



Consultation on Heat & Energy Efficiency Strategies, and Regulation of District Heating

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

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**HOMES FOR SCOTLAND RESPONSE TO SCOTTISH
GOVERNMENT CONSULTATION ON LOCAL HEAT AND
ENERGY EFFICIENCY STRATEGIES AND REGULATION OF
DISTRICT HEATING**

18 APRIL 2017

HOMES FOR SCOTLAND RESPONSE TO THE SCOTTISH GOVERNMENT CONSULTATION ON HEAT & ENERGY EFFICIENCY STRATEGIES AND REGULATION OF DISTRICT HEATING

1. Introduction

- 1.1 Homes for Scotland (HFS) is the voice of the home building industry in Scotland, with a membership of some 200 organisations together providing 95% of new homes built for sale each year as well as a significant proportion of affordable housing. We are committed to improving the quality of living in Scotland by providing this and future generations with warm sustainable homes in places people want to live.
- 1.2 HFS represents the industry's interests on a wide range of issues affecting their ability to deliver much needed homes. Our views are endorsed by operational committees utilising the skills, experience and expertise of key representatives drawn from member companies.
- 1.3 This consultation relates to a newly emerging area of policy and practice. Whilst HFS (like many other stakeholders) is not in a position to provide comprehensive, expert input on each of the 39 consultation questions, we are keen to provide useful commentary from the perspective of the home building industry that will help shape any future policy and regulation and ensure the twin aims of energy efficiency and housing delivery are addressed in ways that complement rather than conflict with one another.
- 1.4 We have also taken the opportunity to provide information on some current issues in practice relating to district heating, in particular some early attempts to implement Section 72 of the Climate Change Act through the planning system, which are both premature and counterproductive (see paragraphs 3.6 to 3.10).
- 1.5 We believe this consultation paper, and the home building industry's ability to respond to it in the way the Scottish Government is seeking, could have been improved through earlier discussions. As this policy agenda evolves and as firmer proposals emerge we would strongly recommend the inclusion of HFS and home building industry representatives through a series of round table sessions or the formation of a stakeholder panel. HFS would be happy to help facilitate the establishment of a group..

2. Local Heat & Energy Efficiency Strategies to Support the Delivery of Energy Efficiency and Heat Objectives of SEEP

- 2.1 HFS agrees that local authorities should have a duty to produce and implement Local Heat and Energy Efficiency Strategies (LHEES), and more importantly that these should align with relevant overarching national strategies on energy efficiency and the decarbonisation of heat energy. It will be absolutely essential throughout that collaboration with the home building industry and consideration of direct and cumulative impact on development viability sit at the

heart of LHEES development.

- 2.2 It is vital that each LHEES is developed in partnership with key stakeholders, including representation from the home building industry and HFS. The Scottish Government and local authorities should work in closely with industry partners, facilitating regular workshops with LHEES stakeholders in order to develop, monitor and review strategies over the long-term and in a collegiate manner.
- 2.3 Our understanding is that this high-level policy scoping consultation is just the start of a longer process to develop a coherent national approach to the development of local heat and energy efficiency policy, in particular district heating. With the consultation suggesting the need for both national and local strategies, it is important to avoid a fragmented, unchecked or inconsistent approaches which could introduce financial viability and time delay issues for home building without contributing to energy policy aspirations in a meaningful way.
- 2.4 Each LHEES should align with an overarching national strategy in order to provide consistency at a local development level. A logical approach would be for local authorities to work collaboratively with neighbouring authorities to produce strategies that take advantage of regional opportunities. However, national policy and guidance should allow for a flexible approach (mirroring the flexibility of the planning system), and this flexibility should be practiced by all 32 local authorities where local circumstances do not allow for the requirements of any strategy to be fully applied. There should of course be a consistent approach to strategy development.
- 2.5 Given the long-term nature of LHEES, each strategy should be based upon a robust evidence base. We would expect strategies to produce measurable, realistic and achievable objectives and that wider stakeholder groups are fully engaged in their development.
- 2.6 Further to the 'scope and content' of LHEES, our members have provided the following thoughts and suggestions:
 - 2.6.1 In terms of energy efficiency, the energy performance of existing buildings should be the prime focus of each LHEES (and of wider policy initiatives) as new buildings are already highly regulated through Building Standards.
 - 2.6.2 LHEES policy interventions should not encroach upon or duplicate requirements already embedded within Planning and Building Standards. Further consideration should be given to the impact interventions, such as district heating, may have on Section 6: Energy of the Building Standards and SAP calculation methodologies.
 - 2.6.3 Local targets should align with the targets and aspirations set by Scottish Government, but also reflect upon what is realistic and achievable within their own localities. Any measures directed at new building homes should be based on a full and transparent evidence base showing what contribution they will make to wider energy efficiency targets set against any viability impact that could restrict the supply of new homes to meet need and demand. There should be no trade off between meeting housing need

