

Report of: Director of City Development

Report to: Executive Board

Date: 20 April 2016

Subject: White Paper Motion - Locally-set Building Standards for new housing

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

- Meeting Leeds' housing needs forms part of the 'Vision for Leeds' and the aspiration to be the 'best city in the UK', and is also an integral component of the adopted Core Strategy. The Council's ambition of being a strong economy and compassionate city is reflected in the Best Council Plan, which promotes living in decent, affordable homes within clean and well cared for places, improving the economic wellbeing of local people. Underpinning this outcome is the priority to provide enough homes of a high standard in all sectors. The Best Council Plan also has a focus on providing housing as the city grows and generating income for the Council and identifies the breakthrough project of Housing Growth delivering high standards in all sectors.
- A White Paper Motion relating to the Passivhaus and other similar environmental building standards was approved at full Council in September 2015 (and is attached as Appendix 1). The action from this is that:

“the Council therefore requests that officers investigate the need for even more challenging, locally set building standards, whilst also promoting and supporting self builders, community-builders who will seek to build to Passivhaus or similar standard. Council requests that Executive Board receive a report on this within the current municipal year.”
- This report sets out the issues and progress to date in relation to this Motion.

Recommendations

4. Executive Board is recommended to agree to the preparation of a Development Plan Document for space and access standards according to the timetable set out in para 4.5.

1 Purpose of this report

- 1.1 The purpose of this report is to investigate the scope for Passivhaus or similar standards and to set out the key issues as a result of the related White Paper Motion approved at Council in September 2015.

2 Background information

- 2.1 A White Paper Motion relating to the Passivhaus and other similar environmental building standards was approved at full Council in September 2015 (and is attached as Appendix 1). The action from this is that:

“the Council therefore requests that officers investigate the need for even more challenging, locally set building standards, whilst also promoting and supporting self builders, community-builders who will seek to build to Passivhaus or similar standard. Council requests that Executive Board receive a report on this within the current municipal year.”

- 2.2 The term ‘Passivhaus’ refers to an advanced low energy construction standard for buildings providing comfortable living conditions - being both cool in summer and warm in winter with minimal heating or cooling requirements. Passivhaus buildings are designed for long life and high performance. Passivhaus is a software application, which allows modelling of walls, roof, floors, windows and all other elements of a house to ensure that the design is efficient and also that the house is orientated properly in order to maximise energy efficiency.
- 2.3 Passivhaus may be difficult to apply on all sites as it is largely reliant on local context and orientation; for example to achieve energy efficiency a south facing aspect is generally a requirement. This cannot be achieved in all cases. Passivhaus would need to be balanced with the planning constraints of a site such as local context/ orientation/ height, for example in terms of windows and/or roofscape.
- 2.4 In September 2014, Executive Board approved the Leeds Standard to support quality housing growth in the city. As Members will recall, the Standard has three elements:
- Design Quality and Liveability;
 - Space Standards; and
 - Sustainable Design and Construction.

3 Main issues

- 3.1 In order to investigate the applicability of Passivhaus or similar standards, it is important to firstly set out the context of the Core Strategy (Nov 2014), to understand the implications of the recent Housing Standards Review by the Government, and to frame any future action against the existing Leeds Standard.

