

# Proposed Domestic Building Environmental Standards (Scotland) Bill

## Introduction

A proposal for a Bill to introduce new minimum environmental design standards for all new-build housing to meet the Passivhaus standard or a Scottish equivalent in order to improve energy efficiency and thermal performance.

The consultation runs from 4 May 2022 to 27 July 2022

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (\*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

## About you

Please choose whether you are responding as an individual or on behalf of an organisation.

Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

*No Response*

Please select the category which best describes your organisation

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).  
(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

North Ayrshire Council

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

## **Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").**

Q1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

Partially supportive

### **Please explain the reasons for your response.**

North Ayrshire Council (NAC) declared a Climate Emergency in June 2019. Acknowledging the climate crisis and the urgent need for action to tackle climate change, the 3rd iteration of its 'Environmental Sustainability & Climate Change Strategy (ESCCS) 2021-2023' was approved by Cabinet in May 2021. Within this Strategy is an ambitious target to become a net zero carbon Local Authority by 2030.

Domestic properties account for 28% of North Ayrshire CO2 emissions (area wide), clearly identifying the need to address CO2 emissions from domestic properties.

The introduction of a Passivhaus or Scottish equivalent standard would ensure new build houses are extremely efficient and have a low energy demand. This would result in a significant reduction in CO2 emissions associated with new build domestic properties and ensure homeowners / tenants are paying as little for their energy as possible, tackling fuel poverty in new build properties.

The price homeowners / tenants pay for their energy cannot be controlled, therefore the best way to impact on their energy bills is by ensuring the energy demand from the homes is as low as practically possible, as stated in the proposed bill "The cheapest and most environmentally sustainable energy is the energy you do not use." The most recent Scottish House Condition Survey Local Authority Analysis report (published in February 2019) states that for 2016-18, 28% of households in North Ayrshire were suffering from fuel poverty.

Q1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

New build homes are easier to tackle in terms of reducing impact on climate change and should be future proofed to avoid the need for significant and costly deep retrofit works in years to come, which are currently being recognised as essential in existing homes.

However, whilst the Council is supportive of the principle of the Bill, it also recognises there are challenges associated with delivering homes to the Passivhaus Standard (or Scottish Equivalent. In particular, the additional capital cost of the builds and potential maintenance costs associated with the heating technology used in the homes. Without the provision of additional funding, providing homes to this standard would not be financially viable.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

The Council does not agree that new legislation is required. The Bill's proposed aims could be achieved and enforced by the introduction of revised Building Standards.

This would include developing the work undertaken to date regarding: preparation of the new building standards coming into force in December 2022; the Heat in Building Strategy; proposed reforms to the EPC strategy; and other ongoing work.

Q3. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to eradicating fuel poverty?

Partially supportive

**Please explain the reasons for your response.**

The current energy crisis highlights the need to reduce energy demand. There is no price guarantee on our utility rates, therefore the only way (as we see it) is to ensure energy demand is as low as possible.

The new legislation requiring all new build domestic homes to be heated by zero direct emission (ZDE) heating from 2024 will drive domestic design to renewable heat sources which could potentially have a greater unit rate, if the building energy performance is not significantly reduced energy bills could be more expensive. This highlights the importance of ensuring energy demand is as little as possible to help reduce fuel poverty in new build homes.

However, whilst this would assist in reducing fuel poverty in new build properties, it will not impact those in existing properties, who are perhaps more susceptible to fuel poverty due to the energy efficiency of existing homes.

North Ayrshire Council has a flat rent structure which applies to both new and existing social housing tenants. Without the provision of funding to support new standards existing tenants could end up worse off with higher rents to offset the additional costs of Passivhaus-standard new builds.

The introduction of Passivhaus will not completely eradicate fuel poverty, given the significant volume of existing housing stock and likely replacement profile. Benefits will materialise gradually as the existing building stock is upgraded to an enhanced standard (Enerphit/AECB) and the existing stock is replaced by new build homes

Q4. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to a reduction in emissions?

Partially supportive

Q4. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to a reduction in emissions?

**Please explain the reasons for your response.**

Enhanced building practices, as well as some improvements to materials, combined with a more detailed energy analysis and robust verification process should ensure more efficient homes are being built. More efficient buildings will result in reduced emissions.

