

FURTHER INFORMATION CONDITION 43B Planning Reference 2018/6388/P
28.02.19 Ryan Thrower NRG in email exchanges, and post comments by Architype

Gabriels comments in black (Senior Sustainability Officer)

Ryan comments in red (NRG)

Ann-Marie comments in blue (Architype)

I note they have updated the overall CO2 target from 32% to 27% to reflect the change in building regulations baseline from Part L 2010 to Part L 2013.

Yes, as per the GLA Guide to Energy Statements which went in 2013 from 40% over Part L 2010 to 35% over Part L 2013, this is the protocol for schemes that were going through the system during the crossover.

I also note the Shadow 106 agreement speaks about “ensuring the Owner will target a reduction of at least 32% (with best endeavours to achieve a target reduction of 40%)”, see clause 2.19 (ii)

It also asks for them to follow the measures in the approved Energy Statement, see clause 2.19 (i).

We have never seen this. I thought the idea of putting the S106 obligations into the Planning Permission and not issuing a S106 was because it is Camden as the client and developer. Currently contractor reviewing with LBC what is their interpretation within the contract delivery of ‘best endeavours’"best endeavours" is a subjective term and it is how you view this term in light of your contractual obligations? Or, conversely, if your requirement is simply that you must gain sign-off then it is what Camden will accept as a "best endeavour".

- I accept that condition 43 does not set a specific minimum reduction through renewables/Be Green stage as may have been required in a more modern application.

This is correct. This was removed years ago as Contractors were just building energy-inefficient and bolting PV on top. That is entirely the opposite of this scheme. This is a fabric first scheme with air tightness performance far more enhanced than the best practice guidance which reduces overall energy demand on the scheme.

- However, I would question the reduction in solar as it appears to go against the letter and spirit of the s106 agreement clause quoted above which refers to best endeavours. It seems they could retain the pre-planned PV in order to get closer to the 40% (or reduced equivalent upper target, see above ref. Building Regulations adjustment).

Having not seen the S106 I was unaware of this "best endeavours" so we never knew this existed. Obviously everyone has different opinions on what this means but we were employed to meet the fixed targets. Currently contractor reviewing with LBC what is their interpretation within the contract delivery of 'best endeavours'. We would propose that the enhanced performance of these buildings allow a reduction in PV that the Section 106 cannot supersede in relation to hierarchy to the SAP and planning conditions separately. The SAP and Energy statement takes precedence in our view as the formal targets specified in the planning conditions

- The approved Energy Statement which they are asked to follow shows a 22.1% reduction at Be Green stage. The current proposal is for only a 6.6% reduction. At the time of determination, London Plan policy was for a 20% Be Green reduction where feasible.

This is a simplified interpretation of the Policy at the time. It may be that the officer was not working on such residential applications in London around 2011-2014, I'm not sure. The Policy of this, as above, is a remnant of the London Plan 2008 where 20% Renewable was the target. While the Policy was retained in the 2011 version the published GLA Guidance was that a reduction in regulated Part L emissions over that of Building Regulations was the precedent as was the: Be Lean, Be Clean, Be Green hierarchy. That we're meeting this through earlier stages of the hierarchy should be celebrated, not criticised. Policy 5.7 of the London Plan is an aspiration with the "presumption". The fact that Passivhaus has been adopted here, something that goes beyond current legislation and at a significant cost was the reason the strategy was agreed for 1a

- To me, reducing the solar PV to 'only just meet' the lower CO2 target clearly does not seem to come under the framework of "best endeavours" to achieve the upper target. This change is also, for me, clearly going against the policy of "20% where feasible".

It's not a lower target. It is the formal target as specified in the Planning Conditions.

Can we ask for this decision to be revisited, especially since this will knock on to the s106 obligation which will also be assessed by us?

Please review the SAP calculation and the now updated PV provision within the energy statement and confirm if this is still required.
