



Department for
Communities and
Local Government

Next steps to zero carbon homes

Small sites exemption



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The Consultation Process and How to Respond

Basic Information

To:	This is a public consultation and it is open to anyone with an interest in these proposals to respond
Body responsible for the consultation:	The Department for Communities and Local Government is responsible for the policy and the consultation exercise.
Duration:	This consultation will begin on 18 November 2014 and end on 7 January 2015.
Enquiries:	Email: Building.Regulations@communities.gsi.gov.uk
How to respond:	Responses to this consultation should be submitted through the online capture form available at: https://www.surveymonkey.com/s/VNPQRB8 The questions in this document represent those in the data capture form.
After the consultation:	A summary of responses to the consultation will be published.

Overview

Topic of this Consultation:	An exemption for small sites from the zero carbon homes policy.
Scope of this Consultation:	The scope of this consultation is to set out, seek views and gather further evidence on a small sites exemption from the zero carbon policy.
Geographical Scope:	England
Impact Assessment:	An indicative small and micro business assessment is available in the updated allowable solutions impact assessment submitted to accompany primary legislation in the Infrastructure Bill.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Help with queries

Questions about the policy issues raised in the document can be sent to the contact given in the 'How to respond' section above.

A copy of the Consultation Principles Guidance is at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Are you satisfied that this consultation has followed these principles? If not or you have any other observations about how we can improve the process please email:

consultationcoordinator@communities.gsi.gov.uk

or write to:

DCLG Consultation Co-ordinator, 2 Marsham Street, London, SW1P 4DF.

1. Background to the consultation and how to respond

1. The Government has announced that from 2016 all new homes built in England will have to be 'zero carbon'. This means that there should be no carbon emissions generated from the energy required to heat and light a home.
2. This is a challenging policy objective, but one that the Government believes is important in order to tackle the impact of climate change. The amount of emissions currently generated by homes is around a quarter of the total amount of carbon emissions generated overall in the United Kingdom.
3. The delivery of 'zero carbon' homes is also important for the consumer. The average bill for heating and lighting an older home is around £1200 a year. A new home built to current standards would be significantly less. The Government wants to reduce this cost even further in order to help hard working families.
4. The starting point for energy efficiency and requirements to reduce carbon emissions in new homes is set out in the energy efficiency requirements of the Building Regulations including Part L (Conservation of Fuel and Power) of Schedule 1. This Government has already strengthened those requirements by over 30% since we came into office. All new homes already have to meet a challenging target for energy efficiency and carbon emissions reductions. In practice this requires good levels of fabric insulation, high performing windows and efficient boilers.
5. From 2016, the Government will further strengthen the minimum requirements for energy efficiency in the Building Regulations. This will be set at a level equivalent to the energy standard of level 4 of the Code for Sustainable Homes, which, on average across the build mix, is a 20% improvement from the current standard. It will do so after a separate consultation with industry on how this can be achieved cost effectively.
6. However, it is not always technically feasible or economically viable to eliminate all carbon emissions by using on site measures, such as fabric insulation, energy efficient services, or the use of renewable energy sources such as solar panels. The Government, therefore, is bringing forward its proposals for allowable solutions, to allow house builders to offset residual carbon emissions from new homes against savings made on- or off-site, in order to achieve net zero carbon emissions.
7. The allowable solutions scheme is being introduced through the Infrastructure Bill currently before Parliament. A summary of responses to the earlier consultation has been published alongside further detail on how the scheme will work – see

<https://www.gov.uk/government/consultations/next-steps-to-zero-carbon-homes-allowable-solutions>

8. Alongside this policy structure for delivering zero carbon homes, the Government needs to consider how to balance strong environmental protections alongside the need to ensure continued growth in the economy.
9. The number of small builders has been steadily declining in recent years, however. Research recently published by the National House Building Council showed that there had been a significant decline in the number of small firms active in house building in recent years – halving between 2007 and 2013, with only 2,710 estimated to have been building in 2013. It also found that despite encouraging signs of house building growth, the early stages of the recovery do not appear to have improved prospects for smaller builders (defined as companies building less than 100 homes annually)¹.
10. The Government recognises that achieving the zero carbon standard could be particularly challenging for small builders. With this in mind, the Government has decided that smaller housing sites in England should not face the total cost burden of delivering zero carbon homes. The purpose of this consultation paper is to explore how this proposed exemption might work.

Please note that this consultation should be responded to using the online capture form available at: <https://www.surveymonkey.com/s/VNPQRB8>

The questions in this document represent those in the data capture form.

¹ www.nhbcfoundation.org/improvingtheprospects.