- 3.2 **Energy Efficiency Policies in the Local Development Framework.** The Core Strategy contains adopted policies which are intended to help Leeds mitigate the impacts of climate change and meet housing need whilst delivering quality houses. The relevant policies are:
- EN1: Climate Change – Carbon Dioxide Reduction;
- EN2: Sustainable Design and Construction; and
- EN4: District Heating.
- 3.3 Following the Plan's Adoption in 2014, the Government's introduction of the National Housing Standards has implications for parts of some of these policies. However, Leeds will still retain its ability to ensure that we can ask for major development to be built to a high standard of energy efficiency
- 3.4 **The Government's Housing Standards Review.** The Ministerial statement (25th March 2015 - <https://www.gov.uk/government/speeches/planning-update-march-2015>) provides a new approach for setting technical standards for new housing. The new standards include new optional Building Regulations, new Building Regulations (and Approved Documents) and a nationally described space standard. The Government has made it clear that the only standards which are permitted are those which are set by the Housing Standards Review. No other standards can be applied to market housing. The intention of the Government is to ensure consistency in the setting of standards nationally, and to avoid different Local Authorities having different standards. Furthermore, in order to apply these standards, they must be supported by evidence of need, undergo a local viability appraisal, and be tested through the formal Development Plan process before adoption. The new approach came into effect from the 1st October 2015.
- 3.5 The Code for Sustainable Homes (CSH) was withdrawn as part of the Housing Standards Review. This has had the impact that the CSH can no longer be applied in determining planning applications for new housing, except in relation to water efficiency and energy standards as prescribed by the Government. As Leeds has an adopted Policy referencing CSH it can still implement energy and water efficiency requirements up to CSH level 4, subject to these policies being 'passported across' via an exceptional procedure that is endorsed by Central Government.
- 3.6 **Water efficiency standards.** The optional elements on water are equivalent to CSH level 4 and can be required by planning permission. All new homes already have to meet the mandatory national standard set out in the Building Regulations (of 125 litres/person/day). Local Planning Authorities can ask for an optional standard of 110 litres/person/day).
- 3.7 **Energy standards.** The Government has stated that the energy performance requirements in Building Regulations will be set at a level equivalent to the former CSH level 4. The Housing Standards Review only affects the energy efficiency elements of Policy EN1, and therefore the 'Merton Rule' part of the Policy that seeks 10% of the energy needs of the development to be sourced from renewable energy can still be applied

- 3.8 The implication for Leeds is that Core Strategy Policies EN1 and EN2 can only be applied up to the equivalent of the former CSH level 4. Anything more than this can no longer be required, irrespective of any adopted or informal local planning policies for new housing, through the planning system. However this does not preclude the Council building to higher standards on its own stock, using the Leeds Standard.
- 3.9 **The Leeds Standard.** In summary, the details of the elements included within the 2014 Executive Board report are:
- Design Quality and Liveability – along with the sustainability elements of the Core Strategy, the Neighbourhoods for Living SPG has been updated
 - Space Standards – the Homes and Communities Agency’s level 1 benchmark space standards were utilised in addition to BS9266 “Design of accessible and adaptable general needs housing code of practice” in respect of accessibility standards
 - Sustainability – includes provision for solar PV where appropriate, a ‘fabric first’ approach to achieve high levels of insulation, air tightness with an aim to achieve 1 air change per hour or less with MVHR to provide the correct ventilation and air quality. This seeks to produce comfort and lower running costs for occupants and is similar to the Passivhaus standard.
- 3.10 As the Standard has been applied in connection to new build through the Council Housing Growth Programme, further refinements have been made and are set out below:
- Thermal comfort - improvements to the MVHR standards and thermal modelling to mitigate against overheating;
 - Connectivity - specification has been updated to include additional ducting to support either fibre or superfast broadband
 - Building Information Management – utilising BIM and using the programme to inform its wider application.
- 3.11 The application of the Leeds Standard (LS) takes several routes. It is primarily focused on providing an ambitious specification for the Council’s new build programme. In addition it has been applied where the Council is providing grant support through the Right to Buy Replacement programme to Registered Providers and other affordable housing providers. Finally, it was intended to be used to influence market delivery, largely through the update and application of the principles within the updated “Neighbourhoods for Living” document when the Council is considering planning applications. The Leeds Standard is as a general rule of thumb 30% better than current Building Regulations, so it already represents a positive and challenging environmental, comfort and design standard which has been set locally.

