

LETI – Response to the written ministerial statement



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The written ministerial statement does not prevent local authorities setting local energy efficiency standards, instead it seeks to require the use of a metric which is not supported by industry. However, the statement has a narrower remit than it would first appear.

LETI strongly believes that local authorities should be able to set local energy efficiency requirements in order to mitigate climate change and reduce residents' energy costs, in a way that would not affect housing supply. LETI have always promoted the use of energy-based metrics (i.e. space heating demand and energy use intensity (EUI) both in kWh/m²/yr) which are fit for net zero, consistent with industry and can be measured post-construction.

Local authorities are now introducing net zero policies in their Local Plans, referencing energy-based metrics. Successful planning policies using these metrics, supported by robust evidence bases, have already been accepted for Local Plans in Cornwall, Bath and North East Somerset, and Central Lincolnshire. Many other local authorities have also developed evidence bases and draft local policies introducing energy-based metrics, such as policies developed by Essex County Council [Climate and Planning Unit](#).

It therefore came as a shock when, on 13th of Dec 2023, the same day the Future Homes Standard consultation was released, central Government issued a [written ministerial statement](#) (WMS) titled 'Planning – Local Energy Efficiency Standards Update'. It stated that "*the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations*". The WMS went on to clarify that:

"Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that 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)."*

This LETI response to the WMS highlights why it is a reason of concern, but also why it should not lead to panic or inaction.

Why would the WMS concern the industry?

All good planning policy evidence bases demonstrate the costing rationale for viability purposes, so the first bullet point is moot to some extent as this is already common practice.

The second point, however, appears to prevent the use of 'absolute' (kWh/m²/yr) energy-based metrics, instead favouring the building regulations 'relative' carbon-based TER metric. This is problematic for measuring and understanding energy efficiency and achieving the UK's net zero commitments. A 100% reduction in CO₂ emissions using the building regulations methodology is not zero carbon, it simply demonstrates a reduction in regulated emissions (heating, hot water, ventilation, cooling, lighting, and auxiliary uses) against a notional building specification and excludes unregulated emissions (plug loads and appliances).

In contrast, energy use intensity (EUI) is an annual measure of the total energy (regulated and unregulated) consumed in a building. It is an indicator for energy efficiency and energy in-use rather than carbon emissions, which reflect the carbon intensity of the grid. EUI is a metric that can be estimated at the design stage (assuming standard conditions of use) and very easily monitored in-use as energy bills are based on kWh of energy used by the building. This metric can be used to compare buildings of a similar type and is far more practical for the construction industry and consumers to understand. In addition to the EUI metric, LETI also promotes the use of a space heating demand metric as an indicator of fabric energy efficiency.

Why the WMS does not restrict local authorities' ability to set local energy efficiency standards as it first appears

While the statement appears strong, it has a narrower remit than it would first appear. This is because it is a statement which is, by definition, subservient to statute (otherwise it would be unlawful). The WMS cannot undermine the primary powers of local authorities to act or go against their duty to mitigate climate change. A Local Plan would be expected to address:

Section 19(1A) of the Planning and Compulsory Purchase Act 2004, which requires local planning authorities to include in their Local Plans "*policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change*". This will be a consideration when a Local Plan is examined.

The **Climate Change Act 2008**, which establishes a legally binding target to reduce the UK's greenhouse gas emissions by 100% in 2050 from 1990 levels. To drive progress and set the UK on a pathway towards this target, the Act introduced a system of carbon budgets.

The **Planning and Energy Act 2008**, which permits local authorities to include policies imposing reasonable standards of energy efficiency that are above those set down in Building Regulations. Providing the Local Plan is in line with Section 19 (noted above).

By releasing the WMS, the Government are also contradictory in their messaging:

In 2018 they stated that “[The NPPF] does not prevent local authorities from using their existing powers under the Planning and Energy Act 2008 or other legislation where applicable to set higher ambition. In particular, local authorities are not restricted in their ability to require energy efficiency standards above Building Regulations”. Also noting that “The Government welcomes the alternative policy approaches raised by respondents”. No amendments appear to be made to the intent of the NPPF in the latest Dec 2023 update.

In 2021, the Future Homes Standard consultation response confirmed that they “will not amend the Planning and Energy Act 2008, which means that local authorities will retain powers to set local energy efficiency standards for new homes.”

In 2022, Bath and North East Somerset wrote to Department of Levelling Up, Housing and Communities (DLUHC) to confirm the powers of local authorities to set their own net zero standards. For which DLUHC confirmed that “Local planning authorities have the power to set local energy efficiency standards through the Planning and Energy Act 2008. Plan-makers may continue to set energy efficiency standards at the local level which go beyond national Building Regulations standards if they wish”.

What can you do next?

The implications of the WMS are being reviewed by the industry including the Town and Country Planning Association (TCPA), Good Homes Alliance (GHA), UK Green Building Council (UKGBC) and many local authorities. While this continues, we should not abandon the current approach to Local Plans which is built on robust evidence bases, viability assessment and consultation. Instead, let's work together to achieve the right outcome for net zero housing in planning policy.

LETI are working with other organisations such as the TCPA and the GHA to support local authorities who are considering the impact of the WMS. If you are a local planning authority and would like to join this group, please contact WMS@leti.uk.