

Appendix 1: Inspector's Report on the Examination of the Warwick Net Zero Carbon

Report to Warwick District Council

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an Inspector appointed by the Secretary of State

Date: 9 April 2024

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Warwick Net Zero Carbon Development Plan Document

The Plan was submitted for examination on 17 October 2022

The examination hearings were held on 7, 8 and 9 March 2023

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Abbreviations used in this report

AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
BREEAM	Building Research Establishment Environmental Assessment Methodology
CCAP	Climate Change Action Plan
CEAP	Climate Emergency Action Programme
CIL	Community Infrastructure Levy
DPD	Development Plan Document
DtC	Duty to Cooperate
EIA	Environmental Impact Assessment
FBS	Future Buildings Standard
FHS	Future Homes Standard
HRA	Habitat Regulations Assessment
LDS	Local Development Scheme
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
PSED	Public Sector Equality Duty
RICS	Royal Institute of Chartered Surveyors
SA	Sustainability Appraisal
SAP	Standard Assessment Procedure
SCI	Statement of Community Involvement
SPD	Supplementary Planning Document
SWLP	South Warwickshire Local Plan
TER	Target Emissions Rate
TREE	Target Fabric Energy Efficiency
WCC	Warwickshire County Council
WESTP	Warwickshire Ecosystem Services Trading Protocol
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Warwick District Council Net Zero Carbon Development Plan Document [the DPD] provides an appropriate basis for the planning of the district with regard to attaining net zero carbon development and minimising carbon emissions in new and existing development, provided that a number of main modifications [MMs] are made to it. The Council has specifically requested that I recommend any MMs necessary to enable the DPD to be adopted.

Following the hearings, the Council prepared a schedule of the proposed modifications and, where necessary, carried out a sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six-week period. I have recommended their inclusion in the Plan after consideration of the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Modifications in the supporting text and justification for each of the DPD policies to clarify how the policies relate to, support, expand upon but do not supersede the relevant Local Plan policies.
- Modifications to Policy NZC2(B) and to supporting text throughout the DPD to provide clarification that the DPD relates to regulated operational energy and associated carbon emissions rather than unregulated energy.
- Modifications to the explanatory text of the DPD to signpost where future guidance on the scope and content of the energy statement can be found.
- Modifications to the explanatory text of the DPD to clarify how the Carbon Offset Fund will be separate from other funding mechanisms such as CIL, how it will be implemented and monitored and how schemes to be funded by the Carbon Offset Fund are to be identified; and
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

The Council has produced a Schedule of Additional Modifications that includes further minor changes that the Council wishes to make to the DPD which do not relate to its soundness or affect my findings. It is not my role to determine or be concerned with these Additional Modifications in my examination of the DPD relating to its soundness. As such, I make no further comment on them other than to provide reference to the Schedule of Additional Modifications set out within document EXAM17B of the Examination Document Library.

Introduction

1. This report contains my assessment of the Warwick District Council Net Zero Carbon Development Plan Document in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. Paragraph 35 of the National Planning Policy Framework 2021 (the NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Warwick District Council Net Zero Carbon Development Plan Document Submission Version - August 2022 [SUB1] (the DPD), submitted in October 2022, is the basis for my examination. It is the same document as was published for consultation in April 2022.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any main modifications (MM) to the DPD necessary to rectify matters that make the DPD unsound and/or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM01**, **MM02** etc, and are set out in full in the Appendix to this report.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs and, where necessary, carried out a sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks between 5 June and 17 July 2023. I have taken account of the responses in reaching my conclusions in this report.

Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. However, in this case, the submitted DPD and its policies involve no changes to the existing policies map for the adopted local plan. As such, there are no changes to the map which arise or result from the policies contained within the DPD.

Context of the Plan

Written Ministerial Statement – 13 December 2023

6. On 13 December 2023 the Government made a written ministerial statement (WMS) which set out the Government's expectations in respect of planning policies that deal with local energy efficiency standards for buildings. This WMS supersedes the section of the 25 March 2015 Ministerial Statement entitled '*Housing standards: streamlining the system*' sub-paragraph 'Plan-making' in respect of energy efficiency requirements and standards only. The latest WMS states that the Planning Practice Guidance (PPG) will shortly be updated to align with the WMS, although this is yet to be done. Therefore, where local energy efficiency standards for buildings are a consideration in local plan examinations, it is clear the latest WMS should be applied, recognising the WMS represents the Government's most recent expression of national policy.
7. Comments on the latest WMS in the context of this examination, the DPD and its policies were invited from those actively participating in the examination. Responses to this have been considered in my assessment of the soundness of the plan.

Revised National Planning Policy Framework – 19 December 2023

8. A revision to the NPPF was published on 19 December 2023. It includes a transitional arrangement in paragraph 230 confirming that, for the purposes of examining the DPD, the policies in the latest revised NPPF do not apply and the DPD should be examined under the previous version of the NPPF (July 2021). Having taken account of this and responses on this matter from those substantively engaged in this examination, I am satisfied that this is the case and have completed this examination accordingly. Therefore, unless otherwise stated, all references to the NPPF in this decision letter relate to the July 2021 NPPF. Furthermore, the references to the NPPF identified within the DPD have been clearly referenced in relation to the July 2021 NPPF for clarity and the avoidance of doubt. As such, there are no modifications to the DPD required in this respect.

Warwick District and the Local Development Plan

9. Warwick District is located between the city of Coventry to the north, rural parts of Solihull Metropolitan Borough to the north and west, Stratford-on-Avon District to the south and Rugby Borough to the east.
10. The Council declared a climate emergency in 2019. Following this, the Council adopted a Climate Emergency Action Programme (CEAP) in early 2020 which recognises the importance of the planning system in tackling climate change. As such, a key part of the CEAP is the proposal to develop and implement policies that will deliver improved net zero carbon building standards.
11. The DPD sets out policies that aim to ensure new development reduces carbon emissions as much as possible towards achieving national and local carbon reduction targets, including the Council's net zero carbon target by 2030. The DPD

aims to ensure that all new development should be net zero carbon in operation. For the purposes of this DPD, net zero carbon relates to regulated carbon energy which results from fixed building services and fittings.

12. The DPD is a partial update of the adopted Warwick District Local Plan [SD1] (the Local Plan) and as such it has a limited and specific scope – to respond to the Council's declared climate emergency of 2019 and reduce carbon emissions from new development. The DPD does not change the spatial priorities of the adopted Local Plan, its strategy or strategic housing and growth requirements.
13. The Council has commenced a full review of the adopted Local Plan through the emerging South Warwickshire Local Plan (SWLP) which it is undertaking jointly with Stratford-on-Avon District Council. It is envisaged that this new plan will not only supersede the policies in the adopted Local Plan but also build upon the policies identified within the DPD. As a full review, this new plan will take time to prepare and adopt and it is identified for adoption by the end of 2027 in the Council's latest Local Development Scheme (LDS), as updated on 6 March 2024.