4 The Way Forward

- 4.1 The Government has made it clear that for new housing the only standards which can be applied in determining planning consents are those which are set out in the Housing Standards Review.
- 4.2 Inevitably, this cuts across the locally adopted Leeds Standard, as the two overlap in terms of scope and target audience and – whilst they are very similar - do not exactly match in terms of the levels of quality being expected. There is in this an unfortunate potential for confusion around terminology and application and it is important that this is resolved in a practical fashion.
- 4.3 In response to the issues outlined above and the approach advocated by Central Government, it is suggested that the Council promulgates a Development Plan Document (DPD) in relation to minimum space standards, and accessible housing requirements as set out in the Housing Standards Review.
- 4.4 As part of the Local Plan process, the DPD will be subject to public consultation, Examination and adoption before it can then be implemented and to be found sound it will require justification on the basis of need and viability. However it will then provide the necessary clarity and certainty to be used as a basis for considering all developments through the planning application process. This could then become the new baseline Leeds Standard, along with the adopted guidance in “Neighbourhoods for Living” as supplemented by the 2015 Explanatory Memorandum.
- 4.5 The DPD is required to progress through various formal stages, to include evidence gathering for need, viability testing, Issues and Options Stage, consultation, analysis of Issues, Examination and Adoption. It is intended to get the DPD adopted by Summer 2017 subject to the outcome of the consultation process, the need for further technical work and the submissions / examinations date.
- The main DPD stages are set out below;
 - Evidence gathering, scoping and early consultation: Spring 2016,
 - Drafting the Plan for Publication: Summer 2016
 - Formal consultation (6 weeks) and assessment of comments: Autumn 2016
 - Submission with any necessary modifications: Winter 2016/17
 - Examination: Spring 2017
 - Adoption Summer 2017(subject to receipt of Inspector’s report)
- 4.6 The current Leeds Standard, continuously developed by the Council through experience and practice, could then become badged and recognised as a Leeds Plus or Leeds Gold Standard – focused on higher environmental performance - as

a positive marketing outcome for those developers who choose to use it and for the Council's own new build programme.

- 4.7 The City has seen the growth of a number of developers who specialise in sustainable approaches to construction in addition to a number of self-build groups who are adopting innovative approaches to design and construction methodologies. An example of the latter is LILAC (Low Impact Living Affordable Community), a community co-housing scheme in the west of the city which utilised straw bale construction techniques and is an exemplar project in low carbon construction. Additionally, officers in Housing and Regeneration are working with local and national firms to investigate how offsite modular manufacturing techniques can assist in developing highly energy efficient solutions which can be quality assured, and assessing the potential for these to be used in the Council's own programme in future.
- 4.8 The Council is currently working closely with the development company CITU on Hunslet Riverside, where it is planning to undertake modular manufacturing in an existing factory unit to supply its forthcoming housing development at Low Fold, on the east bank of the Aire. In addition it is seeking planning permission for further housing on the opposite bank, on the former Hydro site between the existing Yarn Street development (constructed by Miller Homes) and Leeds Dock, in support of the emerging Hunslet Riverside Regeneration Framework. High environmental performance and community development underpin CITU's aims for both developments, including Passivhaus on the Hydro site, a footbridge connecting the developments into the wider neighbourhood, and a focus on family-oriented housing as well as smaller apartments.
- 4.9 This is an excellent example of how the Council can act as landowner (having sold on part of the Hydro site and with significant adjoining landholdings); as planning authority to ensure that high quality, environmentally sustainable housing is brought forward by willing developers; and as regeneration agency in promoting wider masterplanning and engaging with other landowners and occupiers to promote place-making.
- 4.10 The Council also already works with community groups and individuals who are developing custom and self-build approaches including through disposing of land for this purpose. This forms part of a wider approach to supporting custom and self-build which is a key sector in driving forward innovative approaches to low energy and low carbon housing. Additionally, it is likely that the Council will be required to maintain a register of sites suitable for custom and self-build as part of the provisions of the Housing and Planning Bill now going through Parliament.
- 4.11 For many Council owned sites Passivhaus will be difficult to achieve, given site orientation and other issues. There is also a cost attached to Passivhaus as it must be certified and be modelled. Windows, doors and ventilation systems etc. need to be Passivhaus certified which would increase cost and potentially restrict choice. Orientation is key to Passivhaus as solar gains are a major part of the dwelling, and so building to Passivhaus design standards may decrease the number of units the site may accommodate.

- 4.12 The Council has been finalising its budget proposals for 2016/17. As part of this process the Council has agreed to bring forward additional capital receipts as an important part of the Council's budget strategy. The recent approvals at both Executive Board and Full Council in February 2016 included a schedule of sites to be sold in forthcoming years. If the level of receipts are not realised then this would leave a shortfall that would have to be accommodated elsewhere through other sources of income or reductions in spending. Therefore careful consideration needs to be given as to any requirement for minimum building standards across all City Council owned sites as this would have an impact on the level of the capital receipts obtained from the disposal of residential development sites.
- 4.13 One way for the Council to promote the provision of higher environmental standards would be to adopt a similar approach to that adopted through the Older People Housing Prospectus, where a small number of suitable, exemplar sites, potentially aimed at self-builders or specialist providers, have been identified and are now being promoted.