Setting the highest performance standards will eliminate the need to carry out future retrofit works which will likely be required to meet national and local net zero targets.

There are other options being explored nationally to reduce carbon emissions from domestic heat, however there is no certainty on when this would be available. There is also no indication of what the costs will be, both in terms of implementation and running costs, which as discussed previously is an important factor in reducing fuel poverty.

There are other standards such as AECB Building standard or the CCG Net Zero Home Standard which can deliver substantial emission reductions; however in terms of how appropriate these are specific to emission reduction, the urgency and the scale of the challenge, the most appropriate standard would be the one capable of delivering the largest emission reduction.

Q5. Which of the following best expresses your view of the process set out to ensure that the new standards are met in all new build housing? (see pages 14 to 16 in the consultation document)

Neutral (neither support nor oppose)

**Please explain the reasons for your response, including your views on how effective the process would be in removing the 'performance gap' and on how the proposed verification process might work in practice.**

The Bill seems to confuse / interchange Planning and Building standards processes. The reduction of the 'performance gap', normally referred to as the 'compliance gap' is well understood and will rely on an industry wide approach to significantly improve the design, construction and inspection of buildings. In Building Standards, this is already underway with the work of the Futures Board and the 7 workstreams.

The Bill asks about the verification of new buildings being carried out by others outwith the current system where the 32 Local Authority verifiers have sole responsibility for work within their own geographical area. This is under constant review by Scottish Ministers and to date, no compelling evidence has been presented to change this due to the proven impartiality, accountability, performance and experience of the current 32 LA verifiers.

The main routes to reducing the compliance gap are industry-wide training and additional resource allocated to quality and compliance.

The full process from planning to design, construction and approval is already in place. The changes required to implement the standard would likely mean existing practices would need 'tweaked' and amended, acknowledging verification would be an additional stage.

Q6. What could be the market effects of the introduction of this proposal?

This is very difficult to predict, some of the potential market and economic impacts of such changes were considered under the previous consultation for the new Building Regulations.

- New build house prices in the private sector could increase, as developers would look to recover the additional costs required to build the homes.
- The price of the new homes could be cost prohibitive and decrease the desire or ability of potential buyers to purchase a new build home. This could also increase competition in the existing home market.
- Homes built to the enhanced standard could be more desirable. Reduced running costs are the main

Q6. What could be the market effects of the introduction of this proposal?

incentive, however enhanced building design could bring additional value to homes.

- It has been difficult to attract house builders/developers to North Ayrshire and the area has only just started showing signs of recovery from the 2008 recession. Increased build costs (4-8% mentioned in the bill) could have potential implications for the viability of both private and social housing projects, particularly in weaker housing markets; where there are significant infrastructure requirements and on hard-to-develop sites (e.g. vacant and derelict land, the development of which can often bring the biggest benefits but require public intervention). Furthermore, the viability of developments on brownfield and town centre sites which have their own sustainable merits could be affected.
- Reduced number of new build homes in the area. If there is no additional funding for Local Authorities to allow them to fund the additional capital costs, they could be faced with reducing the number of new build homes they can deliver. Secondary to the above, if every new home must be built to Passivhaus standard, this could mean houses take longer to build as the workforce adapts, and thirdly a shortage of suitably qualified and certified companies / resource could reduce the rate of builds.
- As a result of less housebuilding in the area, local business and trades could feel the impact with less work, and subsequently less construction related jobs in the area.
- The Bill could impact housing 'need and demand' in both the private market and social housing.