Public Sector Equality Duty

14. Throughout the examination, I have had due regard to the equality impacts of the DPD in accordance with the Public Sector Equality Duty (PSED), contained in Section 149 of the Equality Act 2010 (the 2010 Act). This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
15. I have considered the Council's Equality Impact Assessment (EIA) for the DPD contained at Appendix II of the Sustainability Appraisal Report dated March 2022 [SUB 3]. As such, I note the following assessment of the DPD in terms of the PSED. The DPD will enhance the local environment, reducing risks associated with the effects of climate change and therefore result in improved conditions for health and wellbeing for all people. Further positive effects of the DPD may be indicated for those within the Age and Disability protected characteristic groups, as defined at Section 149(7) of the 2010 Act, since these include people with vulnerabilities. The potential for the DPD impacting the viability and delivery of development in some circumstances has been mitigated within the policies. As a result, negative effects from not meeting housing needs, along with associated potential negative effects for all groups and especially the Age and Disability groups, are therefore unlikely.
16. The EIA indicates that the DPD is unlikely to result in negative equality impacts that would require justification or mitigation and that no options have been missed to promote equality of opportunity. With no further details needing to be provided of action that could be taken to remedy this, I am satisfied that due regard has been had to the PSED and that it has been met.

Assessment of Duty to Co-operate

17. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
18. The Council's approach to the Duty to Cooperate (DtC) is evident from its submitted Consultation Statement documentation [SUB7, SUB8 and SUB9] as well as the evidence contained in the Council's hearing statements. These documents set out the various steps and activities that the Council has undertaken to engage and cooperate with statutory organisations, neighbouring authorities, prescribed bodies and other public organisations at key stages in the preparation of the DPD.
19. The evidence explains in detail how the Council has worked with these bodies. This includes liaising and engaging regularly on the DPD with neighbouring authorities monthly through the Coventry, Solihull and Warwickshire Association of Planning Officers, a group including all seven local authorities in the stated area.
20. At the Regulation 18 and 19 consultation stages, the Council also consulted the range of public bodies referred to in Part 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations) as identified in Paragraph 6.5 of the Council's Hearing Statement on Matter 1. There were no representations received from these bodies at either consultation stage and given the nature and scope of the DPD's policies, the Council reasonably considered it appropriate not to consult with the other prescribed bodies.
21. The nature of the policies in the DPD relate to building standards within Warwick District and are considered to have a neutral or even a positive impact upon neighbouring authority areas as they will assist in mitigating the impacts of climate change. The Council has not sought to produce a Statement of Common Ground with neighbouring authorities on matters relating to the DPD as whilst the Council appreciates that climate change is a matter that does not stop at local authority boundaries, it is considered that the DPD policies do not give rise to substantive strategic matters. Any cross-boundary implications resulting from the DPD's policies, such as NZC2(C): Carbon Offsetting, have been addressed collectively through joint-working under the Warwickshire Ecosystem Services Trading Protocol (WESTP).
22. I conclude that the DtC imposed by Section 33A of the 2004 Act is engaged and has been met. Strategic issues and matters within the DPD are limited. However, given the global nature of climate change and that the implications of matters related to minimising carbon emissions do not recognise local authority boundaries, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis with its neighbouring authorities and appropriate relevant agencies in the preparation of the DPD.

Assessment of Other Aspects of Legal Compliance

23. The DPD has been prepared in accordance with the Council's LDS [EXAM4] which was published in December 2022. It is acknowledged that since the examination hearings, the LDS has recently been updated in March 2024. I confirm that the DPD was prepared in accordance with the previous iteration of the LDS in place at that time and also accords with the latest version of the LDS.
24. The Council's Statement of Community Involvement (SCI) [SD3] was updated and adopted in April 2020. The SCI was used to undertake consultation at each stage of the preparation of the DPD. I note that the Council has produced a recent update to its SCI following consultation in the Summer of 2023. There are no substantive changes to the SCI resulting from this update. The Council has produced a Statement of Consultation [SUB9 – Appendix 2] which sets out the summary of consultation methods and relevant bodies who were consulted under Regulation 18 and 19 consultation stages.
25. Overall, I find that the Council has followed the adopted SCI in the preparation of the DPD. I am satisfied that consultation on the DPD and on the proposed MMs was carried out in compliance with the Council's SCI and the 2012 Regulations.
26. Section 19(5) of the 2004 Act requires local authorities to carry out a SA of the submitted plan. The Council carried out the SA of the emerging DPD and prepared and published a report at the Regulation 18 consultation stage which set out the findings of the SA – its Sustainability Appraisal, Strategic Environmental Appraisal, Habitats Regulations Assessment (SA/SEA/HRA) Report: September 2021 [SD11]. The stages taken in the SA process were also set out. The SA was an iterative process as preparation of the DPD progressed. The Council produced a further SA report [SUB3] which tested the draft policies in the DPD. This was published with the DPD and other submission documents under Regulation 19. The SA was updated again in May 2023 to assess the impact of the proposed MMs and this report has been submitted as an Addendum Note to the SA report [EXAM20].
27. The SA framework appraised the policies of the DPD against a set of defined objectives which have been adequately justified. It has also suitably addressed reasonable alternatives to the Council's proposed approach. Overall, the assessment has found that the implementation of the DPD, with proposed MMs, and its stricter policy requirements for carbon emissions will not result in any significant negative sustainability effects.
28. I find that the SA has been undertaken in a proportionate and equitable way. It has considered reasonable alternatives appropriately, setting out why alternatives have been rejected and has followed the relevant Regulations and is therefore adequate. As a result, I am satisfied that the approach to the SA is robust and that the necessary procedural and legal requirements have been met.
29. The Habitats Regulations Assessment (HRA) was undertaken at the same time as the SA and the summary HRA findings have been incorporated into the SA Report

[SUB3]. The HRA has been undertaken in accordance with Government appropriate assessment guidance and to meet with the requirements of the HRA Regulations. The SA Report [SUB3] sets out that the HRA has been prepared consistent with relevant regulations and guidance.

30. It is noted that the Council undertook a pragmatic and proportionate approach to HRA screening / appropriate assessment (AA) to demonstrate that the HRA had been considered in line with the recent changes to Government guidance. Accordingly, the HRA Screening Report – May 2021 was consulted upon with the environment bodies, Natural England (NE) and the Environment Agency (EA). A response was received from NE [SD12] agreeing with the Council's proposed approach to the HRA/AA.
31. An addendum to the HRA [EXAM20] was produced in May 2023 incorporated with an SA addendum to assess the impact of the proposed MMs to the DPD. The HRA and its addenda conclude that the DPD is unlikely to lead to any significant adverse effects (either alone or in combination) on the national site network. Having noted and considered the HRA work that has been done, the representations made regarding it and Natural England's overall support of the HRA, I find this to be a reasonable and robust conclusion.
32. The development plan, taken as a whole, includes three strategic priorities for the development and use of land in the local planning authority's area. The adopted Local Plan identifies these priorities as: a) supporting prosperity; b) providing the homes the district needs; and c) supporting sustainable communities. Priority c) refers to various considerations for the delivery of sustainable communities, including the design and layout of new development, regeneration and enhancement of existing environments and protecting the natural and built environment. The DPD contains policies that are complementary to these strategic priorities.
33. The Council's declared climate emergency reflects an urgent need to meet the challenges of climate change. The development plan, taken as a whole, includes many policies designed to secure that the development and use of land in the district contributes to the mitigation of, and adaptation to, climate change. In the adopted Local Plan this includes Strategic Policy DS3 (Supporting Sustainable Communities) which refers to delivering a low carbon economy and lifestyles and environmental sustainability. In the DPD, all policies also seek to enable Warwick to be as close as possible to net zero by 2030.
34. The Local Plan covers the wider matters of sustainable development. Section 12 of the DPD sets out policies in the wider development plan relating to energy efficiency, renewable energy generation, climate change resilience and sustainable construction and which are supported and expanded by the adoption of the DPD. I am satisfied the development plan, incorporating the DPD, includes policies designed to manage development proposals and the use of land within Warwick District which contribute to the mitigation of, and adaptation to, climate change.

