



RESEARCH PAPER 08/06  
21 JANUARY 2008

# ***Planning and Energy Bill***

**Bill 17 of 2007-08**

The *Planning and Energy Bill* is a Private Members' Bill introduced by Michael Fallon MP, who drew first place in the 2007/08 ballot for Private Members' Bills.

The Bill would enable local planning authorities to set requirements for renewable and low-carbon energy generation and energy efficiency in local plans. The paper shows how that would relate to existing Government policy, particularly in the Planning Policy Statement on Climate Change of December 2007.

Christopher Barclay, Brenda Brevitt and Donna Gore

SCIENCE AND ENVIRONMENT

HOUSE OF COMMONS LIBRARY

## Recent Library Research Papers include:

<b>07/85</b>	Crossrail Bill: Committee Stage Report	06.12.07
<b>07/86</b>	The Treaty of Lisbon: amendments to the Treaty establishing the European Community	06.12.07
<b>07/87</b>	Education and Skills Bill (Bill 12 of 2007-2008)	10.12.07
<b>07/88</b>	National Insurance Contributions Bill [Bill 7 of 2007-08]	11.12.07
<b>07/89</b>	Channel Tunnel Rail Link (Supplementary Provisions) Bill: Committee Stage Report Bill 4 of 2007-08	11.12.07
<b>07/90</b>	Unemployment by constituency	12.12.07
<b>07/91</b>	The Barnett Formula	14.12.07
<b>07/92</b>	Sale of Student Loans Bill Committee Stage Report	18.12.07
<b>07/93</b>	Criminal Justice and Immigration Bill: Committee Stage Report [Bill 1 of 2007-08]	19.12.07
<b>07/94</b>	Pensions Bill [Bill 25 of 2007-08]	19.12.07
<b>08/01</b>	Economic Indicators, January 2008	07.01.08
<b>08/02</b>	Social Indicators	11.01.08
<b>08/03</b>	European Union (Amendment) Bill [Bill 48 of 2007-08]	15.01.08
<b>08/04</b>	Unemployment by Constituency, December 2007	16.01.08
<b>08/05</b>	Energy Bill [Bill 53 of 2007-08]	16.01.08

*Research Papers are available as PDF files:*

- *to members of the general public on the Parliamentary web site,  
URL: <http://www.parliament.uk>*
- *within Parliament to users of the Parliamentary Intranet,  
URL: <http://hcl1.hclibrary.parliament.uk>*

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We welcome comments on our papers; these should be sent to the Research Publications Officer, Room 407, 1 Derby Gate, London, SW1A 2DG or e-mailed to [PAPERS@parliament.uk](mailto:PAPERS@parliament.uk)

## Summary of main points

The *Planning and Energy Bill 2007/08*, introduced by Michael Fallon MP, would allow local councils to set targets for energy generation from on-site renewable and low carbon sources, and energy efficiency standards in addition to national requirements. The Association for Conservation of Energy has campaigned for this Bill.

The Government has implemented policies in this area, notably the Planning Policy Statements on Renewable Energy and Climate Change. However, current policy requires councils proposing such targets for housing development to demonstrate that the approach is consistent with house building requirements. The Bill does not contain any such requirement. Some councils, such as Merton and Woking, have already adopted environmentally friendly strategies but the picture elsewhere is mixed.

The British Property Federation has criticised the Bill as allowing over-prescriptive targets for onsite renewable energy generation.

The Bill would cover England and Wales.



# CONTENTS

<b>I</b>	<b>The Bill</b>	<b>7</b>
	<b>A. Introduction</b>	<b>7</b>
	<b>B. Text of the Bill</b>	<b>7</b>
	<b>C. Definition of terms</b>	<b>8</b>
<b>II</b>	<b>The reason for the Bill</b>	<b>9</b>
	<b>A. The need for renewable energy</b>	<b>9</b>
	<b>B. A previous Bill</b>	<b>11</b>
	<b>C. How would the Bill change the current position?</b>	<b>12</b>
<b>III</b>	<b>An overview of Government action</b>	<b>12</b>
	<b>A. Action on on-site energy generation</b>	<b>12</b>
	<b>B. Action on environmental efficiency standards</b>	<b>13</b>
	<b>C. What the Bill would change</b>	<b>14</b>
<b>IV</b>	<b>What local authorities have done</b>	<b>14</b>
	<b>A. Merton</b>	<b>15</b>
	<b>B. Woking</b>	<b>17</b>
	<b>C. The overall picture</b>	<b>18</b>
<b>V</b>	<b>Planning Policy Statements (PPSs)</b>	<b>20</b>
	<b>A. Renewable Energy Planning Policy Statement</b>	<b>20</b>
	<b>B. Climate Change Planning Policy Statement on generation</b>	<b>22</b>
	<b>C. Climate Change Planning Policy Statement on sustainable buildings</b>	<b>25</b>
<b>VI</b>	<b>The Code for Sustainable Homes</b>	<b>26</b>
<b>VII</b>	<b>British Property Federation criticism of the Bill</b>	<b>30</b>



# I The Bill

## A. Introduction

The *Planning and Energy Bill* is a Private Members' Bill introduced by Michael Fallon MP, who drew first place in the 2007/08 ballot for Private Members' Bills. The Bill will have its Second Reading on 25 January 2008.

The broad aim is to encourage local authorities to require more local renewable energy generation or systems like combined heat and power in new developments. The Government already has policies encouraging such targets, but subject to important qualifications. The targets must be tested by an independent inspector to ensure that they do not have any adverse impact on the development needs of the community. In the case of housing, they must be consistent with house building requirements. The Bill does not contain those qualifications.

## B. Text of the Bill

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 Development plans

A local planning authority may in its development plan and development plan documents specify that any person making an application for planning permission should include such reasonable provision as the authority may specify for—

- (a) the generation of energy from renewable sources as part of the proposed development;
- (b) the generation of low carbon energy as part of the proposed development;
- (c) an energy efficiency standard in all, part or parts of the proposed development that exceeds that required by any building regulations in force at the time of the application.

### 2 Interpretation

(1) In this Act—

“development plan” has the same meaning as in the Planning and Compulsory Purchase Act 2004 (c. 5);

“development plan document” has the same meaning as in the Planning and Compulsory Purchase Act 2004;

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (c. 8).

(2) For the purposes of any area in Wales the development plan is the local development plan adopted or approved in relation to that area.

### 3 Short title and extent

- (1) This Act may be cited as the Planning and Energy Act 2008.
- (2) This Act extends to England and Wales.

## C. Definition of terms

The Bill does not define the energy terms that it uses in Clause 1, and these may require clarification. For example, “low carbon energy” may include combined heat and power systems. The following definitions come from the glossary in the Planning Policy Statement on Climate Change published by the Government in December 2007:

### **Renewable and low-carbon energy**

Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass. Low-carbon technologies are those that can help reduce carbon emissions.

Renewable and/or low-carbon energy supplies include, but not exclusively, those from biomass and energy crops; CHP/CCHP (and micro-CHP); waste heat that would otherwise be generated directly or indirectly from fossil fuel; energy-from-waste; ground source heating and cooling; hydro; solar thermal and photovoltaic generation; wind generation.