It is suggested that further work in these areas on developing the Leeds Standard to incorporate elements of Passivhaus or similar approaches should be overseen by the existing Cross-party Environment and Climate Change Working Group (currently chaired by Cllr Sobel). Progress would be reported to the Housing Growth Board and to the wider Housing Growth Breakthrough Member group.

5 Corporate Considerations

5.1 Consultation and Engagement

- 5.1.1 The Housing Standards set out in the Housing Standards Review, will be the subject of consultation as part of a Development Plan Document.

5.2 Equality and Diversity / Cohesion and Integration

- 5.2.1 An equality impact assessment (EIA) screening has been undertaken as part of this report. Equality considerations have been given due regard. This report does not have a direct impact on the protected characteristics, however the improvement of housing standards generally will impact all to the same extent.

5.3 Council policies and Best Council Plan

- 5.3.1 Meeting Leeds' housing needs also forms part of the Vision for Leeds and the aspiration to the 'the best city in the UK'. The Best Council Plan promotes sustainable and inclusive economic growth improving the economic wellbeing of local people and businesses.

5.4 Resources and value for money

- 5.4.1 Progression of Passivhaus or similar standard above the existing Leeds Standard will have implications in terms of resources and potentially an impact on Capital Receipts if disposals are below the best consideration. There is currently no specific resource identified for the implementation of Passivhaus.

5.5 Legal Implications, Access to Information and Call In

5.5.1 The DPD will follow the statutory Development Plan process.

5.6 Risk Management

5.6.1 There is a potential for confusion due to differences in quality standards, terminology and application. National Guidance makes it clear that housing standards cannot be imposed other than those set out in 'The Housing Standards Review' for market housing. If Passivhaus or other standard is proposed then this can only apply to the Council's own build/ sites and would need to be adequately resourced; this would have an impact on capital receipts (see para 4.6). With regard to preparing the housing standards DPD there is a risk that larger dwellings may impact on site capacities and affect housing growth. This will need to be carefully evaluated in the viability assessment before setting policy requirements.

6 Conclusions

- 6.1 There is a need to ensure that all relevant factors are considered in giving adequate consideration to the way forward. The existing and current Leeds Standard is as a general rule of thumb 30% better than current Building Regulations, so it already presents a positive and challenging standard and may be adequate as an influencing tool. The introduction of a DPD improving space and access standards will further improve and drive up the quality of housing stock in Leeds.
- 6.2 Passivhaus or similar standard would need to be achievable and assessed on a site by site basis taking into consideration viability, site disposal and resources.
- 6.3 The report sets out the overlapping and complex issues which need to be considered.

7 Recommendations

7.1 Executive Board is recommended to agree to the preparation of a DPD for space and access standards according to the timetable set out in para 4.5.

8 Background documents¹

8.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1 - White Paper Motion (September 2015)

Resolved "That this Council notes:

- The Government cancelling the introduction of Zero Carbon Home Standards in 2016.
- The negative impact this will have on householders at risk of fuel poverty in new housing.
- The missed opportunity to reduce carbon emissions in new developments.
- The loss of income to the local economy as a result of these lower energy efficiency standards, as householders' income is spent paying energy bills rather than in local shops and on local services.
- From January 2016 the Government have proposed the lowest feed in tariff rate will be just 1.63p per kWh - as opposed to the current 12.47p for the smallest producers, usually single homes. This has the potential to devastate the domestic solar renewable market and cause a drastic drop in solar photovoltaic retrofitting in both private and social housing.

This Council believes:

- That under the principle of 'localism' councils can determine their own standards on land that they own if those standards comply with UK Building Regulations.
- That the internationally recognised 'Passivhaus Standard' offers an alternative to the UK's diminished energy efficiency ambitions for new-build housing.
- That the Passivhaus Standard complies with UK Building Regulations and can deliver heating bills of less than £100/year for the average three bedroom terrace house.

This Council also notes that the Leeds Standard for Housing aims to improve the quality of building, with energy efficiency as a central component of these changes. This approach has emphasised the needs for all housing -whether on Council land or not- to meet high quality energy efficiency standards.

Given Central Government's clear movement away from policies designed to improve energy efficiency, the Council resolves to ensure practical action takes place at a local level to secure a sustainable future.