35. The DPD complies with all other relevant legal requirements, including the 2004 Act (as amended), the 2012 Regulations. As a result, I conclude that the DPD achieves this statutory objective.

Assessment of Soundness

Main Issues

36. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified six main issues upon which the soundness of this DPD depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy criterion in the DPD.

Issue 1 – Does the DPD provide an appropriate overarching strategy in the light of Warwick's declared climate emergency that is positively prepared, justified, effective and consistent with national policy?

37. Essentially, the DPD contains policies which have been identified by the Council to tackle the declared climate emergency of 2019. The background and local context of the DPD is clearly set out within Section 1 of the document [SUB1]. The Council's commitment through the declared climate emergency is to facilitate decarbonisation with the aim to get total carbon emissions within Warwick District to be as close to zero as possible by 2030.
38. The WMS (13 December 2023) states that any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned building regulations should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures development remains viable and the impact on housing supply and affordability is considered in accordance with the NPPF. Furthermore, any additional requirement that the proposed policies stipulate is to be expressed as a percentage uplift of a dwellings' Target Emissions Rate (TER), calculated using a specified version of the Standard Assessment Procedure (SAP).
39. It is acknowledged that the uncommenced amendments¹ to the Planning and Energy Act 2008 result in the continuation to permit local authorities to include policies imposing reasonable standards of energy efficiency that are above those set down in building regulations. This is confirmed in the fourth paragraph of the WMS. The WMS also confirms a further change to energy efficiency building regulations is planned for 2025. This is anticipated to relate to the Future Homes Standard (FHS). The FHS has informed the development of the DPD policies, most notably Policy NZC1. From what I have seen, the % carbon reductions for new homes under that policy reflect those within the FHS and therefore align with planned building regulations.

¹ Written Ministerial Statement – 'Housing standards: streamlining the system' 25 March 2015 (HC Deb. 25 March 2015, vol 584, cols 131-138WS)

40. The Council has highlighted that whilst the Government does not expect plan makers to set local energy efficiency standards that go beyond current or planned building regulations, the WMS does not restrict plan makers from setting such standards, as this continues to be permitted by the Planning and Energy Act 2008. This is endorsed in the recent 'Salt Cross' High Court judgement.² Accordingly, I find this to be a reasonable and justified approach for the Council to take.
41. In the context of the WMS and based on the evidence before me, I find that Policy NZC1 is a justified response to Warwick's declared climate emergency. It seeks to deliver improved low-carbon building standards and an offsetting mechanism to ensure new development supports the target of getting the district as close to net zero as possible by 2030.
42. The NZC DPD is clearly supported by a robust costing and viability assessment that confirms that most schemes across Warwick District generate viable outcomes alongside adopted Local Plan policies, including in relation to affordable housing. It is also noted that Policy NZC1 expresses the % uplift as a % reduction in carbon emission which is equivalent to a % uplift of a dwellings' TER, as identified in the WMS. For new dwellings, the policy requires an on-site minimum of 63% reduction in carbon emissions compared to the baseline emission rate (equivalent to TER) set by building regulations Part L 2021 (SAP 10.2). This also aligns with planned improvements to building regulations through the FHS which is anticipated to come into force in 2025. Therefore, as Policy NZC1 aligns with planned building regulations, it also complies with the criteria set out in the WMS for local energy efficiency standards for buildings.
43. The Council's adopted CEAP identified possible actions which included ensuring that the planning system, led by the Local Plan, set development and land use standards with the aim of reducing carbon emissions and building sustainable communities. The CEAP also indicated the need to develop and implement policies that will deliver improved net zero carbon building standards, subject to national policy, and identified the need to ensure that carbon reduction features and BREEAM standards are included in major development schemes.
44. The Warwick District Council Zero Carbon DPD Energy and Sustainability Policy Review [SUB5] provides further justification for the DPD and its approach. It indicates that building regulations will not deliver sufficient carbon reductions to achieve national carbon reduction targets, such as legislated carbon budgets under the Climate Change Act 2008 or the local carbon climate commitments that the Council has set out in the Warwick Climate Change Action Plan (CCAP).
45. Considering the above, the Council has brought forward the DPD to meet these aims and objectives ahead of a full review of the Local Plan as an early element enabling Warwick District to be as close as possible to net zero by 2030.

² *R (on the application of Rights Community Action Limited) v Secretary of State for Levelling Up, Housing and Communities, West Oxfordshire District Council and Grosvenor Developments Limited* [2024] EWHC 359 (Admin) Case No:AC-2023-LON-001146 CO/1308/2023 (20 February 2024)

46. The DPD is an appropriate and pragmatic response to the declared climate emergency as it delivers improved low carbon building standards and an off-setting mechanism to ensure new development supports the Council's 2030 target. The aims and objectives, set out in Section 4.1 of the DPD are soundly based and are an appropriate response to the Council's CCAP and national carbon targets.
47. It is noted that the policies of the DPD do not deliver true net zero carbon development. For the purposes of the DPD, 'net zero carbon in operation' relates to regulated energy and excludes unregulated energy. Nonetheless, the aims and objectives of the DPD are intended to provide an appropriate response to the climate emergency, subject to the modifications that have been identified in this report. For soundness, I have identified main modifications [**MM08**, **MM09**, **MM10**, **MM12**, **MM13** and **MM14**] to the DPD. These modifications, as set out in the Schedule attached to this report, clarify throughout the document the intention of the DPD in relation to regulated and unregulated operational carbon. Consequently, the modifications are necessary to provide clarity and to make the DPD justified and effective.
48. It is acknowledged there is some repetition of wording as set out in modifications **MM08** and **MM09**. However, given the differing sections of the DPD within which they appear, it is beneficial to clearly emphasise the context, aims and objectives of the DPD in these separate places within the document.
49. Policy NZC1 is structured around the energy hierarchy which is summarised at Figure 1 in Section 5 of the DPD. This recognises that improving energy efficiency and minimising energy demand is the most cost-effective way to achieving a zero-carbon energy system. As such, this represents the starting point to reducing carbon emissions. The justification for the approach set out in Policy NZC1 is provided in the Energy and Sustainability Policy Review [SUB5] which notes that the approach taken is one also adopted by a significant number of local authorities.
50. The energy hierarchy is a recognised concept in tackling carbon emission reduction and is therefore a reasonable approach to reducing such emissions from new development through a staged process. The energy hierarchy is translated into policies NZC2(A) on fabric efficiency; NZC2(B) on zero or low carbon energy sources and NZC2(C) regarding off-setting residual emissions.
51. The matter of the Council introducing local carbon reduction targets ahead of national Government-led targets, such as the Future Homes Standard in 2025, has been considered. As the Council has noted, neither local or national carbon reduction targets will be achieved through the timescale on implementation of Government-led standards – the building regulations and Future Homes Standard (FHS). To meet local and national targets, the Council considered it necessary to introduce carbon reduction targets ahead of the Government-led targets. This is notwithstanding that the implementation timescale of the Government-led FHS is yet to be confirmed, although expected in 2025.

