

BHCC36 Matter 16 – Additional Paper – Clarification of the application of DM44 and information requirements to be submitted with Planning Applications

Clarification of application of Policy DM44

CPP1 Policy CP8 Sustainable Buildings at Part 1 requires 19% carbon reduction improvements against Part L for new build residential and sets out BREAAAM standards for non-residential development which apply to non-major, major development (the size thresholds are defined in Table 6, CP8) and greenfield development.

The purpose of CPP2 Policy DM44 Energy Efficiency and Renewables is to complement CP8 and close the ‘policy gap’ by applying the 19% carbon reductions improvements against Part L in addition to:

New residential dwellings created through change of use or conversions (where planning permission is required);

Non-residential development (non-major and major) to ensure that a carbon reduction target is secured alongside the BREEAM standards set out in CP8.

To ensure a high standard of fabric and energy efficiency the council will encourage development to achieve the carbon emission targets set by Part L 2013 through fabric and energy efficiency measures. The 19% CO2 improvement target should then be achieved through further fabric and energy efficiency and/or the use of decentralised, low and zero carbon energy technologies.

The policy also sets out the **higher energy performance certification (EPC) standards for non- residential and residential development** (new build and conversions and changes of use).

In combination Policies CP8 and DM44 will require:

Residential Development		
	Fabric efficiency and CO2 Reduction	EPC
New build dwellings	Required through CP8 - to achieve at least a 19% improvement in the carbon emission targets set by Part L 2013.	To achieve an Energy Performance Certificate (EPC) rating of ‘B’ minimum.
New dwellings associated with existing buildings (including conversions and changes of use)	To achieve at least a 19% improvement in the carbon emission targets set by Part L 2013	To achieve a minimum Energy Performance Certificate (EPC) rating of ‘C’ except for developments which are exempt from, or where the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012 do not apply (set out in Section 5)

Non- residential development (non major and major ¹)		
BREEAM required through CP8	'Very good' (Non Major)	'Excellent' (Major)
	Fabric efficiency and CO2 Reduction	EPC
New build	To achieve at least a 19% improvement in the carbon emission targets set by Part L 2013.	To achieve a minimum Energy Performance Certificate (EPC) rating of 'B' minimum. Except where exemptions apply.
Conversions and changes of use	To achieve at least a 19% improvement in the carbon emission targets set by Part L 2013.	To achieve a minimum Energy Performance Certificate (EPC) rating of 'C' minimum. Except where exemptions apply.

The policy specifies that these standards will apply unless it can be demonstrated that doing so is not technically feasible and/or would make the scheme unviable.

For clarification, CPP1 Policy CP8 at Part 2 sets out the sustainable buildings criteria that should be taken into consideration with extension applications. The 19% carbon reduction improvements against Part L does not apply to householder applications including residential extensions or non-residential development that fall below the non-major size threshold set out in Table 6, CP8. Residential extensions will be addressed through the Future Homes Standard when it comes into effect.

It is therefore accepted that the wording 'all development' is not accurate and it is proposed that the following additional changes (highlighted) to main modifications MM99 and MM100 (BHCC04) would clarify the application of the policy:

MM99	Policy DM44 page 134	<p>Policy DM44 Energy Efficiencies and Renewables Amend first sentence of policy to read:</p> <p>The council will encourage all development to improve energy efficiency and achieve greater reductions in CO2 emissions in order to contribute towards Brighton & Hove's ambition to become a carbon neutral city by 2030. In addition to the requirements set out in Policy CP8 Sustainable Buildings#, the following standards of energy efficiency and energy performance will be required unless it can be demonstrated that doing so is not technically feasible and/or would make the scheme unviable:</p> <p>Add New Footnote: #Policy CP8 sets out the energy performance and water efficiency standards for residential</p>	For clarity
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¹ As set out in the supporting text to Policy CP8 at table 6 - Retail 151-999 sq m; or other development 236 sq m – 1000 sqm

		new build and the BREEAM standards for non-residential and greenfield development.	
MM100	Policy DM44 Page 134	<p><i>DM44 Energy Efficiency and Renewables</i> <i>Amend parts one and two of the Policy to create four parts and to read:</i></p> <ol style="list-style-type: none"> 1. All development including eConversions and change of use of existing buildings to new residential dwellings to achieve at least 19% improvement on the carbon emission targets set by Part L (2013) until the Future Homes Standard and the Future Buildings Standard or any interim uplift in Part L which exceeds 19% improvement come into effect unless superseded by national policy or legislation¹⁰⁰. 2. Non-residential development (major and non-major[#]) including conversions and changes of use to achieve at least 19% improvement on the carbon emission targets set by Part L (2013) until the Future Buildings Standards or any interim uplift in Part L which exceeds 19% improvement come into effect. 2. All development to achieve a minimum Energy Performance Certificate (EPC) rating of: <ol style="list-style-type: none"> i) A minimum Energy Performance Certificate EPC rating 'C' for conversions and changes of use of existing buildings to residential and non-residential use¹⁰¹. 4. A minimum Energy Performance Certificate EPC rating 'B' for new build residential and non-residential development. <p><i>Insert new footnote:</i> #As defined in the supporting text to Policy CP8 at Table 6</p>	To address representations requesting clarification of application of policy and to future proof policy with respect to the Future Homes and Buildings standards.