### **Combined Heat and Power/Combined Cooling Heat and Power (CHP/CCHP)**

The simultaneous generation of usable heat and power (usually electricity) in a single process, thereby reducing wasted heat and putting to use heat that would normally be wasted to the atmosphere, rivers or seas. CHP is an efficient form of decentralised energy supply providing heating and electricity at the same time. CHP’s overall fuel efficiency can be around 70-90% of the input fuel, depending on heat load; much better than most power stations which are only up to around 40-50% efficient.

Other useful definitions in the glossary include:

### **Decentralised energy supply**

Energy supply from local renewable and local low-carbon sources (ie on-site and near-site, but not remote off-site) usually on a relatively small scale. Decentralised energy is a broad term used to denote a diverse range of technologies, including micro-renewables, which can locally serve an individual building, development or wider community and includes heating and cooling energy.

### **Decentralised and renewable or low-carbon energy**

Decentralised renewable energy or decentralised low-carbon energy or a combination of decentralised renewable energy and decentralised low-carbon energy.

### **Energy efficiency**

Making the best or most efficient use of energy in order to achieve a given output of goods or services, and of comfort and convenience.<sup>1</sup>

---

<sup>1</sup> DCLG, [Planning Policy Statement: Planning and Climate Change](#), December 2007

The Bill does not specify the siting of the renewable or low-carbon sources. The phrase “as part of the proposed development” might not necessarily be the same as “on-site”.

## II The reason for the Bill

### A. The need for renewable energy

The two long-term energy challenges faced by the UK that drove the latest review of energy policy and culminated in the Energy White Paper 2007 are:<sup>2</sup>

tackling climate change by reducing carbon dioxide emissions both within the UK and abroad; and  
ensuring secure, clean and affordable energy as we become increasingly dependent on imported fuel.<sup>3</sup>

One of the key ways that the UK will address these is to move towards more renewable energy sources, including microgenerators.

The UK has to satisfy two sets of renewable targets, and both are going to be challenging. The first is the UK's own target of 10% of *electricity* generation to be met from renewable sources by 2010, and an ‘aspiration’ of 20% by 2020. The second is the EU's binding target, that Tony Blair signed up to at the spring European Council meeting in March 2007, of 20% of the *overall European energy* mix to be generated from renewables by 2020. The EU's target, which encompasses all forms of energy, will clearly be more difficult to meet than the UK's electricity target. For example, electricity accounted for only 18.5% of the energy used in the UK in 2006, the latest year for which figures are available.<sup>4</sup> Nuclear power, as a low-carbon source, is to count towards the EU target, and there is to be ‘burden sharing’ to allow countries to make different contributions to the overall target. Future negotiations about this will be contentious, and if the UK cannot meet its obligation, it may have to pay into a buy-out fund with negative implications for the economy and business.

In 2006, 4.55% of the UK's electricity was generated from renewables. This was up from 1.82% in 1990.<sup>5</sup> This is often presented as a 250% increase, nevertheless, it is from a very low base and electricity from renewables currently accounts for only a small proportion of total need. Many other EU member states generate a much higher percentage, as illustrated in answer to the following parliamentary question:

**Mr. Meacher:** To ask the Secretary of State for Business, Enterprise and Regulatory Reform what information his Department holds on the percentage of electricity generated from renewable sources of energy in each of the EU member states (a) in 1997 and (b) at the most recent date for which information is available.

---

<sup>2</sup> [Meeting the Energy Challenge. A White Paper on Energy](#), DTI, 23 May 2007, CM 7124

<sup>3</sup> HC Deb 23 May 2007 cc1279-96

<sup>4</sup> HC Deb 27 November 2007 c291W

<sup>5</sup> UK Energy in Brief, BERR, July 2007, p29

**Malcolm Wicks:** Electricity from renewable energy as a percentage of gross electricity consumption is published by Eurostat. The information for 1997 and 2005 is as follows. 2005 is the latest year for which such information is available for all member states:<sup>6</sup>

<i>Percentage</i>		
	<i>1997</i>	<i>2005</i>
Cyprus	—	—
Malta	—	—
Estonia	0.1	1.1
Belgium	1.0	2.8
Poland	1.8	2.9
Luxembourg	2.0	3.2
Lithuania	2.6	3.9
United Kingdom	1.9	4.3
Czech Republic	3.5	4.5
Hungary	0.6	4.6
Ireland	3.8	6.8
Netherlands	3.5	7.5
Greece	8.6	10.0
Germany	4.3	10.5
France	15.2	11.3
Bulgaria	7.0	11.8
Italy	16.0	14.1
Spain	19.7	15.0
Portugal	38.3	16.0
Slovakia	14.5	16.5
Slovenia	26.9	24.2
Finland	25.3	26.9
Denmark	8.8	28.2
Romania	30.5	35.8
Latvia	46.7	48.4
Sweden	49.1	54.3
Austria	67.2	57.9
EU (27 countries)	13.1	14.0
<i>Source:</i> Eurostat <a href="http://epp.eurostat.ec.europa.eu">http://epp.eurostat.ec.europa.eu</a>		

<sup>6</sup> HC Deb 21 November 2007 cc937-8W

## B. A previous Bill

The Association for the Conservation of Energy (ACE) has previously supported a similar Private Member's Bill sponsored by Martin Caton MP. Their website gives some information, although it predates publication of the final version of the Planning Policy Statement on Climate Change:

### History of the "Caton" Bill

As latest figures show, CO2 emissions have risen consistently over the last four years. Energy efficiency is the simplest and most cost effective way to reduce carbon emissions.

However the planning system does not make sufficient provisions for energy efficiency. Cambridge City Council was recently required to water down a planning policy requiring large developers to 'provide evidence of how they have minimized energy consumption, maximized energy efficiency and considered the feasibility of using CHP systems' as, to quote the government inspector, it was 'unreasonable to the extent that it imposes more onerous requirements than the Building Regulations'.

ACE promoted the Local Planning Authorities: Energy and Energy Efficiency Bill in the last session that would enable local authorities to include in their local development energy efficiency standards higher than those required by Building Regulations, along with targets for generating energy from renewable and low carbon sources.

The Bill aimed to allow local authorities to impose similar requirements when determining individual planning applications. This Bill also promoted microgeneration and aimed to give it the boost it needs to move from its current niche market, to widespread expansion in the main energy market.

Martin Caton MP took up the Bill in the 2006 Private Members' Ballot, which received its Second Reading Debate on 19 January 2007. Unfortunately the Bill was talked out by Government Minister Phil Woolas and was again objected to on 20 April when the Second Reading debate resumed. Martin Caton tabled an EDM in support of the Bill. The Motion had cross-party support, and received 298 signatures. The co-sponsors included Shadow Environment Minister Greg Barker, Lib Dem Shadow Secretary of State for Communities and Local Government Andrew Stunell and former Environment Ministers Michael Meacher and Elliot Morley.

But, with time for Private Members' Bills fast running out, Martin Caton proposed to give local authorities a similar power by means of an amendment to the Local Government and Public Involvement in Health Bill as a separate and additional move. 80 MPs supported the amendment; however it was unfortunately not accepted.