52. The Council identified that a reduction in carbon emissions expressed against building regulations was most consistent with national policy. Furthermore, it is noted that this aligns with similar policies adopted in other local authorities as set out in SUB5. This approach also accords with the powers granted under the Planning and Energy Act 2008 allowing local authorities to set energy efficiency targets above national standards and a proportion of energy to be renewable. Moreover, it is noted that this approach has been justified and found to be sound through other recent examinations, as identified in EXAM6³ and also, notably, in the recent Salt Cross judgement.
53. The requirement under Policy NZC1 of the DPD to set a minimum 63% reduction of carbon emissions for new dwellings based on building regulations Part L 2021 aligns with the FHS which is expected to come into effect in 2025. It is also noted that the application of the FHS will deliver 'zero-carbon-ready' homes in relation to regulated operational energy. This is consistent with the aims of the DPD to ensure that the cost of retrofitting buildings does not increase.
54. With regard to non-residential development, Policy NZC1 sets a minimum 35% reduction in carbon emissions compared to building regulations 2013. Although the residential target was set to reflect the FHS, it is accepted that this could not be done for non-residential targets due to the Government not having stated the % regulated carbon reduction that will be delivered by the Future Buildings Standard (FBS). Therefore, the non-residential target was selected by the Council to reflect a reasonably ambitious improvement that has been included in recently adopted plans in London and Milton Keynes [SUB5]. The Council considered that given the evidence that had been compiled in those areas for several years, the standard set was technically feasible.
55. Although the Warwick District market is acknowledged as different to the other areas identified, viability has been accounted for in the assessment set out within the Viability Study [SUB6]. From that assessment, it has been concluded that the actual physical interventions necessary in the buildings would be similar. The 35% carbon reduction, compared to building regulations 2013, remains an improvement on current building regulations. The Government has stated that the current non-residential standard represents a 27% reduction on that of the 2013 building regulations.
56. I am satisfied that the requirements under Policy NZC1 of the DPD for % carbon reductions for residential and non-residential buildings, and therefore the overarching strategy, are justified and effective.
57. The cost uplift associated with the DPD policies, as identified through the Council's viability evidence, equates to 3% of construction costs on residential development and 6% of construction costs on non-residential development. This, it is identified, should be readily absorbed in most cases. The Viability Study [SUB6] indicates that, for example, most residential schemes across Warwick District would generate

³ [EXAM6] - Bath & North East Somerset Partial Local Plan – Inspectors Report – 13 December 2022

viable outcomes alongside the requirements in adopted Local Plan Policy H2 for 40% affordable housing.

58. The cost uplift of 3% has been based on existing evidence⁴ on the delivery of homes which achieve net zero carbon emissions by the definition and requirements set out in the DPD. The data sources are as referenced and set out within the Energy and Sustainability Policy Review [SUB5, p.21].
59. The Policy Review concludes that the cost uplift used data from the FHS Impact Assessment [EXAM8] on building fabric, the Etude and Currie and Brown Energy Review [EXAM9] data regarding heat pumps and BioRegional, using BEIS per-tonne carbon valuation and grid carbon projections, in combination with MHCLG data on carbon emissions of recent new homes in Warwick. This assessment translated to a 2.6-2.7% uplift. This was reasonably rounded up to 3% to allow a margin of error for the purposes of the viability study. In applying a % uplift on the base build costs, the Council reasonably considered that to be the most robust method of including the cost of achieving net zero carbon buildings rather than itemised costs of improved fabric efficiency, inclusion of a heat pump and offsetting the remaining carbon.
60. A full explanation of the 3% cost assumption has been provided in the submitted Regulation 22 Consultation Statement [SUB7]. It is noted that the 3% uplift is inclusive of the carbon offset calculation. In addition, the Council produced a further Viability Addendum Note [EXAM11] seeking to further explain the 3% residential and 6% non-residential cost uplifts and I have had regard to all of this in reaching my conclusion on the matter.
61. A cost uplift of 3% most closely reflects the policy approach that the Council is proposing, including the energy efficiency requirements of the FHS, a heat pump and a dynamic offset solution. The evidence referred to in EXAM11 by Currie and Brown in that assessment concludes that a % uplift of between 5-7% for net zero regulated emissions in non-residential buildings, excluding the BREEAM Excellent uplift is appropriate. The 6% uplift figure for non-residential development set out in the BNP Paribas Viability Assessment [SUB6] reasonably represents the mid-point in that assessment. As a result, with all of the evidence before me having been carefully considered, I find the approach chosen by the Council in relation to the cost uplift calculations to be reasonable and based on robust and readily available evidence. I am therefore satisfied that the approach is justified, effective and consistent with national policy.
62. Policy NZC1 aligns with the FHS and, based on the evidence surrounding the FHS, one way to achieve the required carbon reduction target is to moderately upgrade insulation values compared to existing standards, use more thermally efficient

⁴ [EXAM8] - MHCLG Cost of FHS Impact Assessment (October 2019); [EXAM9] - Etude and Currie and Brown Energy Review and Modelling for Cornwall Council Climate Emergency DPD (January 2021); and MHCLG Live Tables on Energy Performance of Buildings Certificates (October 2021) in combination with BEIS Green Book Supplementary Guidance: Valuation of Energy Use and Greenhouse Gas Emissions for Appraisal (October 2021).

glazing and a heat pump, as identified in the specification for the FHS. It is noted that on-site requirements relating to non-residential development could be delivered through measures that are less extensive. The combination of these measures will vary by use type. However, examples in offices are likely to include modest fabric or glazing upgrades and more efficient lighting and services. These technologies are already widely used in the industry currently.