2. Sites or developers?

11. It is necessary to determine which housing developers in England should benefit from an exemption from the requirements to deliver zero carbon homes. Smaller developers face extra costs in terms of land acquisition and purchasing. The exemption needs to be targeted at those smaller developers. The Government is clear that the exemption should not be cast too widely.
12. The NHBC study referenced above (paragraph 9) reports that focus groups with small house building firms indicated that they rely on an ability to identify and redevelop small sites or assembling small parcels of land into larger opportunities. Small house building firms were concerned that the availability of suitable small sites, which they prefer, was declining. Extra regulatory costs can impact on the viability of development. The Government is concerned that if the costs of zero carbon lead to fewer small sites being brought forward, this will further hinder the prospects for small house building firms.
13. There are therefore strong arguments for defining the exemption in terms of the size of the development; the Government's view that it is important to maintain the viability of various types and scales of development, wherever possible. The benefits of using a site size definition are that (a) it is easily checkable by the Building Control bodies which would be required to determine compliance with the Building Regulations, and (b) setting the reduction at site level also creates an easily understandable definition that can be applied nationally.
14. The site size would need to be defined. The Government's preferred option is for 10 units or fewer. However, the Government remains open-minded to a different threshold for the site size and would welcome further evidence to inform future decisions on the level at which the threshold should be set.
15. Alongside the benefits of a site based exemption, Government recognises that there are risks:
 - not all developments on small sites are undertaken by smaller developers. In rural areas in particular, smaller development sites account for around 80% of total housing delivery and there are some large companies operating in this market.
 - there could be a risk that larger developments are artificially split into a number of smaller sites.

The risks could be managed in two ways. Firstly, the Government could introduce criteria for a maximum floor space alongside the unit based criteria. An approach could be to set a maximum size of 1000 square metres of floor space for a 10 unit

development – so 100 square metres of floor space for every property captured by the site size set.

16. A maximum floor space would ensure that larger sites that are delivering a few bigger properties do not automatically benefit from the exemption. This is arguably proportionate, as larger sites delivering a small number of large properties are generally more profitable for developers.
17. Alternatively, a completely different approach to the exemption could be designed. It could be targeted at smaller developers themselves rather than smaller sites. A smaller developer could be based on the Government's definition of a small company, which is based on having 49 employees or less.
18. The benefit of a developer based approach is that larger developers operating mainly on smaller sites would still have to achieve zero carbon homes.
19. However, there are possibly greater risks with a developer based approach. Companies could decide, if it is profitable, to set up subsidiary companies of 49 employees or less. A company based approach also does not take account of how much work is sub-contracted – this would be impracticable to monitor.
20. A company based approach also adds a new burden onto Building Control bodies which would be required to carry out checks on company size to determine whether reductions in requirements should apply.
21. The Government also has the option to combine site size and developer size. For example, only small or custom developers building a certain amount of units on a site delivering a certain square metres of development would benefit from an exemption. This would help minimise the risks identified, but it would be a complicated scheme and the additional burdens on Building Control would still exist.

Question 1 – should the exemption be targeted at site size, developer size, or a combination of both? Is there any evidence to support the choice made?

Question 2– if the Government chose a site size exemption, what level should this be set and why?

Question 3 – if the Government chose a developer size exemption, what criteria should it apply and why?

3. Scope of the exemption

22. The zero carbon standard will comprise two elements: the on-site energy efficiency requirement; and the allowable solutions element. Allowable solutions can be off-site carbon abatement measures, further on-site carbon abatement measures or a combination of both.
23. We could give smaller sites or developers an exemption from any requirement to contribute to allowable solutions. Under this option all developers in England would be required to build to a minimum requirement set in Part L of the Building Regulations, but smaller sites or developers would not have to support or carry out any further carbon abatement measures.
24. The benefits of this approach are that all new housing in England would meet a consistently high level of energy efficiency and carbon reductions. Consumers would save the same amount of money on their energy bills whether buying a home built on a small site.
25. The drawbacks are that the cost savings for smaller developers may not be enough. Government proposals to meet the zero carbon standard require further strengthening of the minimum requirements of Part L of the Building Regulations. This will set a challenging aim for some developers. The Government must ensure that it can be achieved and that it does not damage the ability of smaller developers to compete.
26. Another option would be to set a two tiered approach in the Building Regulations. Certain developers or sites would be exempted both from strengthened energy efficiency requirements, and would not need to contribute to any allowable solution. Larger developers or sites would be required to meet a higher level of Building Regulations from 2016 and contribute to any allowable solution.
27. The downside is that a two tier approach to Part L (whether through separate regulations or longer transitional arrangements for smaller developers) will result in two standards of housing in England in relation to energy efficiency, and that this will have an impact on consumers who face paying more for energy in some houses than in others. Supply chains would also have to offer additional products of variable performance to builders.
28. It is important to note that any exemption, however designed, would only apply to new homes. Extensions to homes would not be caught by the proposals.
29. The Government's preferred approach is to exempt small sites from the allowable solutions component only.