However, this campaign is not lost! ACE has teamed up with the Micropower Council and others and has drafted a Bill designed both to protect the Merton Rule and enact the provisions of the Caton Bill. This Bill, the Planning and Energy Bill, has been taken up by Michael Fallon MP in the 2007 Private Members' Ballot.

More on planning:

DCLG launched two consultations, the first is on a proposed new Planning Policy Statement on Planning and Climate Change; the second is on the Government's plans for moving towards zero carbon development by 2016. Both consultations are underpinned by a new, voluntary Code for Sustainable Homes.

ACE is extremely concerned that the draft PPS will in fact place new restrictions on the powers of local planning authorities who wish to set high environmental standards in their local development plans. This runs completely counter to previous statements by Government Ministers that they wish to see the planning system used to achieve improvements in energy efficiency and the use of sustainable energy. It also makes a complete mockery of the Government's stated objective of achieving zero carbon homes by 2016.

Furthermore, in the consultations the Government states explicitly that zero carbon homes will be delivered more effectively by relying on national standards rather than through encouraging early action by individual local authorities. For those councils – and there are many – who want to show real leadership in the fight against climate change, this will come as a bitter blow.

ACE has submitted a very robust response to the consultations, highlighting our grave concerns and the views in our response were shared by 53 Members of Parliament; 43 Local authorities; 22 Other organisations; 16 Trade Associations; 14 Energy Efficiency Advice Centres; 8 Other energy advice/delivery bodies; 7 HECA Forums (see ACE responses).<sup>7</sup>

## **C. How would the Bill change the current position?**

Any assessment of the Bill must be based on the question of how it would change the current position. That is not so easy as it might appear. The Government has introduced policies to encourage on-site energy generation, renewables and energy conservation. In particular, the Planning Policy Statements on Renewable Energy (2004) and Climate Change (2007) included guidance for local authorities encouraging action in this area, including on-site generation. The Bill would provide a statutory basis for the inclusion of certain targets in Local Development Frameworks (development plans), but it would not specify any particular level of target. Local authorities wishing to set targets would not have to satisfy the condition that the targets should not have any adverse impact on the development needs of communities. In order to understand its possible effect, it is necessary to examine action already taken by the Government.

## **III An overview of Government action**

### **A. Action on on-site energy generation**

The Press Release launching the Planning Policy Statement on Climate Change in December 2007 gave an idea of Government thinking:

---

<sup>7</sup> [Association for the Conservation of Energy webpage](#) [on 21 January 2008]

Changes to the planning system will mean all councils will be expected to provide for on-site renewable energy and local community energy schemes to help cut carbon emissions from new developments, Yvette Cooper said today, as she published a new Planning Policy Statement on Climate Change...

(...)

The planning rules will mean councils and developers should be considering things like solar panels, wind turbines or heat pumps that can generate energy from on the site of new development. They should also look at the potential for connecting developments to neighbouring community heating and power schemes that can serve an entire local community.

These plans build on the Merton rule which requires all new non-residential developments above a certain size to generate at least 10 per cent of their energy on-site from renewable sources or the Mayor of London's plans to double renewable's share of UK electricity supply from the 2010 target of 10 per cent to 20 per cent by 2020.

(...)

Moving towards a low-carbon economy is a huge challenge. It requires a revolution in the way that we design, heat and power our buildings, and a concerted effort from a huge number of organisations - from local authorities, to developers, to environmental groups and local communities themselves. It also requires collaborative and responsible working to ensure change takes place alongside delivering the additional homes as well as the new jobs and regeneration we need. The policy set out today provides a strong framework for that degree of co-operation.<sup>8</sup>

However, the Planning Policy Statement does not specify the level of on-site energy generation from renewables that would be acceptable. An important point is the emphasis on having targets for renewable energy that are consistent with requirements for house building, job creation and regeneration.

## **B. Action on environmental efficiency standards**

The Government have set out a timetable to strengthen building regulations step by step, in order to make all new houses carbon neutral by 2016. They have also introduced the Code for Sustainable Homes, a method of assessing the environmental sustainability of homes. This was originally voluntary, but the *Housing and Regeneration Bill 2007/08* would make the assessment mandatory from April 2008 for anyone selling a house. However, there is no particular standard that has to be met. In addition, the Planning Policy Statement on Climate Change encourages local planning authorities to support innovation in sustainable buildings and to anticipate levels of building sustainability in advance of those set out nationally. The 2007 Energy White Paper showed the relative importance of energy efficiency for reducing carbon emissions from the home:

In the home, three-quarters of carbon dioxide emissions come from the energy used for heating and providing hot water and a fifth from lighting and appliances. Domestic energy consumption has been increasing slowly but steadily since the 1970s largely as a result of the spread of installed central heating and the increase in the number of energy-using goods. As a result of Government action,

---

<sup>8</sup> DCLG Press Release, *Boost for local renewable energy from new planning rules*, 17 December 2007

through measures such as the Energy Efficiency Commitment and improvements to building standards, we expect domestic energy consumption and carbon emissions to fall by 2010. However, if we are to see a large enough reduction in carbon emissions from this sector in order to help meet our 2020 and 2050 goals, we need to continue action beyond 2010 to improve energy efficiency.<sup>9</sup>

### **C. What the Bill would change**

The Bill would allow a local planning authority to insert targets in its local development framework (development plan) for onsite energy generation from renewable or low carbon sources, and for energy efficiency standards. A local development plan requires approval from a planning inspector. The local planning authority would have to justify the reasonableness of any proposed target.

Once the target was in the plan, the local planning authority would be in a stronger position in relation to planning applications. A planning application has to be determined in accordance with the development plan “unless material considerations indicate otherwise”.<sup>10</sup> Thus, the planning authority could reject a planning application failing to comply with the target without risking being overturned on appeal.

The clearest statement of how the Bill would change the existing position comes in a criticism of it by the British Property Federation:

Mr Fallon wants local authorities to set on-site renewable targets for new developments, reinforcing the ‘Merton rule’ (...)

[The Planning Policy Statement on Climate Change] requires local authorities to follow a balanced approach to specifying energy solutions which could include off-site and district methods for generating green energy. Many professionals feel this helpful compromise will prove more effective in achieving reductions in carbon emissions.<sup>11</sup>

The balanced approach, described in section VB requires that the targets for renewables do not interfere with provision of housing. The British Property Federation presumably fears that the Bill would allow councils to set more rigorous targets that might result in fewer houses being built.

## **IV What local authorities have done**

Individual planning applications have to be determined in accordance with the development plan, “unless material considerations indicate otherwise.”<sup>12</sup> Government guidance can count as a material consideration, and the most important guidance comes in Planning Policy Statements (PPSs). In the context of energy, the most important PPSs are those on renewable energy (PPS22) and climate change (supplement to

---

<sup>9</sup> DTI, [Energy White Paper: meeting the energy challenge](#), Cm 7124, May 2007, p49

<sup>10</sup> *Planning and Compulsory Purchase Act 2004* s.38(6)

<sup>11</sup> British Property Federation Press Release, *Re-think needed on green energy*, 10 January 2008

<sup>12</sup> *Planning and Compulsory Purchase Act 2004* s.38(6)

PPS1).<sup>13</sup> Planning policy regarding renewables has been unclear at the local level. Although the Government encourages planning authorities to incorporate renewable energy schemes into new developments, this is not mandatory. Some authorities have developed their own policy.