## Financial Implications

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

a significant increase in costs

**Please explain the reasons for your answer, including whom you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.**

Additional Costs

- Build / capital costs – the bill estimates the additional costs at 4-8%, however it would be useful to see real life evidence of figures from completed projects / developments (the costs we have experienced for enhanced fabric and Air Source Heat Pumps for existing projects is circa 8% and this is not to Passivhaus or any other recognised standard).
- There is information to suggest that maintenance costs could increase, with the replacement of heating technology not only costing more, but also being required more frequently.
- Rent costs (social housing) – North Ayrshire Council has a flat rent structure which applies to both new and existing social housing tenants. Without the provision of funding to support new standards, existing tenants in older stock could end up worse off with higher rents to offset the additional costs.
- Increased build cost – likely this would be reflective in the purchase price of the house and therefore passed onto buyers (private). Buyers would see the benefit in the form of significantly reduced energy bills. There is also the potential for homes (asset / investment) to be worth more money.
- Resource / training costs – for Council / contractors / builders, developers & designers there will be a requirement to upskill existing workforce and / or recruit new / additional skilled workforce.
- North Ayrshire has two island communities (Arran and Cumbrae). There is a concern that potential impacts upon our island communities may be different from those on the mainland. Reasons for this include challenges arising from additional development costs and lack of availability of labour. Therefore, an Island Impacts Assessment would likely have to be undertaken to ensure compliance with The Islands (Scotland) Act 2018.
- Resource associated with verification requirement (whether that be internal to Building Standards, contracted verifiers or completely separate verifiers independent of the department).

Reduced Costs

- Anticipated reduction in running costs for homeowners / tenants.

## Equalities

Q8. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

Fuel poverty affects the poorest and most economically disadvantaged. New build homes being built to enhanced standards should reduce fuel bills, and as a result, should improve quality of life for tenants / homeowners in those properties. Poor quality housing is linked to poor health and wellbeing. Enhanced standards should help break this link and improve internal comfort and environmental conditions, resulting in improved health and wellbeing.

Those who are less financially capable may not be able to afford the likely increased purchase price associated with a Passivhaus home, or alternatively increased rent for private rented or social rented sector homes (assuming that rents would increase).

Local authorities build specialist and bespoke homes to suit the demographic of the region and meet the needs of their communities. If the Council had to reduce the quantity of new build homes being delivered this could in turn reduce the number specialist homes delivered.

Potential impacts upon our island communities may be different from those on the mainland. Reasons for this include challenges arising from additional development costs and lack of availability of labour. Therefore, an Island Impacts Assessment would likely have to be undertaken to ensure compliance with The Islands (Scotland) Act 2018.

In historic Passivhaus builds, operation and use of the systems were thought to be complicated or varied too much from how traditional technologies / systems were used. If this is still the case and systems are not as user friendly as traditional systems, this could cause issues for some tenants / residents / homeowners to use.

## Sustainability

Q9. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? If you do not have a view then skip to next question

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

The purpose of a Passivhaus home is to deliver a highly energy efficient home that is cheap to run whilst providing a comfortable and healthy internal environment for the occupants. With low energy demand being of prime focus, carbon emissions are minimised, tackling climate change and providing environmental benefit. With this efficient and sustainable design Passivhaus homes ensure that needs of the present are met without compromising the ability of future generations to meet their own needs.

With all new build homes being built to Passivhaus standard, this could create green jobs in the area, new careers in the sustainability, renewables and construction industries including apprenticeships.

However, as previously mentioned under market effects, the introduction of this Bill could destabilise the private housing market, which could reduce the number of new build houses and in the region, both of which could cause a loss of jobs and an increase in unemployment.

As previously noted, it has been difficult to attract house builders / developers to North Ayrshire and the area has only just started showing signs of recovery from the 2008 recession. Increased build costs (4-8% mentioned in the bill) could have potential implications for the viability of both private and social

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Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

housing projects, particularly in weaker housing markets where there are significant infrastructure requirements and on hard-to-develop sites (e.g. vacant and derelict land, the development of which can often bring the biggest benefits but require public intervention). Furthermore, the viability of developments on non-greenfield and town centre sites which have their own sustainable merits could be affected. This could impact the economy in town centres and regeneration of these areas. Wider place making should be at the heart of any healthy and just society.

## General

Q10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

Any proposed legislation would have to take careful consideration of the legislation that exists currently relating to Climate Change and development. In addition, future legislation would be required to consider how it relates to:

- The Town and Country Planning (Scotland) Act 1997 (amended by the 2019 Act)
- The Heat Networks (Scotland) Act 2021
- The Climate Change (Scotland) Act 2009
- The Local Heat and Energy Efficiency Strategies (Scotland) Order 2022