and demand in full and meeting ambitious energy targets, particularly at a time where additional developer requirements may slow progress and cause delays to housing delivery.

- 2.6.4 The first round of strategies should have a generous lead-in time and should be based upon existing mainstreamed technologies that are in wide use, not experimental or untested systems that could have unintended impacts on the viability or delivery rate of new homes. Future strategies can be updated as new technologies become mainstreamed and viable and as the broad impacts of early programmes have been measured and evaluated.
- 2.6.5 As well as a detailed cost and phased delivery plan, each strategy should also provide detail as to how each intervention will be funded (without imposing unreasonable or unviable cost / contribution burdens on home builders or the residents of new homes).
- 2.6.6 Each strategy and delivery plan should be developed in genuine partnership with the stakeholders who will deliver and be affected by it, including representatives of the home-building industry. They must also be publically scrutinised and should be subject to an examination process which fully scrutinises the impact on development viability – arising not only from the LHEES itself but from the cumulative impacts when considered alongside other policy asks (including local development plan policies, consent administration fees, building regulations and developer contributions).

3. District Heating Regulation

3.1 Regulatory Approach

- 3.2 The consultation suggests a number of broad principles for a regulatory approach to district heating. We believe the Scottish Government should seek a clear and simple approach and should look more objectively at how these principles impact the key stakeholders i.e. users (including residents), developers (including home builders) and operators. The Scottish Government should seek to host discussions with and between stakeholders to further develop the underlying principles of the regulatory approach. Homes for Scotland would be happy to help with this.

3.3 Planning, Zoning & Concessions for District Heating

- 3.4 If local authorities are given powers to zone areas for district heating, we suggest that they seek to engage with home builders, other developers and landowners as early as possible. It will be important that zoning decisions can be scrutinised publically and subjected to a form of independent scrutiny. There will need to be strong and responsible interaction between the zoning and land use planning processes. Local authorities should look to provide a robust evidence base when seeking to designate a district heating zone and this should occur well in advance of allocating sites within a local development plan (LDP) if the viability of development is to be properly gauged at a time when land deals are entered into. Zoning should not however dictate either the spatial strategy or the suite of land allocations that are

contained within emerging LDPs as this would undermine the collaborative development planning process and could have a significant impact on the deliverability of the LDP and in particular its housing supply targets.

3.5 Initially, each LHEES should look to develop interventions that help create a strong and sustainable market for district heating network providers to operate within. Consideration should be given to what incentives can be offered to both network providers and energy users to help stimulate demand and competition in this market. At the same time, it is important to recognise, respect and address concerns that establishing 'exclusive' rights or concessions may infringe directly upon customer choice and freedoms (and in turn on the attractiveness of and market for new homes) as well as create a barrier to competition-driven innovation in the sector.

3.6 Issues in Current Planning Practice

3.7 HFS must highlight some existing issues in planning practice which we believe are unreasonable in the current policy landscape and which are working against the Scottish Government's desire to grow support for district heating through a strategic, long term, collaborative approach to policy and regulation. We will be following these concerns up with the Scottish Environmental Protection Agency (SEPA), Heads of Planning Scotland (HOPS) and the Scottish Government and would welcome discussions on this following the close of consultation.