63. There is no evidence to robustly show any inadequate supply of these technologies to meet the needs of the very small portion of the UK's total development that will take place within Warwick District. Therefore, based on the evidence, I am satisfied that the requirements of Policy NZC1 could be met with an alternate mix of available measures, as identified.
64. It is considered that grid electricity capacity would not be a significant constraint on the delivery of housing. Whilst it is acknowledged that upgrades may be required for specific sites, this is something that must happen in any event when the FHS is introduced and for the UK's wider net zero carbon transition to be realised. Energy efficiencies are targeted first by the DPD and so will minimise the overall demand that new homes put on the electricity grid. Furthermore, it is accepted that any electricity grid upgrade cost must be set against the avoided cost of gas grid connection which can be significant, particularly at greenfield sites.
65. In addition, Policy NZC1 requires that carbon reductions, to the greatest extent feasible, are demonstrated through the required energy statement which allows for exceptional circumstances where full compliance with policy is not feasible or viable due to site constraints. As a result, I find that Policy NZC1, and the DPD, provides sufficient flexibility in its overarching strategy, approach and policies that its implementation will have no unacceptable impact on housing delivery.
66. The Council is in the process of preparing a supplementary planning document (SPD) to support developers in demonstrating the requirements of the DPD, including the content and scope of Energy Statements. To reflect this, the Council produced an initial scope of the guidance in Appendix 1 of its Statement in response to Matter 2. However, there is no direct reference to any such forthcoming guidance within the DPD that would supersede the adopted Sustainable Buildings SPD.
67. To remedy this and make the DPD effective, a modification [**MM18**] is required. The modification will signpost where further information about the content of the required Energy Statement can be found and introduce the supplementary guidance earlier in the DPD. **MM18** is necessary for reasons of soundness to make the DPD justified and effective, as required by paragraph 35c of the NPPF.
68. The overarching strategy of the DPD accords with national policy as it supports the transition to a low carbon future and contributes to radical reductions in greenhouse gas emissions from new development. The approach within Policy NZC1 accords with national technical standards through expressing carbon emission reductions against building regulations and sets efficiency targets beyond those standards under powers granted by the Planning and Energy Act 2008.

69. Having had regard to the Council's declared climate emergency, Policy NZC1 is required to deliver the NPPF expectation⁵ of radical reductions in greenhouse gas emissions in line with the objectives and provisions of the Climate Change Act 2008. The DPD also helps to deliver the plan's legal duty to mitigate climate change as required by Section 19 of the 2004 Act.
70. It is noted that the DPD does not fully align with paragraph 22 of the NPPF which states that strategic policies should look ahead over a minimum 15-year period from adoption. The DPD does not look to extend the overall Local Plan period beyond 2029. It is a partial update of the Local Plan which has a limited and specific scope. The DPD does not change the spatial priorities, the spatial strategy or strategic housing and growth requirements of the Local Plan.
71. The Council has begun a full review of the Local Plan. It is indicated in the Council's latest LDS (March 2024) that this will take time to prepare and adopt, perhaps until late 2027. Nonetheless, it is anticipated that the lifespan of the DPD and its policies will be relatively short given the emerging South Warwickshire Local Plan and its envisaged adoption. The Council has taken a pragmatic and justified approach to responding to its declared climate emergency by preparing a focused DPD, as submitted, which could be adopted earlier than a full Local Plan Review. As a result, I consider this to be a positive, effective and therefore sound approach despite a limited degree of conflict with paragraph 22 of the NPPF.
72. The DPD addresses Objective B and relates to criteria e) of Strategic Policy DS3 of the Local Plan. Policy NZC1 of the DPD further supports and delivers the objectives of the Local Plan by expanding upon existing Local Plan policies including Policies SC0, BE1, HS1, CC1, CC2 and CC3. Consequently, having regard to the relevant submissions made, I find that Policy NZC1 sits comfortably with relevant policies of the adopted Local Plan.
73. Whilst the relationships between the DPD and existing Local Plan policies have been identified, for clarity, modifications relating to Policy NZC1 [**MM01**], Policy NZC2(A) [**MM02**], Policy NZC2(B) [**MM03**], Policy NZC2(C) [**MM05**], Policy NZC3 [**MM06**] and Policy NZC4 [**MM07**] are necessary to ensure that the DPD and its policies are justified, effective and therefore sound.
74. Paragraph 3.3.4 of the DPD explains that during the examination of the Warwick Local Plan, a policy relating to sustainable homes was removed from the plan due to the Written Ministerial Statement (WMS)⁶ setting out the expectation that local planning authorities should not set energy efficiency standards higher than Level 4 of the Code for Sustainable Homes (CSH). The relevant content of that WMS has now been superseded and is now out-of-date. As a result, the restrictions on the ability of local authorities to prepare local building standards policies have now been removed. Therefore, this has provided the Council with the opportunity to prepare a DPD to do this. To reflect this and to clarify that the DPD supports and expands

⁵ Paragraph 152 and Footnote 53 of the NPPF (July 2021)

⁶ Written Ministerial Statement – '*Housing standards: streamlining the system*' 25 March 2015 (HC Deb. 25 March 2015, vol 584, cols 131-138WS)

upon relevant Local Plan policies and does not supersede them, a modification [MM16] to paragraph 3.3.4 of the DPD is required.

75. **MM16** reiterates what is set out in Paragraph 12.1 of the DPD. However, in this instance, it is necessary to also clarify and set out the relationship of the DPD policies to the relevant Local Plan policies at this earlier point of the DPD for justification reasons and to make the DPD effective.
76. Similarly, a modification [MM17] is required at the end of paragraph 3.3.5 of the DPD, to signpost and clarify the relationship between the DPD policies and the Local Plan policies within the DPD. This modification is necessary for soundness to make the DPD justified and effective.
77. To correct the point that the DPD expands upon Policy CC3 of the adopted Local Plan and its requirements rather than supersedes the policy, a further modification [MM15] at paragraph 12.1 of the DPD is required. The modification removes the incorrect clause that states Policy CC3 is superseded by the DPD, and it is necessary to ensure clarity and to make the DPD justified, effective and therefore sound.
78. Overall, with the identified modifications, it is concluded that Policy NZC1 and the overarching strategy and approach within the DPD provides a measurable requirement for carbon emission reductions in developments that complement the policies within the Warwick Local Plan and further delivers the Local Plan objectives.

Issue 1 - Conclusion

79. In conclusion, subject to the main modifications, the DPD provides an appropriate overarching strategy in response to Warwick's declared climate emergency that is positively prepared, justified, effective and consistent with national policy.

Issue 2 – Has Policy NZC2(A) been positively prepared to provide an appropriate approach to achieve energy efficient buildings, ensure the best use of energy sources and facilitate a faster transition to low carbon energy sources and is it justified, effective and consistent with national policy?

80. Policy NZC2(A) is identified as a component policy of NZC1 and is the first step of the energy hierarchy. As such, the policy complies with the WMS. Furthermore, the policies include suitable provision to be applied flexibly to decisions on planning applications.
81. Policy NZC2(A) identifies the parameters and targets to which new development is expected to demonstrate its level of energy efficiency. As such, the policy sets out specific % improvements in carbon reduction through energy efficiency that new development is to comply with. The Policy Review document [SUB5] provides justification for the setting of the % improvement within its section 'Reducing Energy Demand / Improving Energy Efficiency'.

