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Dear Sir / Madam

WARWICK NET ZERO CARBON DEVELOPMENT PLAN DOCUMENT (DPD) PRE-SUBMISSION CONSULTATION

Thank you for consulting with the Home Builders Federation (HBF) on the above-mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. The HBF submit the following representations on the pre-submission Warwick Net Zero Carbon DPD.

Context

The Warwick Local Plan was adopted in September 2017. The HBF understand that the Council intends that the proposed policies in the pre-submission Net Zero Carbon DPD will supersede adopted Policy CC3 - Building Standards & Other Sustainability Requirements, partially replace adopted Policy CC2 - Planning for Renewable Energy & Low Carbon Generation and expand upon adopted Policies SC0 - Sustainable Communities, BE1 - Layout & Design, HS1 - Healthy, Safe & Inclusive Communities and CC1 - Planning for Climate Change Adaptation.

It is not clear if **Policies NZC1, NZC2(A), NZC2(B), NZC2(C)** and **NZC3** are strategic or non-strategic policies. In the HBF's opinion, policies addressing climate change are strategic in nature with a long-term timeframe. As set out in the 2021 NPPF to anticipate and respond to long-term requirements and opportunities, strategic policies should look ahead over a minimum period of 15 years from adoption (para 22). The adopted Warwick Local Plan has a plan period end date of 2029, which is only 7 years away and half the minimum 15 year timeframe for strategic policies. Furthermore, climate change is identified as a strategic matter on which joint working between Warwick and Stratford upon Avon District Councils will be necessary during the preparation of the South Warwickshire Plan. The Warwick Net Zero Carbon DPD should not be



pre-empting the South Warwickshire Plan's strategic approach to climate change.

Policy NZC1 - Achieving Net Zero Carbon Development

Under **Policy NZC1**, new development of one or more new dwellings should achieve net zero operational regulated carbon emissions by implementing the energy hierarchy, which should be demonstrated through submission of an Energy Statement identifying :-

- achievement of a minimum 63% reduction in carbon emissions by on-site measures, as compared to the baseline emission rate set by Building Regulations Part L 2021 (SAP 10.2). (Footnote 6 explains that by using a compound percentage based on Government statements, the targets have been calculated with the following assumptions - Part L 2021 is a 31% reduction on Part L 2013, The Future Homes Standard (FHS) is a 75% reduction on Part L 2013, which equates to the FHS being a 63.8% reduction on Part L 2021) ;
- compliance with the energy efficiency and renewable energy provisions set by **Policies NZC2(A) & (B)** ; and
- any residual operational regulated carbon emissions (over the course of 30 years) will be calculated and offset to zero in accordance with **Policy NZC2(C)**. Offsetting will only be considered an acceptable solution to net zero carbon requirements if it can be demonstrated that carbon reductions achieved via on-site measures (and near-site renewables) are demonstrably unfeasible or unviable.

Where full compliance is not feasible or viable, the Energy Statement must demonstrate that carbon reductions to the greatest extent feasible have been considered and incorporated. In applying the energy hierarchy, proposals are expected to implement fabric energy efficiency and low carbon heating before incorporating renewable electricity generation and then offsetting.

A condition will be applied to planning permissions requiring as built SAP calculations to be submitted prior to occupation and demonstrating that the finished building meets the standard set in **Policy NZC1**. Alternatively, applications may demonstrate the requirements of **Policy NZC1** are met through the Passivhaus standard with accompanying PHPP calculations.

Policy NZC2(A) - Making Buildings Energy Efficient

Under **Policy NZC2(A)**, new development of one or more new dwellings are expected to demonstrate a 10% improvement on the Part L 2021 Target for Fabric Energy Efficiency (set by SAP10.2). The 10% improvement in dwellings is set to reflect the approximate uplift to building fabric (U-values and airtightness) between Part L 2021 and the indicative FHS 2025 (para 6.5).

Where full compliance is not feasible or viable having regard to the type of development involved and its design, the Energy Statement must demonstrate that carbon reductions to the greatest extent feasible through energy efficiency

measures have been considered and incorporated. All Energy Statements must also lay out the U-values and airtightness of the proposed building in comparison to the notional values in the FHS.

Policy NZC2(B) - Zero or Low Carbon Energy Sources and Zero Carbon Ready Technology

Under **Policy NZC2(B)**, new development of one or more new dwellings should demonstrate through an Energy Statement that additional renewable, zero and low carbon energy technologies have been provided on-site (off site existing or planned zero, low carbon or renewable energy generation or heat network provision where there is a direct off-grid connection to the development which has capacity to serve the development may be included) to achieve the carbon reductions required by **Policy NZC1** and achieve on-site net zero operational carbon wherever possible.