## A. Merton

The London Borough of Merton has become well-known for the planning policy that it adopted as part of its Unitary Development Plan (UDP) in October 2003 which has become known as the 'Merton Rule'. This is actually a planning policy about renewable energy which encourages planners of new buildings over a specified area to produce at least 10% of their energy requirements from on-site renewable sources. Merton was the first local authority in the UK to include a policy of this kind in its UDP and as it has been adopted by other planning authorities, Merton has become a by-word for sustainable planning.

The exact text of its policy, PE13, reads:

"The council will encourage the energy efficient design of buildings and their layout and orientation on site. **All new non residential developments above a threshold of 1,000sqm will be expected to incorporate renewable energy production equipment to provide at least 10% of predicted energy requirements.**

The use of sustainable building materials and the re-use of materials will also be encouraged, as will the use of recycled aggregates in the construction of buildings. This will be subject to the impact on the amenity of the local environment, taking into account the existing character of the area."<sup>14</sup>

This requirement is qualified:

The justification sets out that where the incorporation of renewable energy equipment would make the development unviable it will not be expected. So for example for technical reasons it may not be possible to mount solar or wind methods on a roof.

The justification also sets out the means of generating renewable energy to be photovoltaic energy, solar-powered and geo-thermal water heating, energy crops and biomass, but not energy from domestic or industrial waste.<sup>15</sup>

---

<sup>13</sup> DCLG, [Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1](#), DCLG, December 2007

<sup>14</sup> [The 10% Renewable Energy Policy \(The Merton Rule\)](#), webpage, London Borough of Merton [on 21 January 2008]

<sup>15</sup> [The 10% Renewable Energy Policy \(The Merton Rule\)](#), webpage, London Borough of Merton [on 21 January 2008]

In time, Merton hopes to extend this requirement to all new buildings, and is considering whether to increase the target to 20%. Other related information is available on its website.<sup>16</sup>

It is important to note that the Rule only applies to non-residential developments. Thus any generalisation of the 10% Rule in a PPS requires a decision on how to extend it to residential accommodation. The definition of renewable energy does not include combined heat and power but that is encouraged:

**Combined heat and power**

This is a much more efficient way of producing energy as it provides both heat and electricity in one unit from burning a fuel, usually gas. Where a developer proposes to introduce a Combined Heat and Power unit into a scheme we will recognise this as being beneficial to reducing the overall consumption of the building so thereby reducing the 10% requirement.

But we will also consider reducing the actual 10% requirement to a value lower than that originally required. This is in recognition of the fact that although a CHP unit cannot be defined as a renewable energy source it provides greater benefits over a conventional boiler through being a very efficient generator of energy.

However the CHP is a renewable source if biomass is used as the fuel although there can be issues regarding the transport and storage of the fuel.

The council is actively looking at the feasibility of setting up a District Heat and Power scheme in the borough. This involves setting up a large CHP plant and then linking it to various developments/sites that require the power.

When this is set up it will provide developers with the opportunity of linking into this network. Where this is possible there will be ample opportunity for negotiation on the 10% policy requirement.<sup>17</sup>

The exact nature of the requirement and its qualification is now frequently overlooked and the issue of requiring any new development to source a proportion of its energy from renewable sources is often referred to by the inexact phrase of "Merton-style rules". This may encompass all types of new building, of any area, and off-site renewable electricity that is imported.

There has been some debate as to how the Government would include the Merton Rule in the Planning Policy Statement on Climate Change. An article in the *Guardian* commented:

The rule has come in under pressure from the building industry, which objects to the cost. The housing minister Yvette Cooper has since said that off-site renewables could be allowed as part of the 10% level. Thus developers could, for example, invest in an offshore wind farm and say their Merton Rule requirements

---

<sup>16</sup> [The 10% Renewable Energy Policy \(The Merton Rule\)](#), webpage, London Borough of Merton [on 21 January 2008]

<sup>17</sup> [The 10% Renewable Energy Policy \(The Merton Rule\)](#), webpage, London Borough of Merton [on 21 January 2008]

had been met. Environmentalists say those wind farms would be built anyway and relaxing the rule means less renewable energy capacity would be built in a country that lags far behind its EU neighbours.

Fallon said: "I want to see councils leading the fight against climate change. This bill enables them to reach beyond the minimum standards set by government. It encourages localism."

A report last month from the government's Renewables Advisory Board<sup>18</sup> said that only very limited and local off-site renewables, such as combined heat and power plants, should be allowed.<sup>19</sup>

## B. Woking

Woking Borough council is often cited as an exemplar "green" local authority. Woking Borough Council's website lists some of its "Green achievements":

- Woking is believed to be the first UK authority to have adopted a comprehensive climate change strategy on a scale that is likely to meet The Royal Commission on Environmental pollution targets of 60% reductions of CO<sub>2</sub> equivalent emissions by 2050 and 80% by 2100.
- The UK's first sustainable energy 200kWh fuel cell. Fuel cells were originally used in the USA space programme in the 1960's and provided the vital heat, electricity and drinking water to keep space missions going.
- The first heating and cooling sustainable energy station in the country.
- In 2000, the Council was granted the Queen's Award for Enterprise in recognition of its ground-breaking approach to sustainability; Woking is the only local authority honoured with Britain's most coveted commercial award.
- Through its Environmental Charter and Energy Efficiency Policies the Council has introduced a number of innovative measures to protect the environment and reduce pollution to make Woking a cleaner, greener borough. It has adopted numerous energy and water saving techniques for Council-owned buildings and public places; the revenue saved as a result of these award winning schemes is reinvested in other environmental measures to further improve energy efficiency.
- Since its energy efficiency and environmental policies were implemented in 1990/91 (the base year), the Council achieved its 5 year target to reduce energy consumption by 20% in 4 years.<sup>20</sup>

Its Climate Change strategy includes the following measures:

---

<sup>18</sup> [The Role of Onsite Energy Generation in Delivering Zero Carbon Homes](#), Renewables Advisory Board, November 2007

<sup>19</sup> "Parties unite to stop government backsliding over renewables rule", *Guardian*, 3 December 2007, p26

<sup>20</sup> [Dynamic Green Initiatives](#), Woking Borough Council webpage [on 21 January 2008]