3.8 In recent months a number of our home builder members, operating in different parts of Scotland, have been affected by SEPA formally objecting to their planning applications for major housing developments on the basis that feasibility studies for district heating have not been undertaken. As far as HFS is aware these objections do not relate directly to current national or local planning policy or guidance that has been developed through the normal consultation and examination process (but through an interpretation of their obligations through Section 44 of the Climate Change (Scotland) Act 2009). We therefore consider these objections to be unreasonable in the context of the current planning policy and legislation framework – and this is exacerbated by the fact SEPA are at the same time saying “we will not audit Energy Statements or Feasibility Studies as the responsibility for this lies with your authority. However we expect them to be undertaken to demonstrate full consideration”. It is questioned why SEPA appear to be directing such matters given they will not audit the findings, and furthermore it is queried why SEPA have chosen to take a hard stance on this specific emerging aspect of energy policy. At SEPA's suggestion some local planning authorities (LPAs) are imposing planning conditions which require a district heating feasibility study to be undertaken before development can take place. This is contrary to Scottish Government policy and guidance on the use of planning conditions. Members advise us the feasibility studies produced under these conditions are showing that site-by-site approach to district heating is hugely unviable. They also advise us that neither SEPA nor LPAs appear to have sufficient in-house expertise to properly consider them – therefore rendering them an unproductive measure that adds to the cost and time of securing planning consent without having any beneficial impact in practice.

- 3.9 A second area of planning practice with which we have concerns is the way in which the district heating is beginning to be promoted through emerging new LDPs, prior to a national strategy or approach having been developed. This problem partly originates with Scottish Government produced informal guidance, which sits outwith the formal planning policy framework but encourages LPAs to consider district heating opportunities at the strategic scale, albeit at the local level. In practice this strategic step seems to be being bypassed or avoided and is in some areas being pushed down to private developers at the individual site level both through the planning conditions referred to above and through the inclusion in emerging new LDPs of policies that may require district heating feasibility studies to be undertaken for all sites allocated for a certain size or type of development (e.g. major housing developments). If such policies find their ways into adopted LDPs this will have a major red-tape, cost and delay impact on home building without offering any benefit to the energy efficiency targets.
- 3.10 Overall, this premature, unreasonable and non-strategic approach is significantly undermining the Scottish Government's broader attempts to improve energy efficiency and introduce district heating in a way which works for and is supported by all stakeholders, including the home building industry. It is generating a negative experience of how district heating policy could impact on the viability of development, and this will make it harder to engage the industry meaningfully and positively in this emerging area of policy.
- 3.11 Further Considerations
- 3.12 Given the significant upfront costs to construct a heat network, viability will be determined both by the density of a development as well as the rate of occupation. In this context, there is a risk that district heating systems will be under-utilised in the early phases of a development which raises questions regarding how these systems will be operated until a full site is complete and infrastructure is working at its designed capacity.
- 3.13 There are concerns with regard to how district heating will integrate with other services and utilities under roads. It is understood that these are already busy pipe networks and consideration must be given to how these can be designed in conjunction with other utility providers.
- 3.14 We are also concerned in particular of the impact creating 'exclusive concessions' for network operators may have on consumer choice and freedoms. Currently new build customers are provided with a free choice of energy supplier, however for district heating this will be limited or restricted where a sole heat network provider has been nominated. It raises questions with regard to who would be responsible for monitoring the performance of the network operator, and could manage customer complaints where a system fails. This could be particularly difficult where a system is under community ownership. In addition, detailed guidance should be provided to understand how a customer can opt-out of a scheme.
- 3.15 Finally, we would advise the Scottish Government to speak with the Council of Mortgage Lenders (CML) to understand whether there would be any impact on mortgage availability or

home valuations.

4. **Conclusion**

- 4.1 Whilst we support the long-term, strategic approach being taken to the development of this area of policy and regulation, we are concerned that there has been insufficient detailed engagement with the home building industry to date. This, in combination with the planning practice issues we have listed above, could have a counterproductive impact on the Scottish Government's ability to work positively with the industry on this policy area. HFS is keen to assist the Scottish Government in rectifying this by providing opportunities for engagement with representatives of the home building industry from across Scotland, and large to small developers.
- 4.2 We will pursue discussions on the current planning practice issues identified through the Scottish Government, SEPA and HOPS.