Where full compliance is not feasible or viable having regard to the type of development involved and its design, the Energy Statement must demonstrate that additional renewable, zero and low carbon energy technologies have been provided to the greatest extent feasible and viable and incorporate “zero carbon ready” (as opposed to immediately providing “low/zero carbon”) technologies.

As set out in the 2021 NPPF, the planning system should support the transition to a low carbon future in a changing climate (para 152) and any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards (para 154b). The NPPG sets out that any local requirements for a building’s sustainability and for zero carbon buildings should be based on robust credible evidence and tested for impacts on viability (ID: 6-009-20150327). The NPPG also clarifies that locally set energy performance standards for new housing should not exceed the equivalent of Level 4 of the Code for Sustainable Homes and any requirement for a proportion of used energy to be from renewable and / or low carbon energy sources should be reasonable (ID: 6-012-20190315).

The Council’s policy approach in **Policies NZC1** and **NZC2(A) & NZC2(B)** is commendable but it is not based on robust credible evidence or viability assessment (see HBF representations on Viability & Deliverability below) to justify the local standards required. The climate change emergency is a world-wide as opposed to Warwick District specific issue. It is the Government’s intention to set national mandatory energy efficiency standards implementable to a specified timetable through the Building Regulations via the 2021 Part L Interim Uplift, which is effective from June 2022, and the 2025 FHS. It is the HBF’s opinion that the Council should not be seeking to set a local net zero carbon standard above FHS and ahead of the timetable set out by the Government.

Whilst for the moment, the Planning and Energy Act 2008 has not been amended and the Council retains powers to set local energy efficiency standards for new homes, the Government has acknowledged the need to clarify the role of Council’s in setting energy efficiency requirements for new

homes that go beyond the mandatory standards set out in the Building Regulations. The Housing, Communities & Local Government Committee have opened a new inquiry into “Local Government & the Path to Net Zero”. The aim of the inquiry is to scrutinise the Government’s plans to make all new homes “zero carbon ready” by 2025, through the introduction of the FHS, and to explore how Local Government can help the UK to reduce its carbon emissions to “net zero” by 2050. The key to success is standardisation and avoidance of individual Council’s specifying their own policy approach to energy efficiency, which undermines economies of scale for product manufacturers, suppliers and developers.

The Government’s approach is further emphasised in its recent response to the Business, Energy and Industrial Strategy (BEIS) Committee’s Report on Decarbonising Heat in Homes. The BEIS Committee had recommended that, to minimise expensive retrofit costs, the Government should bring forward the implementation of the FHS to 2023 instead of 2025. The Government rejected this recommendation. The Government response states that the current timeline delivers on net zero commitments, while ensuring that new, good quality, warm homes are delivered in sufficient numbers in the places that need them. The Government recognises that some homebuilders are already building to enhanced standards but stated that the industry will still need to develop the necessary supply chains, skills and construction practices to consistently deliver high quality homes that incorporate low carbon heat and high levels of energy efficiency. In practice, that will mean ensuring that all developers are ready to build to higher fabric specifications and that enough heat pumps and trained installers are available.

The HBF share the Government’s concerns about the difficulties and risks to housing delivery, which include the immaturity of the supply chain for the production / installation of heat pumps and the additional load that would be placed on local electricity networks in combination with Government changes to Part S of the Building Regulations for the installation of Electric Vehicle Charging Points (EVCPs) in new homes, which is also effective from June 2022.

Today’s new homes are already very energy efficient with lower heating bills for residents in comparison to older existing homes. Energy performance data has shown that 8 out of 10 new build dwellings have an A or B energy efficiency rating, compared to only 3% of existing properties. Nevertheless, the HBF recognise the need to move towards greater energy efficiency via a nationally consistent set of standards and timetable, which is universally understood and technically implementable. In autumn 2020, the HBF established a Future Homes Task Force to develop workable solutions for the delivery of the home building industry’s contribution to meeting national environmental targets and objectives on Net Zero. This work is focussed on tackling the challenges of implementing the 2021 and 2025 changes to Building Regulations successfully and as cost-effectively as possible, as well as providing information, advice and support for SME developers and putting the customer at the centre of thinking. In July 2021, The Future Homes Delivery Plan – Summary of the goals, the shared roadmap & the Future Homes Delivery Hub was published. In

September 2021, the Future Homes Delivery Hub supported by involvement from Government was launched. The Hub will help facilitate a sector-wide approach to identify the metrics, more detailed targets where necessary, methods and innovations to meet the goals and the collaborations required with supply chains and other sectors. It will incorporate the needs of all parties including the public and private sector and crucially, consumers, such that they can all play their part in delivering environmentally conscious homes that people want to live in.

