMMARY OF REPORT

4. The Deregulation Act received Royal Assent on 26th March 2015. In a written statement to Parliament on 25th March the Secretary of State set out the government's policy on a range of matters including matters that relate directly to the requirements of Policy 27 of the Central Lancashire Core Strategy.
5. The main outcome is that the three Central Lancashire Planning Authorities will no longer be able to implement the next stage of Policy 27, which was due to come into effect from January 2016. The full details and reasons for this are set out in the body of this report.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

6. Members should be aware of the implications of the legislation relating to the continued implementation of this Policy in the Central Lancashire Core Strategy.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. N/A. The local planning authorities will have to comply with legislation.

BACKGROUND

8. The Deregulation Bill received Royal Assent on 26th March 2015 and became the Deregulation Act 2015. In a written statement to Parliament on 25th March the Secretary of State set out the government's policy on a range of matters including matters that relate directly to the requirements of Policy 27 of the Central Lancashire Core Strategy.
9. The relevant sentence of Policy 27 is that *"All new dwellings will be required to meet Level 3 (or where economically viable Level 4) of the Code for Sustainable Homes. This minimum requirement will increase to Level 4 from January 2013 and Level 6 from January 2016"*.
10. Code Level 4 has been sought from developers in accordance with the Policy since 2013. It had been anticipated that there would be an increase in Code Level in January 2016 and this had been a main consideration in a potential review of the Community Infrastructure Levy. For the reasons set out below an increase in Code Levels is no longer possible.
11. The government's intention as set out in the Secretary of State's written statement is that from the date the Deregulation Bill is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This includes any new policy requiring any level of the Code for Sustainable Homes to be achieved by new development; the government has now withdrawn the code, aside from the management of legacy cases.
12. For the specific issue of energy performance, the government states that local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations (currently equivalent to Code for Sustainable Homes Level 3) until commencement of amendments to the Planning and Energy Act 2008 that are set out in the Deregulation Act 2015.
13. This is expected to happen alongside the introduction of a Zero Carbon Homes Policy in late 2016¹. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, the government expects local planning authorities to take the Secretary of State's statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent.
14. Where there is an existing plan policy which references the Code for Sustainable Homes, i.e. Policy 27 of the Core Strategy, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, which comes into effect in September 2015, or in the case of energy, a standard consistent with the government's policy set out above concerning energy performance.

¹ Government intends to introduce a Zero Carbon Homes Policy from late 2016. The minimum on-site requirement will be the equivalent of Code for Sustainable Homes Level 4 and houses builders will be permitted to meet the remainder of the zero carbon target by supporting off-site carbon abatement measures termed 'allowable solutions' of which four have been identified.

15. This means that the Central Lancashire authorities will be able to continue requiring the equivalent of Code for Sustainable Homes Level 4 from January 2016 but only with regard to energy efficiency. They will not, however, be able to require energy efficiency equivalent to Code Level 6 consistent with Policy 27 as it is currently written.
16. Advice previously provided by Preston City Council's legal section with regard to government guidance on thresholds to be applied in relation to affordable housing policy also seems to apply in this case. That would indicate that neither the policy in the Core Strategy, nor the Core Strategy itself on this point, would be unlawful. It would, however, not be considered up to date in terms of compliance with national government policy.
17. Each authority will have to consider the advice that it gives developers in the interim. Preston City Council has produced a position paper containing the following wording, which it is suggested all three local planning authorities should adhere to for consistency:

For the avoidance of doubt and in accordance with the government's statement of intention XX Council will continue to require energy efficiency levels at an equivalent to Code for Sustainable Homes level 4 until that requirement is incorporated into Building Regulations. This is the current requirement of Policy 27 of the Central Lancashire Core Strategy and will continue to remain policy after January 2016 notwithstanding the current wording of Policy 27.

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