- Use of sustainable combined heat and power sources of energy in the borough -- discouraging the production of CO<sub>2</sub> type gases.
- Increased use of photovoltaic and renewable energy.
- Incorporating, at the next review of the Local Plan, planning policies which will ensure that new development in the Borough reduces CO<sub>2</sub> equivalent emissions of greenhouse gases (ie 80% less than its impact would have been in 1990).
- Introducing a local award scheme to recognise any developments that incorporate features which contribute to the long-term aim of sustainable development, including reducing CO<sub>2</sub> equivalent emissions and mitigating against climate change.
- Adopting a target of purchasing 100% of the Council's electrical and thermal energy requirements from sustainable sources and 20% from renewable sources by 2010/11.
- Pursuing, in the management of Council land, the use of irrigation systems that integrate the re-use of storm water.
- Adopting best practice in the management of the Council's own land and buildings and working with the Environment Agency, Thames Water and developers to create wetlands in or near existing floodplains, with a view to enhancing capacity of the floodplain.
- Exploring means of creating environmentally friendly energy from waste and encouraging the avoidance of landfill.
- Maintaining the Home Energy Conservation Act target of 30% improvement in energy efficiency by 31 March 2006.<sup>21</sup>

## C. The overall picture

It is very difficult to obtain a broader view of progress in this area. A PQ in June 2007 described wide variation between authorities on environmental standards for new homes:

**Yvette Cooper:** Local planning authority policies on environmental standards for new homes vary in terms of their scope, specific requirement and degree of prescription. There is also variation as to when, and how, local planning authorities seek to apply such policies. Some local planning authorities have identifiable policies on environmental standards in their adopted development plan, or are proposing such policies in draft plans. Others rely on supplementary planning guidance which does not form part of the plan.<sup>22</sup>

---

<sup>21</sup> [Climate Change Strategy](#) Woking Borough Council webpage [on 21 January 2008]

<sup>22</sup> HC Deb 4 June 2007 c192W

English Partnerships commissioned a study from Arup on climate change policies adopted by councils.<sup>23</sup>

The report, in February 2007 listed several authorities – regional and local – with 10% on-site renewable energy strategies in development plans, although some plans were in draft: South West Region, Vale Royal, South East Region, East of England, Knowsley, Calderdale, London Borough of Ealing, Sefton, Waltham Forest, Purbeck, London Borough of Croydon, Newcastle-upon-Tyne, Luton, South Holland, North East Region (draft), North West Region (draft), Yorkshire and Humberside Region (draft), Guildford (draft), Supra Regional SEEDA Checklist. The London Plan had 10% on-site renewable energy, but a proposed alteration to the Plan would increase this to 20%. Manchester and Woking (draft) had 20%. The City of Norwich, East Midlands Region (draft) and Milton Keynes had carbon neutrality.

The report noted that the considerable variation between authorities caused uncertainty for developers and prevented them from exploiting economies of scale:

We would, therefore, suggest that this PPS [on Climate Change] offers an opportunity to create a level playing field by setting a standard that would operate across the whole of England. There is some debate however about what measure the development plan should adopt. Some local authorities have opted for a carbon emissions standard across an area whilst others have been more specific by adopting an on-site renewable target. (...)

Adopting a fixed percentage of on-site or locally supplied low carbon or renewable energy production will remove some of the flexibility available to developers to reduce carbon emissions at the lowest possible cost. Nevertheless, this loss of freedom must be balanced against the benefits of creating certainty for the development industry and would speed up the process of tackling climate change. It would also stabilise the market for renewable power system producers (an objective of the original Merton policy) alongside the operation of the renewables obligation with respect to the energy supply market. Both measures would send a very strong signal to investors to invest in the renewable technologies market.<sup>24</sup>

Another PQ showed that the Government views energy developments very much in terms of its own timetable:

**Gregory Barker:** To ask the Secretary of State for Communities and Local Government (1) if she will estimate the total onsite renewable energy capacity which will be installed by 2010 as a result of the Merton planning rule; (2) what her Department's estimate is of (a) the number of completed Merton rule developments in England and (b) the average change in the level of carbon dioxide emissions attributable to such developments delivered as a result of the Merton rule; (3) what her Department's estimate is of the number of individual developments which gained planning approval under local planning authority Merton rules in (a) 2005, (b) 2006 and (c) 2007;

---

<sup>23</sup> Arup for English Partnerships, [Climate Change Document](#), February 2007

<sup>24</sup> Arup for English Partnerships, [Climate Change Document](#), February 2007

(4) if she will estimate the total annual change in the level of carbon dioxide emissions by 2010 if every English local planning authority adopts a Merton rule requiring onsite renewable energy in all major new developments.

**Yvette Cooper:** Estimates of the type sought will vary substantially according to the assumptions made on matters such as the range of developments to which local policies are applied, the expected number of developments to be completed, their energy demands, the extent to which the provision of installed equipment complies with the original planning permission and whether the technologies installed in practice provide the predicted savings. However the Government have set out a timetable for all new homes to be zero carbon by 2016. This will require significant increases in the use of renewables and we have assessed that overall implementation of this policy will reduce carbon dioxide emissions by at least 15 million tonnes of carbon dioxide a year by 2050.

Using their own assumptions, the London Borough of Merton have estimated the demand for renewable energy arising from Merton style policies and, more recently, a study for the Greater London Authority by the London South Bank University has considered the energy performance of applications referred to the Mayor. More generally, an overview of the estimated impact of our energy measures is provided in our White Paper, "Meeting the Energy Challenge" and supporting publications.<sup>25</sup>

However, a report by the Renewables Advisory Board (RAB), an independent non-departmental public body, sponsored by the Department of Business, Enterprise and Regulatory Reform (BERR), that advises the Government, recommended further action to encourage on-site renewables in order to meet the Government target for 2016. It concluded that the policy could drive a market for onsite renewables worth £2.3 billion a year from 2016. Matthew Spencer, Chair of the RAB microgeneration working group, commented:

The zero carbon policy is long-sighted and bold, and could produce big environmental benefits in existing and new homes if it is used to accelerate the development of decentralised energy services and technology. However the Government's current timescale postpones much of the hard work until 2016, with little opportunity to learn or build capacity in the UK onsite renewables sector in the next eight years. If left unaddressed this could slow house building but we think there are options to overcome this supply gap. This includes using the planning system to require earlier uptake of renewable energy in larger housing developments.<sup>26</sup>

## **V Planning Policy Statements (PPSs)**

### **A. Renewable Energy Planning Policy Statement**

Planning Policy Statement 22 on renewable energy was published in 2004 and has been the main Government guidance against which renewable energy projects – such as wind

---

<sup>25</sup> HC Deb 29 October 2007 c681W

<sup>26</sup> Renewables Advisory Board Press Release, *New report highlights essential role of renewable energy generation in achieving zero carbon homes*, 21 November 2007

farms – have been judged. It is a short document, with only 25 paragraphs, but there is also a companion volume. It requires regional spatial strategies and local development documents to “contain policies designed to promote and encourage, rather than restrict, the development of renewable energy sources.” It prevents planning authorities from excluding renewable energy. In addition, there is some encouragement for small scale development. Paragraph 8 stipulates what policies may be included in local development frameworks:

Local planning authorities may include policies in local development documents that require a percentage of the energy to be used in new residential, commercial or industrial developments to come from on-site renewable energy developments.

Such policies:

- (i) should ensure that requirement to generate on-site renewable energy is only applied to developments where the installation of renewable energy generation equipment is viable given the type of development proposed, its location, and design;
- (ii) should not be framed in such a way as to place an undue burden on developers, for example, by specifying that all energy to be used in a development should come from on-site renewable generation.