82. In setting a target improvement in energy efficiency, the policy represents the first stage in the energy hierarchy and seeks to reduce the demand for energy through more thermally efficient fabric and other materials to improve energy efficiency. The policy also sets a % improvement in fabric and energy efficiency that is calculated against building regulations (SAP or Simplified Building Energy Model).
83. It is noted that the 10% improvement in fabric efficiency for residential dwellings required by the policy is based on building regulations Part L 2021 and approximately reflects the notional fabric of the FHS. In the Warwick & Stratford-on-Avon District Councils – South Warwickshire Climate Action Support document [SD7], analysis in Warwick identified that a significant improvement in home energy efficiency beyond the existing building regulations is necessary for Warwick to meet its own carbon reduction commitments. Considering the evidence, this approach is therefore justified and effective as the policy requirements would broadly align with the Target Fabric Energy Efficiency (TFEE) of the FHS.
84. In terms of non-residential buildings, the 19% improvement in regulated carbon emissions through energy efficiency measures is calculated against a base of building regulations Part L 2013. The % is based on what has been feasible and viable in other areas for several years, such as in Milton Keynes and London [SUB5]. Further evidence of technical feasibility has been provided in national level analysis.⁷ This shows, for example, that a 15% reduction in new build offices' regulated carbon emissions (against Part L 2013 baseline) can be made by switching to high-efficiency lighting and a 20% carbon reduction can be reached if the developer also makes minor improvements in fabric or other services.
85. Analysis [SD7] shows that energy efficiency improvements in non-residential buildings must contribute to a 17% reduction in non-residential buildings' carbon emissions by 2030 and 40% by 2050 for there to be any possibility of meeting the carbon reductions required in Warwick for it to meet its own climate commitments and play a full role in fulfilling national carbon reduction commitments. As such, the Council has satisfactorily demonstrated that the policy is justified.
86. It is noted that the district-wide energy efficiency trajectory identified is required for the entire non-residential building sector in Warwick, the majority of which is represented by existing buildings which will have to go through a retrofit. This work is acknowledged as being far more challenging and costly to undertake. As such, the Council's view is that a greater contribution to carbon reductions should be made in new buildings which are easier to improve.
87. In terms of facilitating a faster transition to the greater use of low carbon sources, Policy NZC2(A) seeks to deliver improved fabric efficiency to make buildings more compatible with low carbon energy sources. This is because the related technologies tend to deliver heat at lower temperatures compared to gas heating and as a result are more efficient and effective. This is one of several reasons that the Council has identified as to why the improved fabric efficiency sought by Policy

⁷ Currie and Brown on behalf of Committee on Climate Change (2019), *ibid*

NZC2(A) would result in new building stock that will facilitate the immediate or future roll-out of low carbon heat technologies to those new buildings.

88. As I understand it, optimising the efficiency of building fabric is the starting point towards net zero carbon. It reduces the need and demand for the generation of energy through low or zero carbon technologies and improves compatibility with low and zero carbon heat technologies. As a result, by introducing these technologies into new housing stock during construction, whilst it is relatively easy to do so, a greater proportion of housing stock will contribute more prominently and effectively towards the transition to low carbon energy sources.
89. The Policy Review [SUB5] clearly outlines how the approach to Policy NZC2(A) was justified in relation to known calculations of energy efficiency as part of the Government's technical standards or based on sound judgement of other local plan policy requirements. Therefore, the approach in this regard is justified and effective.
90. Paragraph 153 of the NPPF states that plans should take a proactive approach to mitigating and adapting to climate change. Furthermore, paragraph 154b recognises that new development should be planned for in ways that can help to reduce greenhouse gas emissions, such as through its location, orientation and design. In addition, any local requirements for the sustainability of buildings should reflect the Government policy for national technical standards. The approach in Policy NZC2(A) is based on national technical standards as a % improvement on building regulations.
91. In combination, the overarching policy framework of Policy NZC1 and Policy NZC2(A) further enables the Local Plan to deliver on the radical reductions in greenhouse gas emissions in line with the objectives and provisions of the Climate Change Act 2008, as required through paragraph 152 and Footnote 53 of the NPPF. I am therefore satisfied that the policy is consistent with national planning policy.
92. However, to clarify how Policy NZC2(A) relates to adopted Local Plan policies, modification [**MM02**] is needed. This modification sets out the relevant Local Plan policies and how Policy NZC2(A) supports and expands upon those policies. The modification is necessary to make the policy and DPD justified and effective.

Issue 2 – Conclusion

93. I conclude that, subject to the main modification, Policy NZC2(A) of the DPD has been positively prepared and provides an appropriate approach to achieving energy efficient buildings, ensuring the best use of energy sources and facilitates a faster transition to low carbon energy sources. I also conclude that it is justified, effective and consistent with national policy.

Issue 3 – Has Policy NZC2(B) been positively prepared in terms of identifying an appropriate contribution and the necessary support to reducing the carbon emissions that the DPD seeks to achieve through suitable zero or low carbon energy sources and is the policy justified, effective and consistent with national policy?

94. Policy NZC2(B) sets requirements for a certain proportion of carbon savings to be achieved through renewable energy supply. As such, this is not a policy that sets energy efficiency standards as energy supply is a separate issue from energy efficiency. Nonetheless, it is acknowledged that some heating technologies provide elements of both renewable energy and energy efficiency. It is understood that the Council's draft SPD will clarify which technologies should be counted towards the NZC1 / 2A 'energy efficiency' requirements and which, by contrast, should count towards the NZC2(B) 'renewable energy' requirement.
95. Policy NZC2(B) sets out, in effect, the second stage of the energy hierarchy and looks to deliver the regulated energy demands of the building, or development, through low or zero carbon energy sources. It is also noted that the total % reductions in carbon emissions required by Policy NZC1 would be delivered through the carbon savings made through Policies NZC2(A) and (B) and any residual operational carbon emissions would be met through NZC2(C) by offsetting. As such, to ensure that the overall target in NZC1 is met, there is no target % of a building's energy demand that should be provided by renewable or low carbon energy sources.
96. The policy approach is justified in the Policy Review [SUB5] which highlights the importance of grid decarbonisation in the trajectory towards net zero. The approach acknowledges the need for flexibility in the requirement for on-site low and zero carbon technologies and provides a broad definition of allowable solutions, such as the inclusion of a heat pump. The approach requires that, as a minimum, renewable, zero and low carbon energy technologies are included to allow the building to meet the overall % carbon reductions sought by Policy NZC1, and then to achieve on-site net zero operational carbon wherever possible.
97. The requirement is intended to encourage developers to include enough solar panels or a connection to a renewable electricity scheme to bring a development's regulated carbon emissions to zero on-site after having met the energy efficiency requirements of Policy NZC2(A) and, most likely, added low-carbon heat to fulfil the minimum on-site carbon reduction target of Policy NZC1. Again, flexibility is provided in recognising site-specific constraints and allowing off-site solutions or offsetting where developments cannot achieve net zero carbon emissions.
98. Policy NZC2(B) is intended to be implemented in combination with Policies NZC1 and NZC2(A) as a suite of policies. I am satisfied that Policy NZC2(B) and the suite of policies will be effective in reducing carbon emissions to operational net zero. Although there is flexibility built into Policy NZC2(B) regarding available technologies, further guidance would assist with the implementation of the policy. This is to be rectified through reference within the DPD to further guidance on the

scope and content of the required energy statements and is provided through **MM18**. This is necessary for effectiveness.