Question 4 – What do you think the scope of the exemption should cover? An exemption for the allowable solutions scheme only, or an additional exemption from Building Regulations requirements? Do you have any evidence to support the choice between these options?

4. Time frame of exemption period

30. The pros and cons of the proposed exemption scheme have been outlined above. It is important to give smaller developers specific help, but depending on how the scheme is devised, the result will be that some carbon savings may be foregone. There could also be two standards of housing being built.
31. In due course we may want to consider whether the full requirements of zero carbon homes should be achieved by all homes irrespective of site or developer size. The Government intends therefore to review the exemption, after a period of 5 years.
32. The benefit of a time limited exemption are that, over that time, Government expects the experience gained by larger developers in delivering zero carbon homes to be transferable to smaller developers. Costs should also come down over that period as supply chains are built up.
33. The review period will also be in line with a European requirement for all new homes to be 'nearly zero energy' by 31 December 2020. Proposals for zero carbon new homes will help the Government demonstrate that it is on track to meet this requirement.

Question 5 – What are your views on the proposed review period for the exemption?

5. Implementation

34. Section 3 of the Building Act 1984 allows for exemptions to be made from Building Regulations' requirements. The Government has in the Infrastructure Bill introduced an amendment to the Building Act to enable Building Regulations to implement allowable solutions. Subject to Parliamentary approval, the Government would expect that any exemption would be set out in those Regulations which will be the subject of detailed further consultation in due course.
35. The exemption will need to be developed to ensure that it does not constitute a state aid and this will be taken into account in the final design of the exemption.

6. Impacts

36. The impact of the exemption will of course depend on the nature of the exemption designed following the conclusion of the consultation. Also, the Government has yet to announce its decisions on issues like the price of allowable solutions, which is the key driver of impacts. By way of illustration, however, the impact assessment published last Summer set out a range of costs for allowable solutions depending on the type of dwelling and price scenario of between £1,000 and £4,500. Dwellings covered by the exemption would not have to bear these costs.
37. In terms of the scope of the exemption, figures from the National House Building Council (April 2014) show that 5% of the total number of registrations of new dwellings in 2013 were by builders who built less than 10 units in 2013; another 3% built between 1-30 units; and another 6% for between 31 – 100 units. There were 131,000 registrations with the NHBC in 2013.
38. Information from the construction data company Barbour ABI on the numbers of planning applications, and units covered by those applications, by different size bands of development in 2013 is shown in the following table²:

<i>Detail Planning Applications Submitted 2013 (England) - New Build Homes</i>			
<i>Size Band</i>	<i>Number of Planning Applications</i>	<i>Total Units</i>	<i>Percentage of total number of units</i>
Single Houses	24,567	24,567	10%
2-5 Units	3,431	12,246	5%
6-10 Units	1,873	14,418	6%
11-15 Units	799	10,324	4%
16-20 Units	338	6,049	3%
21-25 Units	263	6,064	3%
26-50 Units	706	25,550	11%
51-75 Units	344	21,286	9%
76-100 Units	180	15,771	7%
101-150 Units	224	27,565	12%
151-200 Units	117	20,554	9%
200+ Units	160	54,899	23%

² Barbour ABI analysis for the Department of Communities and Local Government

39. According to this analysis 10% of new homes were on single unit sites and 21% of new homes were on sites of ten units or fewer.
40. Of course, not all small developments may choose to benefit from the exemption. The exemption does not stop smaller developments from building to the zero carbon standard, if they choose to do so.
41. Costs of delivering zero carbon homes are expected to come down, and the impact of this would need to be analysed. The expectations on the reduced cost of delivering a zero carbon home may help bolster the case for a time limited exemption.
42. Last summer's impact assessment estimated also that allowable solutions would abate 0.07 million tonnes of CO₂ in 2017 rising to 1.85 million tonnes per annum from 2026. There will be some impact on these reductions from the exemption, but given the potential percentages of development which could be covered, and particularly if the exemption is time limited, this impact should not be exaggerated. So if, for example, the exemption covered 10% of new homes, the carbon savings would reduce to 0.063 million tonnes of CO₂ in 2017, rising to 1.67 million tonnes of CO₂ from 2026; and if 20% of new homes were covered, the carbon savings would be 0.056 million tonnes rising to 1.48 million tonnes.
43. The Government would welcome further evidence on the impacts of setting the exemption in the ways suggested in this paper. That evidence will be used to inform consultation stage and final stage impact assessments which will accompany the proposed Building Regulations which will implement the exemption.

Question 4 – Do you have any further evidence that would help inform the impact assessment?