Further guidance on the framing of such policies, together with good practice examples of the development of on-site renewable energy generation, are included in the companion guide to PPS22.

The Companion guide to PPS22 contains further guidance, including the following passage:

In preparing policies in relation to on-site generation, local planning authorities should take into account the following considerations:

- policies should encourage developers to consider a range of renewable energy technologies on their sites (but should not specify which technologies to use on named sites – this would be too prescriptive);
- policies should be flexible: not all technologies are appropriate on all sites and locational constraints should be borne in mind (for example, any requirement for connection to the electricity distribution network);
- policies should not place undue burdens on developers: local authorities should be mindful of the level of development pressure in their area in setting generation targets; and,
- authorities may wish to lead by example and install schemes at their own premises or develop ‘private wire’ networks in town centres – this can encourage neighbouring developers to follow suit and there may be advantages in developing a local distribution network.<sup>27</sup>

---

<sup>27</sup> ODPM, [Companion Guide to Planning Policy Statement 22](#), 2004

PPS22 contains some more general encouragement for renewable energy:

**Small Scale Renewable Energy Developments**

18. Local planning authorities and developers should consider the opportunity for incorporating renewable energy projects in all new developments. Small scale renewable energy schemes utilising technologies such as solar panels, Biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated both into new developments and some existing buildings. Local planning authorities should specifically encourage such schemes through positively expressed policies in local development documents.<sup>28</sup>

**B. Climate Change Planning Policy Statement on generation**

In December 2007, the Government published a Planning Policy Statement on Climate Change as a companion to *Planning Policy Statement 1: Planning for Sustainable Development*.<sup>29</sup> At the same time the Government launched a draft Planning Policy Statement on economic development. The Press Release stressed the link:

The Government is clear the planning system should do more to support jobs but should also deliver higher environmental standards at the same time. By publishing the climate change statement alongside the draft one for economic development the government is making clear that action on climate change must run alongside economic growth and increased housing.

The rules make clear that councils should be drawing up proposals to cut climate change which also support the increased housing targets as well as job[s] and regeneration too.<sup>30</sup>

The PPS on Climate Change contains several passages on energy. It requires local authorities to encourage renewable energy and low carbon generation in the core strategy in the Local Development Framework:

**Renewable and low-carbon energy generation**

19. In developing their core strategy and supporting local development documents, planning authorities should provide a framework that promotes and encourages renewable and low carbon energy generation. Policies should be designed to promote and not restrict renewable and low-carbon energy and supporting infrastructure.

20. In particular, planning authorities should:

- not require applicants for energy development to demonstrate either the overall need for renewable energy and its distribution, nor question the energy justification for why a proposal for such development must be sited in a particular location;

---

<sup>28</sup> ODPM, [Planning Policy Statement 22: Renewable Energy](#), 2004

<sup>29</sup> DCLG, *Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1*, December 2007

<sup>30</sup> DCLG Press Release, *Boost for local renewable energy from new planning rules*, 17 December 2007

- ensure any local approach to protecting landscape and townscape is consistent with PPS22 and does not preclude the supply of any type of renewable energy other than in the most exceptional circumstances;
- alongside any criteria-based policy developed in line with PPS22, consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources, but in doing so take care to avoid stifling innovation including by rejecting proposals solely because they are outside areas identified for energy generation; and
- expect a proportion of the energy supply of new development to be secured from decentralised and renewable or low-carbon energy sources.

#### **Local development orders**

21. Planning authorities should give positive consideration to the use of local development orders (LDO) to secure renewable and low-carbon energy supply systems. LDOs could be used to provide additional permitted development rights across the whole of a planning authority's area. LDOs could also be used to grant permission for certain types of development in parts of a planning authority's area.

22. An LDO could also be development area or site specific to bring forward development of a particular site or sites. In practice, to ensure that such LDOs deliver the right type of development their use should be complemented by guidance, including design codes, produced by the planning authority and in line with this PPS.

#### **Selecting land for development**

23. In deciding which areas and sites are suitable, and for what type and intensity of development, planning authorities should assess their consistency with the policies in this PPS.

24. In doing so, planning authorities should take into account:

- the extent to which existing or planned opportunities for decentralised and renewable or low-carbon energy could contribute to the energy supply of development;...

The PPS on Climate Change contains a generalisation of the Merton Rule:

#### **Local requirements for decentralised energy to supply new development**

26. Planning authorities should have an evidence-based understanding of the local feasibility and potential for renewable and low-carbon technologies, including microgeneration, to supply new development in their area. This may require them, working closely with industry and drawing in other appropriate expertise, to make their own assessments.

Drawing from this evidence-base, and ensuring consistency with housing and economic objectives, planning authorities should:

- (i) set out a target percentage of the energy to be used in new development to come from decentralised and renewable or low-carbon energy sources where it is viable. The target should avoid prescription on technologies and be flexible in how carbon savings from local energy supplies are to be secured;

(ii) where there are particular and demonstrable opportunities for greater use of decentralised and renewable or low-carbon energy than the target percentage, bring forward development area or site-specific targets to secure this potential; and, in bringing forward targets,

(iii) set out the type and size of development to which the target will be applied; and

(iv) ensure there is a clear rationale for the target and it is properly tested.

27. In considering a development area or site-specific target, planning authorities should pay particular attention to opportunities for utilizing existing decentralised and renewable or low-carbon energy supply systems and to fostering the development of new opportunities to supply proposed and existing development. Such opportunities could include co-locating potential heat customers and heat suppliers. Where there are existing decentralised energy supply systems, or firm proposals, planning authorities can expect proposed development to connect to an identified system, or be designed to be able to connect in future. In such instances and in allocating land for development, planning authorities can set out how the proposed development would be expected to contribute to securing the decentralised energy supply system from which it would benefit.

28. When specifying requirements for new development to secure energy from decentralised and renewable or low-carbon energy sources, planning authorities can set specific requirements to facilitate connection. Any requirement must be fair and reasonable and, in particular, not restrict those with responsibility for providing energy to new development, or the occupiers, to any one energy provider in perpetuity.

29. Well-founded development area and site-specific targets drawn up in line with this PPS may expect significant proportions of the energy supply of new development to be secured from decentralised and renewable or low-carbon energy sources.

The PPS does not lay down the percentage of energy requirements to be derived from decentralised or renewable sources. However, it is clear that the planning authority would be expected to provide evidence for the policy they adopt. Paragraph 26 states that the local planning authority should set out a target percentage on generation “where it is viable”. Paragraph 33 imposes an important qualification upon the powers of the local authority to impose a target:

**Testing local requirements**

33. Any policy relating to local requirements for decentralised energy supply to new development or for sustainable buildings should be set out in a DPD (Development Plan Document), not a supplementary planning document, so as to ensure examination by an independent Inspector. In doing so, planning authorities should:

– ensure what is proposed is evidence-based and viable, having regard to the overall costs of bringing sites to the market (including the costs of any necessary

supporting infrastructure) and the need to avoid any adverse impact on the development needs of communities;

- in the case of housing development and when setting development area or site-specific expectations, demonstrate that the proposed approach is consistent with securing the expected supply and pace of housing development shown in the housing trajectory required by PPS3,<sup>31</sup> and does not inhibit the provision of affordable housing; and

- set out how they intend to advise potential developers on the implementation of the local requirements, and how these will be monitored and enforced.

