

CMA - Draft guidance on environmental sustainability agreements

The Home Builders Federation is the principal trade association for the home building industry in England and Wales. HBF's membership of more than 400 companies builds most of the market sale homes completed in England and Wales, encompassing private developers and Registered Providers. The majority of HBF's private home builder members are small or medium-sized companies.

As the main trade association for the home building industry, our members constitute one of the largest bodies of companies that will be affected by the outcome of this consultation. As such, we trust that considerable qualitative and quantitative weight will be afforded to our comments.

The document below is the summary of the representative responses from our membership and takes account of the responses of large major housebuilders, medium size and SME (small and medium-sized enterprises) as well as specialist housing providers and companies. Whilst HBF's members largely support the proposals within this consultation, they are concerned that a pragmatic, fair, balanced and considered approach should be taken.

Question 1: Are the content, format and presentation of the Draft Sustainability Guidance sufficiently clear? If there are particular parts of the Draft Sustainability Guidance where you feel greater clarity is necessary, please be specific about the sections concerned and the changes that you feel would improve them.

HBF believes guidance surrounding the consultation on environmental sustainability agreements is generally clear. However, items 1.15 & 7.12 discuss issues surrounding 'protection from fines'. HBF would like there to be full guidance and transparency surrounding this such that the step by step process required for notification on collaboration agreements and/or partnerships arrangements is entirely clear so as to avoid fines and prosecution for the benefit of individual companies and wider public perception.

Question 2: We are keen to ensure that the Draft Sustainability Guidance is as practical and helpful to business as possible. If you think that there are situations where additional guidance would be helpful or where the examples we have used could be made clearer or more specific, please let us know.

HBF in general believe the draft sustainability guidance is practical and helpful to business and organisations. However, it would be of even greater value if more examples of what is and what is not permitted within the proposed environmental sustainability agreements were made available. It would also be advantageous to understand the different types of environmental agreements that the government



intends on allowing to understand the nature of these and what agreements or collaborations are not constituted as being of environmental benefit. It is important that agreements which have a technical and cost benefit for end users and the marketplace, thus ultimately improving and delivering a wider and broader improvement benefit to industry, the market place and ultimately the environment, should be allowed.

Question 3: We are also keen to ensure that the description of the agreements in Section 2 of the Draft Sustainability Guidance is sufficiently clear so that businesses are in no doubt as to whether their agreement is covered by the Guidance. a) Are there any changes that you feel would improve the description of environmental sustainability agreements? b) Are there any changes that you feel would improve the description of climate change agreements (including in footnote 4)?

HBF believe there needs to be more clarity over the examples given to both Environmental Sustainability Agreements & Climate Change Agreements in section 2 of the draft guidance document. It would be relevant in this section to also include nature and biodiversity. This issue is currently a major subject in UK planning law becoming live later this year and we believe it would be relevant to also identify its merit within scope of environmental sustainability agreements within this guidance description.

CONCLUSION

As always, we hope that our comments are received in the spirit in which they are intended and reflect HBF's overarching desire to support key policy objectives whilst at the same time supporting our members in seeking deliverable and pragmatic solutions to policy changes. We support the government's focus on improving the landscape for collaboration between business and industry for the benefit of wider environmental sustainability purposes. In real terms we believe that the successful delivery of such agreements will require significant time, and this will need to be apportioned between organisations & project timelines to allow for all parties involved to reach a consensus and self-assess the compatibility and environmental benefits of the project with competition law. Each may have different legal risk definitions and therefore discussion and liaison with legal entities is therefore inevitable. HBF & others believe there remains a need for further clarity on definitions and scope and for dialogue & formal engagement with the CMA as some of the criteria could be open to interpretation. However, industry collaboration is critical to finding shared solutions to common goals and the draft guidance indicates a positive direction towards clarity on the associated complex legalities. That, coupled with the CMA's willingness to provide reassurance and guidance through their open-door policy, may help accelerate industry's progress towards delivering environmental improvement for all.