The Council does not need to set local energy efficiency standards to achieve the shared goal of net zero emissions because of the higher levels of energy efficiency standards for new homes set out in the 2021 Part L Interim Uplift, which are effective from June 2022, and proposals for the 2025 FHS. The 2021 Interim Uplift to Part L (Conservation of fuel and power) Regulations will deliver homes that are expected to produce 31% less CO₂ emissions compared to 2013 Part L standards. From 2025, the FHS will ensure that new homes will produce at least 75% lower CO₂ emissions than one built to 2013 Part L energy efficiency requirements. By delivering carbon reductions through the fabric and building services in a home rather than relying on wider carbon offsetting, the FHS will ensure new homes have a smaller carbon footprint than any previous Government policy. In addition, this footprint will continue to reduce over time as the electricity grid decarbonises.

The Council has provided no locally specific evidence to justify the deviation from the Government's approach and timetable in **Policies NZC1, NZC2(A) & (B)**. Many other Councils have declared Climate Change Emergencies without introducing net zero carbon policies. As set out in the 2021 NPPF, all policies should be underpinned by relevant and up to date evidence which should be adequate, proportionate and focus focussed tightly on supporting and justifying the policies concerned (para 31). The Council should provide a detailed breakdown of the calculations used to derive 63% as the specified reduction in carbon emissions and 10% in Fabric Energy Efficiency. The Council should also confirm that 63% reduction in carbon emissions and 10% Fabric Energy Efficiency requirements do not exceed Level 4 of the Code for Sustainable Homes. The requirement for zero or low carbon energy sources is not reasonable. The unspecified proportion is ambiguous. Such ambiguity is inconsistent with the 2021 NPPF, which states that policies should be clearly written and unambiguous (para 16d).

Policies NZC1, NZC2(A) & (B) are unsound because they are unjustified, not positively prepared, ineffective and inconsistent with national policy. The Council should comply with the Government's timetable and intention of achieving net zero carbon development through the Building Regulations.

Policy NZC2(C) - Carbon Offsetting

Under **Policy NZC2(C)**, where a development proposal of one or more new dwellings cannot demonstrate that it is net zero carbon, it will be required to address any residual carbon emissions by :-

- a cash in lieu contribution to the District Council's carbon offsetting fund and / or
- at the Council's discretion, a verified local off-site offsetting scheme.

Where full compliance is demonstrably not feasible having regard to the type of development involved and its design, proposals must offset any residual carbon emissions to the greatest extent viable. Contributions to an offsetting scheme shall be secured through Section 106 Agreements and will be required to be paid prior to the occupation of the development. The amount of carbon to be offset will be calculated according to the SAP carbon emissions submitted in the Energy Statement multiplied over a period of 30 years from completion. Where "zero-carbon ready" technology is proposed, associated carbon emissions should be calculated in accordance with the stated national trajectory for carbon reduction of the energy source. The carbon offset contribution amount will be calculated at the submission of the application, which must be recalculated at completion and pre-occupation. Where an at completion assessment shows a performance gap, carbon offsetting contributions will be required to reflect any associated additional carbon emissions not accounted for at the point of determination of the planning application and an adjusted payment made if necessary.

Any carbon offset funding secured through Section 106 legal agreements will be subject to paragraph 57 of the 2021 NPPF, whereby planning obligations must only be sought where they meet all of the following tests :-

- necessary to make the development acceptable in planning terms ;
- directly related to the development ; and
- fairly & reasonably related in scale & kind to the development.

In the HBF's opinion, the securing of carbon offset funding would not meet these tests. Furthermore, despite the Council's reassurance that funds raised through this policy will be ringfenced and transparently administered, there is significant risk for the Council to double charge for infrastructure to be funded through CIL.

The HBF also note that the carbon offset price of £245 per tonne (para 8.3) is not tested in the Council's Viability Study (see HBF representations under Viability & Deliverability below). The Council refer to London as a precedent (para 8.5) however the proposed carbon price of £245 per tonne is significantly higher than £95 per tonne used in the London Plan and across London Boroughs. There is a significant risk that development in Warwick is less able to support additional costs than in London. If the carbon price of offsetting is set too high, this will act as a brake on development further exacerbating the decline in affordability levels for households on average incomes and the decline in levels of home ownership.