99. As identified with all other DPD policies, to provide clarification on how Policy NZC2(B) relates to adopted Local Plan policies, modification [**MM03**] is required. The modification identifies the relevant Local Plan policies and how Policy NZC2(B) supports and expands upon those policies. The modification is necessary to make the policy and DPD justified and effective.
100. Local Plan policies SC0 and CC2 include measures and criteria that are supportive of the transition to a low carbon future through the provision of renewable energy. Policy NZC2(B) focuses on the provision of renewable, zero and low carbon energy to meet onsite carbon reductions. As such, it is related to Local Plan Policy CC2. That policy has criteria relevant to the implementation of Policy NZC2(B). Therefore, they are complementary and there is no conflict.
101. Policy NZC2(B) aligns with support provided in paragraphs 152 and 155 of the NPPF in relation to producing a positive strategy to increase the use and supply of renewable and low carbon energy. Furthermore, paragraph 158 of the NPPF outlines that applicants are not required to demonstrate the overall need for renewables or low carbon energy, recognising the contribution that even small-scale projects can have on reducing greenhouse gases. Nonetheless, Policy NZC2(B) also includes flexibility to demonstrate and deal with site-specific feasibility and viability challenges. As such, it aligns with paragraph 157a of the NPPF. Overall, Policy NZC2(B) aligns with the NPPF on the provision of renewable and low carbon energy sources as part of the transition to a low carbon future. The policy further supports the Local Plan objectives and includes sufficient flexibility to enable its implementation in line with adopted policies in the Local Plan.

Issue 3 - Conclusion

102. I conclude that Policy NZC2(B) has been positively prepared in terms of identifying an appropriate contribution and the necessary support to reducing the carbon emissions that the DPD seeks to achieve through suitable zero or low carbon energy sources. I also conclude that the policy is justified, effective and consistent with national policy.

Issue 4 – Has Policy NZC2(C) been positively prepared in terms of providing the necessary robust and appropriate framework the DPD requires for addressing residual carbon from new buildings and ensuring that contributions required through carbon offsetting are reasonable and appropriate and is it justified, effective and consistent with national policy?

103. Policy NZC2(C) is not a policy proposing local energy efficiency standards for buildings. Consequently, it is not substantively affected by the recent WMS.
104. Policy NZC2(C), in concert with Policies NZC2(A) and NZC2(B), addresses the subsequent stage in the energy hierarchy that considers carbon offsetting. Where offsetting is required by the policy, a development proposal will need to demonstrate

that net zero carbon – regulated operational energy – cannot be delivered on-site. The offsetting mechanism of Policy NZC2(C) provides a contribution to the Council's Carbon Offset Fund or delivers verified local off-site offsetting schemes. As a result, offsetting would deliver not only carbon reductions in Warwick District, but also elsewhere in Warwickshire and Coventry and support Local Plan objectives and its relevant policies.

105. To make this connection with the relevant adopted Local Plan objectives and policies clearer, and to clearly justify Policy NZC2(C) in its role in supporting and further delivering those Local Plan objectives and policies, a modification [MM05] to the DPD is required. This inserts a paragraph into the supporting text for Policy NZC2(C) identifying the relevant Local Plan policies relating to the DPD policy. It also provides clarity on the separate and ringfenced relationship between offsetting funds secured through a Section 106 agreement and any Community Infrastructure Levy (CIL) charges.
106. Furthermore, to clarify the separate relationship of the Carbon Offset Fund to CIL and other funds and that the carbon savings are to be monitored separately, a further modification [MM19] is required. These modifications are necessary to make the policy and DPD justified and effective, as required by the NPPF.
107. Policy NZC2(C), with the overarching Policy NZC1, accords with paragraph 152 of the NPPF and the legal duty to mitigate climate change as set out in Section 19 of the 2004 Act. Accordingly, I am satisfied that the mechanism identified to collect carbon offsetting funds in accordance with the tests set out in paragraph 57 of the NPPF provides an appropriate approach to acquiring planning obligations that are required to work towards meeting the aims and objectives of the DPD.
108. In relation to the above tests, it is noted that offsetting may be required to deliver net zero regulated operational carbon emissions in accordance with the DPD policies. In addition, offsetting will relate to residual carbon only resulting from the development. The scale of offsetting contributions will be required to be fairly related in scale and kind to the amount of residual carbon to be offset as calculated through the required energy statement. It will also be appropriately assessed and determined in terms of viability. Furthermore, the cost-per-tonne of carbon directly reflects the nationally determined 'cost of abatement' per tonne of carbon that will need to be abated for the UK to reach its legislated carbon target. As a result, I conclude that Policy NZC2(C) accords with national policy.
109. The supporting text to Policy NZC2(C) makes it clear that carbon offsetting is a last resort in delivering net zero carbon development in the district. Therefore, in combination with the policy framework set out within the DPD, the offsetting mechanism forms a key part of the Council's means to deliver a reduction in carbon emissions and clearly contributes to the overall goal of the DPD. Consequently, I find the approach to be reasonable in relation to tackling the objectives of the DPD.
110. I find that the approach set out in Policy NZC2(C) is justified and that the cost and effectiveness of carbon offsetting and the Carbon Offset Fund under Policy NZC2(C)

has been robustly determined and calculated. It is an appropriate framework for carbon offsetting.

111. The policy approach provides an alternative means for developments where it is not feasible or viable to deliver the sought carbon reductions on site. Also, where offsetting is not fully viable, then residual carbon emissions can be offset to the greatest extent that is viable. Therefore, Policy NZC2(C) is justified and effective when considered in terms of the feasibility and viability of delivering net zero carbon development.
112. The Council is working with Warwickshire County Council (WCC) on setting up the Carbon Offset Fund through the Warwickshire Ecosystem Services Trading Protocol (WESTP). It is understood that the ability to purchase Warwickshire carbon credits through the WESTP will shortly be in place through the creation of woodland on land owned by WCC and the Council. Notwithstanding this, the DPD does not provide this clarification and detail.
113. Therefore, to outline and provide clarification on measures that WCC has taken and put in place in creating a carbon market for Warwickshire which will be the preferred mechanism on adoption of the DPD, modification [MM04] to the DPD is required. This modification provides a clear context for the approach to carbon offsetting and is necessary to make Policy NZC2(C) and its approach justified and effective.

Issue 4 - Conclusion

114. Subject to the main modifications, I conclude that Policy NZC2(C) has been positively prepared and provides the necessary robust and appropriate framework to address residual carbon from new buildings. Furthermore, in providing an appropriate means to ensure contributions required through carbon offsetting are reasonable, I conclude that the policy is justified, effective and consistent with national policy.