Those conditions might present difficulties for some councils wanting to introduce challenging targets for renewables. The Bill would allow councils to introduce their targets without conforming to the conditions.

### **C. Climate Change Planning Policy Statement on sustainable buildings**

The Planning Policy Statement on Climate Change also gives guidance on local requirements for sustainable buildings:

30. Planning authorities, developers and other partners in the provision of new development should engage constructively and imaginatively to encourage the delivery of sustainable buildings. Accordingly, planning policies should support innovation and investment in sustainable buildings and should not, unless there are exceptional reasons, deter novel or cutting-edge developments. Planning authorities should help to achieve the national timetable for reducing carbon emissions from domestic and non-domestic buildings.

31. There will be situations where it could be appropriate for planning authorities to anticipate levels of building sustainability in advance of those set out nationally. When proposing any local requirements for sustainable buildings planning authorities must be able to demonstrate clearly the local circumstances that warrant and allow this. These could include, for example, where:

- there are clear opportunities for significant use of decentralised and renewable or low-carbon energy; or
- without the requirement, for example on water efficiency, the envisaged development would be unacceptable for its proposed location.

32. When proposing any local requirement for sustainable buildings planning authorities should:

- focus on development area or site-specific opportunities;
- specify the requirement in terms of achievement of nationally described sustainable buildings standards, for example in the case of housing by expecting identified housing proposals to be delivered at a specific level of the Code for Sustainable Homes;

---

<sup>31</sup> DCLG, [Planning Policy Statement 3: Housing](#), 2006

## VI The Code for Sustainable Homes

The Code for Sustainable Homes [CSH otherwise “the Code”] is an assessment mechanism developed by the Government for rating the sustainability credentials of new homes. It is based on the Building Research Establishment’s [BRE] *EcoHomes* standard. Since April 2007 the developer of any new home in England can choose to be assessed against the Code. Making assessment against the Code mandatory was first proposed in the *Building a Greener Future: Towards Zero Carbon Development* consultation document. Whilst a number of environmental benchmark schemes exist [some of these are outlined in Library Standard Note SNSC-03873 *Sustainable buildings and environmental standards: background*] the Government hopes that customer demand and industry support will lead to the CSH becoming the single national benchmark for sustainable construction across the built environment.

To this end, it has consulted on the matter with a view to bringing in a mandatory rating for all marketed new homes in England and Wales from April 2008 (but without the need to meet any particular level). Although building to, or assessment against the Code will remain voluntary for homebuilders the proposals in the *Housing and Regeneration Bill* [Bill 8 of 2007-08] will provide a mechanism for Sustainability Certificates to be issued when a property is sold, which will declare if a new house’s performance rating has been determined against the Code, or not.<sup>32</sup> Certificates will be presented in Home Information Packs, alongside mandatory Energy Performance Certificates. The Government hopes the Code will provide a stepping-stone towards all new housing developments being zero carbon by 2016.

The CSH was launched in December 2006 and went live on 10 April 2007. It uses a star rating system (1 to 6) to indicate the overall sustainability performance of a home. One star indicates entry level, with standards set above the level of the Building Regulations, the minimum statutory building standards. Six stars is the highest level, deemed to be exemplar level at current standards.

Points are awarded for the degree of compliance over nine design categories. There are minimum standards for energy efficiency and water consumption at every level of the Code.

<ul style="list-style-type: none"> <li>• energy/CO2</li> </ul>	Minimum standards at each level of the Code
<ul style="list-style-type: none"> <li>• water efficiency</li> </ul>	
<ul style="list-style-type: none"> <li>• use of materials</li> </ul>	Minimum standards at Code entry level only
<ul style="list-style-type: none"> <li>• surface water run-off</li> </ul>	
<ul style="list-style-type: none"> <li>• household waste management, including composting facilities</li> </ul>	
<ul style="list-style-type: none"> <li>• site waste management</li> </ul>	No minimum standards
<ul style="list-style-type: none"> <li>• health and well-being</li> </ul>	
<ul style="list-style-type: none"> <li>• pollution</li> </ul>	
<ul style="list-style-type: none"> <li>• ecology</li> </ul>	

<sup>32</sup> [Housing and Regeneration Bill](#), Library Research Paper 07/79, 22 November 2007

To achieve compliance with each level it is necessary to achieve the relevant minimum performance standards for energy and water efficiency together with a minimum number of points for the 'flexible' standards. Developers are free to choose which and how many standards they implement to achieve a sustainability rating.

The Code assessments are carried out in two phases: an initial Design Stage Review, based on design drawings, specifications and other commitments, for which an interim certificate of compliance is issued for each home type on a development, and a mandatory Post Construction Review. The latter is a final assessment and certification carried out after construction on a sample of completed homes, based on the design stage review. Confirmation of compliance includes inspection of site records and a visual inspection.

#### **a. Sustainability Certificates**

On the basis of responses to its consultation document, *The future of the Code for Sustainable Homes - Making a rating mandatory* issued on 23 July 2007,<sup>33</sup> DCLG has decided to proceed with a mandatory rating system. The Government fears that if the Code were to remain voluntary it might mean that it is not implemented on a wide enough scale for a discernible impact to be seen.

Under the proposals in the *Housing and Regeneration Bill*, from April 2008 it is proposed that a home builder would either:

- Employ a qualified Code Assessor to make the relevant inspections and provide a Sustainability Certificate; or
- Provide a zero-rating certificate or standard letter stating that the house has not been assessed against the relevant standards. The Certificate will need to state if the house has been built to the standards in the Code.<sup>34</sup>

#### **b. Strengthening of the Building Regulations**

The Code is closely linked to Building Regulations, the minimum building standards required by law. The minimum standards for compliance against Level One of the Code have been set just above the minimum thermal efficiency requirements of Part L 2006 of the Building Regulations; Level three being just above *EcoHomes* Very Good, and level six being 'zero carbon.'

Homes built with public funds, such as housing provided for English Partnerships<sup>35</sup> have had to meet Level 3 of the Code from April 2007.

---

<sup>33</sup> [The future of the Code for Sustainable Homes - Making a rating mandatory, DCLG 23 July 2007](#)

<sup>34</sup> [The future of the Code for Sustainable Homes - Making a rating mandatory, DCLG 23 July 2007 p. 34](#)

<sup>35</sup> It was announced on 17 January 2007 that a new agency, Communities England, would be established that will combine the functions of the Housing Corporation and English Partnerships. The Written Ministerial Statement notes that the single agency will help to reduce the environmental impact of homes and buildings by using its enhanced purchasing power and ability to demand exacting standards of housebuilders and Registered Social Landlords. [HC Deb 17 January 36WS]

For homes to meet Level 4 a number of efficiency measures would need to be incorporated, possibly including some form of renewable or low carbon microgeneration capacity. Local authorities have been asked to include policies for the inclusion of microgeneration in development plans. To meet Level 6 high levels of insulation and zero energy use would be expected.