The Council's approach also undermines the Government's intention that by delivering carbon reductions through the fabric and building services in a home rather than relying on wider carbon offsetting, the FHS will ensure new homes

have a smaller carbon footprint than any previous Government policy, which will continue to reduce over time as the electricity grid decarbonises.

Policy NZC2(C) is unsound because it is unjustified, not positively prepared, ineffective and inconsistent with national policy.

Policy NZC3 - Embodied Carbon

Under **Policy NZC3**, new major development should demonstrate in the Energy Statement or Design Statement how the embodied carbon of the proposed materials to be used in the development has been considered and reduced where possible, including with regard to the type, life cycle and source of materials to be used. Proposals for development of 50 or more new dwellings should be accompanied by a whole-life assessment of the materials used.

The Council has provided no clear evidence to justify the requirement for embodied carbon assessment. There is also no justification for the site threshold of 50 dwellings, which will place unduly onerous requirements onto smaller sites and SME developers, who may not have the in-house resources to undertake the required assessment.

Policy NZC3 is unsound because it is unjustified, not positively prepared, ineffective and inconsistent with national policy.

Viability and Deliverability

In plan-making, viability is inseparable from the deliverability of development. At Examination, viability will be a key issue in determining the soundness of the Warwick Net Zero Carbon DPD. The viability of individual developments and plan policies should be tested at the plan making stage. As set out in the 2021 NPPF, the contributions expected from development including the level & types of affordable housing provision required and other infrastructure for education, health, transport, flood & water management, open space, digital communication, etc. should be set out (para 34). As stated in the 2021 NPPF, development should not be subject to such a scale of obligations that the deliverability of development is threatened (para 34). Viability assessment should not be conducted on the margins of viability. Without a robust approach to viability assessment, the DPD will be unsound, land will be withheld from the market and housing delivery targets will not be achieved.

The Council's viability assessment is set out in Net-Zero Carbon DPD Revised Viability Study dated April 2022 by BNP Paribas Real Estate. The aim of the Council's Viability Study is to test the ability of developments to absorb additional costs from policy requirements relating to the Net Zero Carbon DPD. The HBF understand that the Council does not propose to change any existing adopted Local Plan policies. As well as adopted Local Plan policy requirements, there is an adopted Community Infrastructure Levy (CIL) Charging Schedule. Viability assessment is highly sensitive to changes in its inputs whereby an

adjustment or an error in any one assumption can have a significant impact. The following costs associated with the Net Zero Carbon DPD are assumed :-

- an increase of 3% of build costs for residential developments ;
- a Construction Performance Assessment at a cost of £1,800 per dwelling ; and
- on larger developments £10,000 per site for an Embodied Carbon Assessment.

The HBF have the following concerns about the Council's viability assessment and cost assumptions used :-

- The derivation of the 3% increase to build costs is unclear. The Council's Viability Study states that "*Edgars and Bioregional have reviewed the costs for meeting these requirements. Edgars and Bioregional recommend using a 3% cost uplift for residential dwellings (see Appendix 6)*" (para 4.22). However, in the Annex to the Warwick District Council Zero Carbon DPD Energy & Sustainability Policy Review dated April 2022 by Bioregional, it is noted that Bioregional are not viability or cost consultants and the data / evidence used to develop this work has been based on existing information that has been extracted from other viability evidence bases. Notably the Etude and Currie & Brown Energy Review and Modelling for the Cornwall Council Climate Emergency DPD. In summary, the total percentage uplifts against a Part L compliant baseline range from 2.6.% to 3.7% depending on the approach sought. Option 1 - 2.6% uplift (or 2.7% if using the 2019 MHCLG Cost of FHS Impact Assessment) to achieve a 75% carbon reduction (the FHS notional specification) and offset the remaining carbon using a dynamic offset. Option 2 - 3.7% uplift (or 3.8% if using the 2019 MHCLG Cost of FHS Impact Assessment) to achieve a 75% carbon reduction (the FHS notional specification) and offset the remaining carbon using a static offset. This summary is inaccurate, analysis in the Currie Brown & Etude Study concluded that to achieve net zero regulated carbon emissions from a combination of energy efficiency on site carbon reductions and allowable solutions, the additional capital cost is between 5 - 7% for homes. To achieve net zero regulated and unregulated emissions, the likely cost impact is between 7 - 11% for homes. Therefore, an uplift of 5 – 7% should be used to achieve compliance with **Policies NZC1 and NZC2(A & B)**. If a lower cost is assumed **Policies NZC1 and NZC2(A&B)** would not be achieved and **Policy NZC2(C)** would come into effect. The impacts on viability of carbon offsetting at a cost of £245 per tonne has not been assessed (see HBF representations to **Policy NZC3** above) ;
- The Council's Viability Study should also accurately account for all costs for affordable housing provision, CIL, S106 contributions and sought policy requirements. The Viability Study fails to give appropriate regard to the cumulative impacts on development of all existing and proposed mandatory requirements (including but not limited to 10%