Clarification of Information Requirements to Demonstrate Compliance

In order for major residential developments and non-residential developments (non-major and major) to demonstrate compliance against Policy CP8 supporting information is requested. This is usually in the form of an Energy Statement which addresses the 19% Carbon reduction requirements for residential and BREEAM reports for non-residential. This has been accepted practice since Policy CP8 was adopted. Policy DM44 sets out this requirement formally in policy.

For smaller (non major) conversions and change of use applications the Energy Performance Certificate (EPC) will be sufficient supporting information. As indicated in supporting text to DM44 (paragraph 2.351) developers are required to confirm the predicted EPC ratings for all buildings when submitting a planning application, and to submit a copy of the final EPC to the planning authority on completion. It is assumed no additional work or cost will be required from the developer as it is a legal

requirement to produce a draft EPC before work starts on site and a final EPC at completion for submission.

It is therefore suggested that the following additional main modification to MM102 (BHCC04) could clarify the information requirements:

MM102	Policy DM44 Pages 134 - 135	<p><i>DM44 Energy Efficiency and Renewables</i> <i>Amend first sentence of last paragraph of policy to read:</i></p> <p>All major residential development, and major and non-major non-residential development will be expected to submit an energy statement to provide details of the building fabric energy efficiency and low and zero carbon energy technologies used including the size/capacity of the systems and the estimated CO2 savings that will be achieved. Through preparation of the technical guidance the LPA will review and clarify what developers provide in the Energy Statement to ensure their robustness. For example, ensuring the statement will clearly set out how each element of the design will help to achieve carbon reductions.</p>	For clarification on application of requirement for supporting information.
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Consequential updates are proposed for the supporting text at MM106:

MM106	Supporting text to Policy DM44 paragraphs 2.359 – 2.361 page 139- 140	<p><i>DM44 Energy Efficiency and Renewables</i> <i>Amend paragraphs 2.335, 2.359 – 2.361 of supporting text to read:</i></p> <p>2.335 The purpose of this policy is to ensure that development delivers secure, affordable, low carbon growth, increases future energy resilience, and delivers the strategic objectives of City Plan Part One to become a zero- carbon city by 2050¹⁰². This policy sets out the further steps the council will take to reduce carbon emissions associated with all new development...</p> <p>2.359 For major residential and non-residential development, the achievement of the CO2 emission reduction standard can be demonstrated through an Energy Statement prior to commencement of development.</p> <p>New paragraph: At post construction stage, achievement of the standard can be demonstrated as follows: for dwellings, through</p>	For clarification on requirements for supporting information.
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		<p>final 'as built' reports produced for Building Regulations compliance e.g. SAP (Standard Assessment Procedure) for dwellings or EPC; and for non-residential development, through SAP, EPC and /or SBEM (Simplified Building Energy Model) or BRUKL (Building Regulations UK Part L) for non-domestic development. The council will also expect 'as built' reports for larger non-domestic developments to demonstrate compliance to Policy CP8 BREEAM standards by producing a BREEAM final certificate, ie: most developments should meet BREEAM UK New Construction assessment; shell only developments should meet BREEAM UK New Construction 'Shell only' assessment; and refurbishment and fit-out should meet BREEAM UK Refurbishment and Fit- out Parts 2, 3 or 4 assessments as appropriate.</p> <p>2.360 If required, Detailed information relating to the specific information required, format and presentation of this information in Energy Statements will be set out in a technical guidance document to ensure consistency of reporting and evidence requirements.</p> <p>2.361 This Energy Statement should provide details of the low and zero carbon energy technologies used including the size/capacity of the systems and the estimated CO2 savings that will be achieved. A technical guidance document will be produced to provide support on the specific information required to demonstrate compliance as well as guidance on passive design, good building fabric and avoiding over-heating.</p>	
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In terms of the implementation of the Future Homes Standard, it is anticipated that the interim Part L, Part F and Overheating Regulations will be made in December 2021 and come into effect in June 2022 with a one year transitional period. The full Future Homes Standard Regulations will come into effect in 2025. It is anticipated that the Future Buildings Standard will come into effect in 2025.