Council therefore requests that officers investigate the need for even more challenging, locally set building standards, whilst also promoting and supporting self-builders, community-builders and developers who will seek to build to Passivhaus or similar standards. Council requests that Executive Board receive a report on this within the current municipal year."

Appendix 2 – Ministerial Statement (March 2015)

Planning update March 2015

From: [Department for Communities and Local Government](#) and [The Rt Hon Sir Eric Pickles MP](#)

Delivered on: 25 March 2015

Location: House of Commons

First published: 25 March 2015

Part of: [Energy efficiency in buildings](#) and [Planning system](#)

This speech was published under the 2010 to 2015 Conservative and Liberal Democrat coalition government

Steps the government are taking to streamline the planning system, protect the environment, support economic growth and assist locally-led decision-making.

Housing standards: streamlining the system

New homes need to be high quality, accessible and sustainable. To achieve this, the government has created a new approach for the setting of technical standards for new housing. This rationalises the many differing existing standards into a simpler, streamlined system which will reduce burdens and help bring forward much needed new homes.

The new system will comprise new additional optional Building Regulations on water and access, and a new national space standard (hereafter referred to as “the new national technical standards”). This system complements the existing set of Building Regulations, which are mandatory.

To implement this new regime, this written ministerial statement sets out the government’s new national planning policy on the setting of technical standards for new dwellings. This statement should be taken into account in applying the National Planning Policy Framework, and in particular the policies on local standards or requirements at paragraphs 95, 174, and 177, in both plan making and decision-taking

Plan making

From the date the [Deregulation Bill 2015](#) 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 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. Particular standards or requirements for energy performance are considered later in this statement.

Local planning authorities and qualifying bodies preparing neighbourhood plans should consider their existing plan policies on technical housing standards or requirements and update them as appropriate, for example through a partial Local Plan review, or a full neighbourhood plan replacement in due course. Local planning authorities may also need to review their local information requirements to ensure that technical detail that is no longer necessary is not requested to support planning applications.

The optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the [National Planning Policy Framework and Planning Guidance](#). Neighbourhood plans should not be used to apply the new national technical standards.

For the specific issue of energy performance, 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 until commencement of amendments to the [Planning and Energy Act 2008](#) in the Deregulation Bill 2015.

This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. 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, we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code level 4 equivalent. This statement does not modify the National Planning Policy Framework policy allowing the connection of new housing development to low carbon infrastructure such as district heating networks.

Measures relating to flood resilience and resistance and external noise will remain a matter to be dealt with through the planning process, in line with the existing national policy and guidance. In cases of very specific and clearly evidenced housing accessibility needs, where individual household requirements are clearly outside the new national technical standards, local planning authorities may ask for specific requirements outside of the access standard, subject to overall viability considerations.

Decision taking, transition and compliance:

From the date the Deregulation Bill 2015 is given Royal Assent until 30 September 2015: The government's policy is that planning permissions should not be granted requiring, or subject to conditions requiring, compliance with any technical housing standards other than for those areas where authorities have existing policies on access, internal space, or water efficiency.

Planning permission may still be granted on the basis of existing Local Plan and neighbourhood plan policies on access, internal space, and water efficiency, even though they may have a degree of conflict with the new national technical standards.

Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent

to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.

From 1 October 2015: Existing Local Plan, neighbourhood plan, and supplementary planning document policies relating to water efficiency, access and internal space should be interpreted by reference to the nearest equivalent new national technical standard. Decision takers should only require compliance with the new national technical standards where there is a relevant current Local Plan policy.

Planning policies relating to technical security standards for new homes, such as door and window locks, will be unnecessary because all new homes will be subject to the new mandatory [Building Regulation Approved Document on security \(Part Q\)](#). Policies relating to the external design and layout of new development, which aim to reduce crime and disorder, remain unaffected by this statement.

Where policies relating to technical standards have yet to be revised, local planning authorities are advised to set out clearly how the existing policies will be applied in decision taking in light of this statement.

If, in the light of experience in implementing this policy statement, the government considers that it is not being accorded sufficient weight by planning authorities, we will consider bringing forward new legislation to secure implementation.

Conclusion

This package of measures will help deliver more homes in a locally-led planning system, protect the environment, provide certainty for local residents and business, and contribute to the government's long-term economic plan and economic growth.

We will be placing in the Library of the House copies of the documents associated with these announcements.