BNG under 2021 Environment Act, Residential Property Developer Tax & Building Safety Pledge Government proposals for a Building Safety Levy on all new homes under Building Safety Act) and adopted local standards (including but not limited to accessible & adaptable homes, water efficiency and affordable housing including First Homes) ;

- The sensitivity analyses (in Appendix 9) indicates that growth in capital values (exceeding cost inflation) results in a higher range of development scenarios becoming viable so the extent to which a “balancing exercise” between Net Zero Carbon and other adopted Local Plan policies is required will diminish. However, the sensitivity testing is out of date given very recent build cost increases. There are a range of issues driving up prices including inflation, cost of energy, global shortages of some materials, increased demand, Brexit, Ukrainian War etc., which are proving a significant challenge for the housebuilding industry. The BCIS Material Cost Index is forecast to reach 17.5% by the end of 2022.

The Council acknowledges that the impact of the Net Zero Carbon DPD policy requirements can be significant. The viability assessment results are summarised in Tables 6.5.1 - 6.5.9. The Council’s Viability Study concludes that the impact of additional costs for Net Zero Carbon DPD Policies varies between site typologies and geographical locations within the District. Where viability is marginal and in lower value areas, other adopted policy requirements may need to be reduced to compensate for additional costs associated with achieving net zero carbon development. There will be a trade-off between other policy requirements including affordable housing to accommodate the higher climate change costs. There are situations where the balance will tip from “viable” to “unviable”. In higher value areas, the trade-off required is likely to be less. The results indicate that some schemes will not be able to meet the proposed Net Zero Carbon DPD Policies alongside meeting the full policy requirement for affordable housing. Therefore, for an Inspector to properly assess the impact of proposed Net Zero Carbon policies on housing delivery, the Council should confirm the proportion of its Housing Land Supply (HLS) represented by each typology and located in each Value Area.

The viability assessment results in Tables 6.5.1 – 6.5.9 show that a flexible policy approach is necessary. Under adopted Policy DM2, applicants should discuss viability concerns with the Council, which will be considered on a case-by-case basis. Where site-specific viability prevents provision of affordable housing and net zero carbon development being met, the Council will balance both objectives. Nevertheless, most sites should be deliverable at planning application stage without further viability assessment negotiations. Viability negotiations should occur occasionally rather than routinely. Trade-offs between policy requirements, affordable housing and infrastructure provision should not be necessary. Landowners and developers should not have to submit site-specific assessments at planning application stage, such negotiations cause uncertainty, which may result in significant delay to housing delivery or even non-delivery.

The Council should undertake further viability assessment work to ensure the viability of sites is not overstated and policy requirements are not set at unrealistic levels. If on conclusion of this further viability assessment work, the results remain unchanged, the Harman Report outlines that it will be necessary for the Council to review its policy requirements giving priority to those that are deemed critical to development while reducing (or even removing) any requirements that are deemed discretionary. The HBF contend that Net Zero Carbon policies are discretionary rather than critical given the Government's timetable for implementation of Part L Interim Uplift and FHS under the Building Regulations.

The HBF also note that the Council has proposed no transitional period for the introduction of the policies contained within the Net Zero Carbon DPD. The land deals underpinning Sustainable Urban Extensions and non-strategic sites allocated in the adopted Local Plan will have been secured prior to any proposed introduction of the Net Zero Carbon DPD. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. Prior to a specified date, Net Zero Carbon policies should not be applied to any reserved matters applications or any outline or detailed approval.

Conclusion

For the Warwick Net Zero Carbon DPD to be found sound under the four tests of soundness as defined by the 2021 NPPF (para 35), the DPD must be positively prepared, justified, effective and consistent with national policy. For the reasons set out in the above representations, the HBF consider that **Policies NZC1, NZC2(A – C) and NZC3** are unsound. The HBF would wish to participate in any forthcoming Examination Hearing Sessions to discuss our concerns in greater detail. In the meantime, if any further information or assistance is required, please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**



Susan E Green MRTPI
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