The *ENDS report* noted that achieving Level 3 would save the average household around £50 in annual household energy bills; at Level 4 they may save around £100 per year.<sup>36</sup> However, the article speculated that these houses may be more expensive to build and quotes the DCLG's own estimate that achieving Level 3 may add around 3 per cent or £2,000 to the average building costs whereas at Level 4 this may be as much as 7 per cent.<sup>37</sup>

However, there is much uncertainty about costs, which tend to be based on existing know how and building methods. Some developers with experience of modern methods of construction and low carbon developments may achieve greater cost savings in the short term. As the market develops to meet the higher standards uncertainty increases, but over time costs savings may emerge and be spread more widely.

New homes are already required to be more energy efficient than the average existing housing stock. It is estimated that the 2006 changes to Part L Building Regulations (consolidated from earlier reviews in 2002 and 2005) will save 20 per cent more energy and will achieve a 40% saving of carbon emissions from homes built after April 2006 compared to pre-2002 standards, and a 70% improvement compared to pre-1990 standards.

It is the Government's intention that the Code will signal the future direction of Building Regulations in relation to carbon emissions from, and energy use in homes. In March 2006 the Government announced that the CSH would be strengthened, alongside enhanced energy efficiency requirements under Part L of the Building Regulations, which came into force in April 2006.<sup>38</sup> A Written Ministerial Statement in December 2006 set out a timetable for progressively improving the Building Regulations to achieve zero carbon homes by 2016, as envisaged by the Chancellor of the Exchequer in his pre-Budget speech.

The proposed timetable would see the energy/ carbon requirements of building regulations to be revised to be equivalent to the following levels of the Code for Sustainable Homes:

- Level 3 (25 per cent. improvement on 2006 regulations) in 2010
- Level 4 (44 per cent. improvement on 2006 regulations) in 2013
- Level 6 (zero carbon) in 2016

---

<sup>36</sup> Government plots course to zero-carbon housing, *ENDS report* 383 December 2006 p4

<sup>37</sup> Building a Greener Future paras 2.30-2.44

<sup>38</sup> ODPM News Release, *Stronger Code for sustainable homes* 9 March 2006

In his pre-Budget Report 2006, the Chancellor of the Exchequer announced a time-limited stamp duty exemption for the vast majority of new zero-carbon homes. This exemption will provide an incentive for buyers of new homes to demand, and housebuilders and developers to offer, zero carbon homes in advance of Level 6 of the Code becoming a mandatory standard.<sup>39</sup>

### **c. Existing homes**

Addressing the All Party Parliamentary Group on Climate Change in November 2006, Yvette Cooper highlighted energy savings that could be made to existing homes by taking simple measures like cavity wall insulation. Up to 7 million tonnes of carbon could be saved each year. She reported the initial report from the Review of the Sustainability of Existing Buildings.<sup>40</sup>

The review shows:

- \* implementing measures with the fastest pay back and replacing boilers over time could save 7MtC a year and make householders better off;
- \* cavity wall insulation has increased from 20% of our housing stock in 1996 to 36% in 2003;
- \* the number of homes with over 150mm of loft insulation increased by 4 million between 2001 and 2004;
- \* a further 8.5m homes could benefit from cavity wall insulation saving 2.1MtC a year;
- \* cavity wall insulation typically costs £340 to fit and pays for itself within 2.6 years. (Over a 5 year period householders would get a 200 per cent return on their investment). In practice, these costs and the payback period can be reduced through grants and subsidies, with some householders, on qualifying benefits, being eligible for free installation;
- \* increasing loft insulation could help 6.1m homes and deliver carbon savings of 1.2m a year. Pay back time for loft insulation is 2.7 years and householders get a 180% return over 5 years. Again grants and subsidies are available;
- \* reaching the 60 per cent target by 2050 will require high take up of microgeneration including emerging technologies such as heat pumps and micro CHP (combined heat and power);
- \* research suggests that costs of low and zero carbon technologies could be reduced significantly for each doubling of installed capacity; and
- \* social housing is on average more energy efficient than private housing.<sup>41</sup>

---

<sup>39</sup> HC Deb 13 December 2006 c85WS

<sup>40</sup> DCLG, [Review of the sustainability of existing buildings the energy efficiency of dwellings – initial analysis](#), DCLG November 2006

<sup>41</sup> DCLG News Release, *New figures show potential 7 million tonnes home carbon savings* 7 November 2006

## VII British Property Federation criticism of the Bill

The British Property Federation argues that the Bill would make a difference, but an undesirable one:

There is fresh debate over how to achieve green energy targets, following proposals in a new private members' bill which the property industry believes could actually undermine its fight against climate change. The argument concerns the effectiveness of micro-generators and whether small, on-site renewable energy sources can really make a difference. (...)

### Prescriptive local targets

Mr Fallon wants local authorities to set on-site renewable targets for new developments, reinforcing the 'Merton rule', named after the London Borough of Merton, which was the first local authority to require a specific percentage of a new development's energy to be provided through on-site renewable sources, which include solar panels and wind turbines.

It comes just weeks after planning minister, Yvette Cooper, announced a new planning framework for dealing with climate change following extensive consultation with the property industry and other stakeholders.

### Government's new balanced approach

The new guidance, published just before Christmas, requires local authorities to follow a balanced approach to specifying energy solutions which could include off-site and district methods for generating green energy. Many professionals feel this helpful compromise will prove more effective in achieving reductions in carbon emissions.

(...)

### Public is misled over green energy

But Mr Fallon's moves to re-instate overly prescriptive on-site targets will have been dealt a blow by a new study which has reveals homeowners are being misled over the effectiveness of domestic wind turbines.

Figures in the study, carried out by environmental consultancy Encraft, indicated that it could take up to 15 years for a domestic wind turbine to generate enough 'clean' energy to compensate for the energy spent manufacturing it.

The study was supported by both the government and the British Wind Energy Association. It backed up property industry concerns about the major disparity between the effectiveness of on-site renewable across different areas of the country.

### Industry's support for green targets

The BPF fully supports an active role for local authorities in ensuring new developments use renewable and decentralised energy sources. The property industry shares the government's aspiration to make all new development carbon neutral within a viable timescale and fully sympathises with the objectives of the Planning and Energy Bill.

However, the BPF fears the bill will be applied in an overly prescriptive way which would undermine the wider objectives of cutting emissions and making buildings greener.

Developers must be able to use their professional judgement

While local authorities have an important role to play as drivers of low carbon solutions, they must be prepared to support the use of all of the methods and technologies that are now available, rather than rely on a one size fits all solution for a problem which is not solved that easily.

Michael Chambers, director for planning and development, said: "The best way of ensuring developments use renewable energy is to find the most sustainable solution for each site. In many cases, on-site energy generation, as promoted in the bill, might make a significant contribution.

"However, this is just not practical in all cases, for instance, in dense urban situations where there is little light or wind. It does not make sense to insist that a fixed amount of energy comes from on-site sources when the more practical option in some cases would be to derive energy from other sustainable, decentralised sources, such as combined heat and power plant.<sup>42</sup>

---

<sup>42</sup> British Property Federation Press Release, *Re-think needed on green energy*, 10 January 2008