South Oxfordshire and Vale of White Horse
Joint Local Plan 2041

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LPA103

TOPIC PAPER

Climate Change Topic Paper Addendum

Joint Local Plan

South Oxfordshire District Council
Listening Learning Leading

Vale of White Horse District Council

October 2026

Climate Change Topic Paper (TOP01.2) Addendum (October 2026)

1. Overview

1.1. This is an addendum to the council's Climate Change Topic Paper (Submission Version) (examination library reference TOP01.2). It has been produced in response to the Inspectors' post stage two hearings letter (examination library reference ID28) which, at paragraph 18, asks the councils to update the topic paper on the following matters:

i. Changes to the Building Regulations that seek to implement the Future Homes Standard (see Building Circular 01/2026);
ii. The Court of Appeal judgement Rights Community: Action Limited, R (on the application of) v The Secretary of State for Housing, Communities and Local Government [2025] EWCA Civ 990
iii. The 'Housing Update' WMS of December 2021 (which is relevant to the Plan due to the transitional arrangements referenced in paragraph 3 above) insofar as it states that the 'new overheating standard is a part of the Building Regulations and is therefore mandatory, so there will be no need for policies in development plans to duplicate this.'

1.2. The addendum demonstrates that, having reviewed these matters, that we remain satisfied that the climate change policies in the Joint Local Plan are justified, effective, and consistent with national policy.

2. Changes to building regulations that seek to implement the FHS, building circular 01/2026 that came out earlier this year that puts that into context

2.1. Since the submission of the publication version of the Joint Local Plan, the government has published Building Circular 01/2026 which confirms the amendments to the Building Regulations that will implement the Future Homes and Buildings Standards (FHBS). The standards are intended to ensure that new homes and non-domestic buildings are built to higher energy efficiency standards, with the government stating that new homes built to the FHBS will emit, on average, 75% less carbon over their lifetime compared to those built to 2013 Part L Building Regulations. The Building Circular sets out that the majority of the amendments will come into force on the 24 March 2027, with provisions related to higher-risk buildings and certain works to existing buildings coming into force on 24 September 2027.

2.2. While the introduction of the FHBS represents an important improvement to national building regulations, it does not require net zero operational

emissions from new development. Instead, the FHBS seeks to ensure that new homes and buildings achieve higher levels of energy efficiency and are heated using low-carbon technologies, with the expectation that they will become net zero carbon in use as the electricity grid continues to decarbonise.

2.3. Our Net Zero Carbon Study Addendum (examination library reference, CEQ14.5) demonstrates why Policy CE2: Net Zero Carbon Buildings remains justified and necessary. The addendum compared Policy CE2 with the Future Homes Standard (FHS) options proposed through the Governments 2023 consultation, to establish if these policy approaches would align with local net zero carbon targets for South and Vale. The FHBS announced in March 2026 broadly aligns with the more ambitious of the two consultation options (Option 1). The evidence concluded that, whilst the FHS would reduce operational emissions from new development, residual emissions would remain at a level that exceeds the carbon budget required to align with the councils' 2045 net zero targets. By contrast, Policy CE2 aligns with the councils' net zero trajectory, and is therefore necessary to achieve the councils' net zero ambitions.

2.4. The addendum also identifies a number of limitations associated with Building Regulations, which also apply to the FHBS. This includes the exclusion of unregulated energy use and the recognised performance gap between the predicted and actual energy performance of completed buildings. The study therefore concludes that reliance on the FHS, and by extension the FHBS, would not achieve the emissions reductions required to align new development with the councils' net zero targets.

3. The Court of Appeal Judgement, *Rights Community Action Ltd. Vs SoS for MHCLG* - EWCA CIV990

3.1. Since the submission of the Joint Local Plan, the Court of Appeal has issued its judgement on R (*Rights Community Action Ltd) v Secretary of State for Housing, Communities and Local Government* [2025] EWCA Civ 990). The case considered the lawfulness and interpretation of the December 2023 Written Ministerial Statement (2023 WMS), discussed earlier in this topic paper, which has been interpreted by some as restricting the ability of local planning authorities from setting local energy efficiency standards higher than building regulations, which the appellant stated was unlawful.

3.2. Although the Court of Appeal dismissed the appeal, it provided important clarification regarding the 2023 WMS. Notably, it confirmed that the WMS does not prevent local planning authorities from adopting higher energy efficiency standards than those required by building regulations, provided the policies are justified by local circumstances and supported by evidence. This is a significant clarification for the Joint Local Plan, as it confirms that authorities like South and Vale, can, subject to being justified and evidenced, adopt locally justified climate policies that go beyond Building Regulations, such as Policy CE2: Net Zero Carbon Buildings. Importantly, Policy CE2: Net Zero Carbon Buildings is supported by a robust evidence base. Both the Net Zero Carbon Study and the Net Zero Carbon Study Addendum demonstrate both the local circumstances and the evidence-based justification for requiring standards beyond those set by national policy and Building Regulations alone.

4. Housing Update WMS December 2021 - Overheating standards in building regulations & how this relates to the plan policies

4.1. In December 2021, the then Government released a Written Ministerial Statement entitled 'Housing Update' (2021 WMS). This 2021 WMS provided an update on Future Buildings Standard consultation and the implementation of the 2021 uplift to the Building Regulations. It also set out the Government's intention to introduce a new overheating mitigation requirement in the Building Regulations to tackle overheating in new homes, known as Approved Document O (Part O). It states that this new national standard emerged as local authorities had already set overheating mitigation policies in their areas, so by including it as part of the Building Regulations and making it mandatory, there will be no need for policies in development plans to duplicate this.

4.2. Policy CE1: Sustainable Design and Construction of the Joint Local Plan includes requirements intended to tackle overheating risk. This includes the cooling hierarchy, as well as requiring overheating assessments for all new development. The introduction of Part O does not remove the need for overheating assessments as required by Policy CE1, as it does not simply duplicate Part O. As explained in detail in the Net Zero Carbon Study Scoping Report (examination library reference CEQ14, p59), as well as summarised in the JLP supporting text (para 4.12), Part O only applies to new residential development. Part O also offers either a simplified assessment method or a dynamic thermal modelling approach to assess overheating, but the more effective ‘dynamic method’ is not mandatory in all cases although it provides more detailed information on specific risks and

their locations within a building. Policy CE1 therefore requires CIBSE TM59 to be submitted for all residential applications and CIBSE TM52 to be submitted for all non-residential applications. Unlike Part O, which only requires TM59 where the dynamic modelling route is chosen, Policy CE1 mandates overheating assessments in all cases, ensuring a comprehensive and consistent approach to identifying and mitigating overheating risk.

4.3. The policy is therefore complementary to, rather than duplicating, Building Regulations. It ensures a robust and consistent approach to overheating risk across all development and supports the application of the cooling hierarchy, helping to minimise the need for active cooling measures that can increase energy demand and operational emissions. These requirements are particularly important given that overheating risks can increase as buildings become more energy efficient and thermally insulated. Policy CE1 therefore supports a comprehensive approach to both climate change mitigation and adaption. Given the increasing risk posed by rising temperatures and more frequent heatwave events in the districts, Policy CE1 remains justified and necessary to protect the health and welfare of building occupants.

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