Issue 5 – Has Policy NZC3 been positively prepared in setting out an appropriate and proportionate approach to assessing embodied carbon in the proposed materials of a development and is it justified, effective and consistent with national policy?

115. Policy NZC3: Embodied Carbon is not a policy proposing local energy efficiency standards for buildings. Consequently, the policy is not substantively affected by the recent WMS.
116. The Local Plan makes no direct reference to embodied carbon. Nonetheless, as identified with other DPD policies, Objective B of the Local Plan addresses climate change and Strategic Policy DS3 which aims to deliver a low carbon economy, lifestyles and environmental sustainability. Local Plan Policy CC3 requires major non-residential development over 1,000sqm to achieve BREEAM 'Very Good'. Embodied carbon is a consideration within BREEAM and therefore the proposed threshold of Policy NZC3 is consistent with Policy CC3. However, this is not set out clearly in the DPD. To provide clarity, a modification [MM06] which sets out the

above within the DPD is necessary for soundness, to make the DPD policy justified and effective.

117. The justification for Policy NZC3 is set out within its supporting text in the DPD and in the Policy Review document [SUB5]. This identifies that embodied carbon emissions will form a greater proportion of overall carbon from a development as the operational emissions from buildings decrease over time through the implementation of the DPD policies and building regulations. The embodied carbon emissions can be up to 50% of total emissions over a new building's lifetime.
118. The Council identified that tackling embodied carbon was highlighted through consultation as a matter for the DPD to address as part of the transition towards net zero. Consequently, the inclusion of a policy on embodied carbon in the DPD is both justified and effective. Moreover, taking account of the significant contribution of embodied carbon to overall carbon emissions, I consider the approach of the DPD policy to require the consideration and reduction of embodied carbon where possible to be, along with national policy, part of a proactive approach that is consistent with paragraph 153 of the NPPF.
119. Policy NZC3 requires major developments to consider, within an energy statement or a design statement, the embodied carbon of proposed materials and reduce this where possible having regard to the type, life cycle and source of the materials. Paragraph 9.3 of the DPD refers to environment assessment methods such as BREEAM or Home Quality Mark (HQM) pre-assessments with reference to the BRE Green Guide as suitable to address the materials used in development.
120. Super-major developments (50+ dwellings and/or 5,000sqm of non-residential floorspace) would most likely use the industry standard method to report on embodied carbon which is the RICS Whole-Life Carbon Assessment for the Built Environment (RICS assessment). The Council will provide further guidance on embodied carbon assessment [MM20] alongside further guidance on energy statements [MM18] which will be developed to support the implementation of the DPD.
121. Although acknowledged as the industry standard method, the RICS assessment is not specified within the DPD. To rectify this, a modification [MM20] to the DPD is required to clarify that the RICS assessment is also considered as appropriate, and that guidance will be provided on the type and scope of embodied carbon assessments required. The modification is necessary for soundness reasons to make the DPD effective.

Issue 5 - Conclusion

122. Subject to the main modifications identified, I conclude that Policy NZC3 has been positively prepared in terms of setting out an appropriate and proportionate approach to consider and assess embodied carbon in the proposed materials of a development. I also conclude that the policy is justified, effective and consistent with national policy.

Issue 6 – Has Policy NZC4 been positively prepared in the light of providing an appropriate response to the consideration of sustainable construction and design and low carbon energy sources in existing buildings that the DPD requires and is it justified, effective and consistent with national policy?

123. Policy NZC4: Existing Buildings is not a policy proposing local energy efficiency standards for buildings. Consequently, the policy is not substantively affected by the recent WMS. As with Policy NZC3 on embodied carbon, Policy NZC4 has emerged as a result of the tackling emissions from existing buildings being raised through the Regulation 18 consultation. The Policy Review document [SUB5] identifies that tackling carbon emissions from existing buildings is of high and urgent importance based on the overall contribution they make to Warwick's total carbon emissions (42.2%). It is also recognised that it will not often be possible to retrofit existing buildings to the same level of fabric efficiency as new builds. As such, it is reasonable to consider that a different policy approach is needed in relation to existing buildings compared to new buildings.
124. Evidence [SUB5] illustrates precedents where other local authorities have implemented policies to support proposals that result in significant carbon reduction in existing buildings through energy efficiency and low or zero carbon energy generation. Policy NZC4 utilises this approach. It is reasonable that all developments involving existing buildings demonstrate a consideration toward sustainable construction principles in accordance with Local Plan Policy CC1 and consider alternatives to fossil fuel boilers. Furthermore, with the significant contribution that existing buildings make to Warwick's overall carbon emissions, it is appropriate, justified and effective to have a policy which seeks to reduce such emissions through planning applications involving existing buildings.
125. Whilst there is a clear connection between Policy NZC4 and Local Plan Policy CC1, again the DPD does not clearly identify this or the connections it has with other relevant policies in the Local Plan. To clarify this important policy relationship, and for consistency across the DPD and the development plan, modification **MM07** is necessary. It is required to make Policy NZC4 justified and effective.
126. Policy NZC4 is supported by paragraphs 119, 120 and 154 of the NPPF in terms of the reuse of existing land and buildings. The expectation is that planning policies and decisions will ensure that developments function well over time and will be adaptable to climate change. The policy approach also aligns with paragraph 124 of the NPPF which states that planning policies should support the efficient use of land, taking account of land availability and the desirability of maintaining an area's prevailing character or of promoting regeneration and change. Policy NZC4 also references historic buildings, including listed buildings, giving support for retrofitting measures to improve energy efficiency and performance, provided that special characteristics are conserved in a way appropriate to their significance. This aligns with Section 16 of the NPPF and as such it is considered that Policy NZC4 accords with national policy.

127. In my view, the policy has no unacceptable impact on the development industry. It requires alternatives to fossil fuels to be considered and does not set mandatory carbon reduction targets for existing buildings. There is reference in the policy to existing detailed guidance on retrofitting existing buildings and a heating energy demand target is recommended. Overall, the policy provides a positive approach to reducing carbon emissions in existing buildings by explicitly supporting those proposals which offer considerable improvements.
128. To ensure clarity that the DPD includes standards within Policy NZC4 that apply to existing buildings as well as new buildings, a modification [MM11] to Objective 2 of the DPD is required. This is needed to make the objective effective, as required by the NPPF. MM08 also includes an addition of the word 'existing' to clarify the DPD's aim of minimising carbon emissions from both existing and new buildings.

Issue 6 - Conclusion

129. Subject to the main modifications, I conclude that Policy NZC4 has been positively prepared to appropriately consider and assess sustainable construction and design and low carbon energy sources in existing buildings. I also conclude that the policy is justified, effective and consistent with national policy in this regard.

Overall Conclusion and Recommendation

130. The DPD has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues that I have set out above.
131. The Council has requested that I recommend MMs to make the submitted DPD sound and legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix to this Report, the Warwick District Council Net Zero Carbon Development Plan Document satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and meets the criteria for soundness in the NPPF.

Andrew McCormack

Inspector

This report is accompanied by an Appendix which contains the Schedule of Main Modifications.