

## Examination of Hyndburn's Development Management Development Plan Document (DM DPD)

# Council's Response to Inspector's Matters, Issues and Questions (MIQs)

### Matter 7: Environment (Design Quality)

Issue 7a: Is the requirement for major development to undertake a formal design review process justified?

42. **Policy DM26 5 expects all major development that will play a significant role in local place making to undertake a formal design review process. Is this justified and effective? Have potential viability impacts on development been taken account of?**

Paragraph 62 of the NPPF clearly states that LPAs '*should have local design review arrangements in place to provide assessment and support to ensure high standards of design*'. Paragraph 5 of Policy DM26 addresses this requirement at the local level by referring all '*major developments that will play a significant role in local place making*' to a design review forum. The policy clearly sets out how the Council will assess applications that play a 'significant' role (via bullet point 98). In paragraph 7.19 it also sets out the design review forum to be used (PlacesMatter!). The policy is therefore justified and effective.

The Council can confirm that potential viability impacts have been taken into consideration in development of the policy. The cost of undertaking a design review with PlacesMatter! is currently £1,950. As stated in footnote 98 it will only apply to major developments that are deemed to have a 'significant' impact on local place-making. In the context of Accrington for example this would only equate to schemes of 50+ dwellings, attributing an individual cost of a maximum of £39 per dwelling<sup>1</sup>.

The Council's Economic Viability Study (EVS) (DM\_Supp2.1) did not directly attribute a cost of Design Review into its viability testing. The primary reason for this is due to the selective application of the policy requirement. A general fee cost for design, planning etc. was however applied based on a percentage of the overall construction costs<sup>2</sup>. For the larger schemes (to which Design Review would apply) it is considered that this overall fee cost could incorporate the relatively small Design Review

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<sup>1</sup> This is a maximum as it assumes 50 dwellings only. A scheme of 100 dwellings would have a per dwelling cost of only £19.50.

<sup>2</sup> See part 2.2. of Appendix 4 of the Council's EVS – report concerning estimated construction costs used in the Economic Viability Assessments

fee. The Design Review process should also serve to enhance the overall scheme design and therefore increase the value of a completed scheme significantly over and above the cost of undertaking the exercise. The idea of Design Review improving the value of a completed scheme is backed up by research published by the Commission for Architecture and the Built Environment (CABE)<sup>3</sup> and the Design Council<sup>4</sup>.

Issue 7b: Are the policies and guidance relating to advertisements set out in policy DM27 and GN4 justified?

**43. Is policy DM27 justified, effective and consistent with national policy and the relevant regulations?**

Paragraph 67 of the NPPF sets the national policy approach on advertisements. It states that *'control over outdoor advertisements should be efficient, effective and simple in concept and operation'*. It goes on to state that *'only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts'*.

Policy DM27 provides a concise, criteria based policy for dealing with future advertisement applications in Hyndburn. In line with paragraph 67 of the NPPF the criteria listed within DM27 all relate to issues of amenity and/or public safety. As such it is consistent with national policy and the relevant regulations<sup>5</sup>.

DM27 also refers to the CLG publication 'Outdoor advertisements and signs: a guide for advertisers' published in 2007 which remains extant. The guide explains what kinds of advertisements are normally permitted and which ones need specific permission, including how to obtain it. It also provides detail as to what is meant by 'amenity' and 'public safety'. Policy DM27 gives the Council's interpretation of what is meant by these terms in the local context. The policy is therefore justified, effective and consistent with national policy.

**44. Is the additional guidance set out in GN4 justified, effective and consistent with national policy and the relevant regulations?**

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<sup>3</sup> The value of good design: How buildings and spaces create economic and social value, CABE (2002)

<sup>4</sup> Design Review: Principles and Practice, The Design Council (2013)

<sup>5</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2012

DM DPD Guidance Note 4 (GN4) provides further guidance for applicants and Officers expanding upon the criteria set out in Policy DM27. GN4 makes clear in the introductory text that it will be used alongside DM27 and relevant sections of the Planning Practice Guidance to assess the impact of applications not covered by Schedule 3 of the Regulations<sup>6</sup> – Classes of advertisement for which deemed consent is granted. The Council considers that it receives a relatively large number of advertisement applications and therefore the additional guidance provided by GN4 to both Officers and applicants is deemed necessary and justified.

The Council has made a number of improvements to GN4 as a result of consultations on the Issues and Options, Preferred Options, Consultation Draft and Publication versions of the document. These changes are set out in full in the appendices to the Consultation Statement (supporting documents DM\_Sub2.13b-f). As a result of these changes the Council considers that the GN is effective, consistent with national policy and relevant regulations.

**45. Is the guidance relating to fascia, projecting, hanging and box signs set out in GN4 justified and effective?**

As set out in response to question 44 above, the guidance relating to fascia, projecting, hanging and box signs set out in GN4 will only be applied to applications not covered by Schedule 3 of the Regulations<sup>7</sup>. As such where consent is deemed necessary, the Council believes that it is justified in considering point A1-A5 of GN2 in relation to matters of amenity. The presence of the guidance will ensure that DM27 is effective in being delivered.

The points covered under A1-A5 have been applied in Hyndburn for a considerable time, as evidenced when looking around the Borough's centres. The point raised in A3 for example, restricting signage to a single projecting or fascia sign per road frontage, applies a clear sense of fairness to businesses trading in the centres on grounds of visual amenity. In Hyndburn there are a higher number of smaller shops than in other towns and therefore this sense of fairness is key to ensuring that these businesses continue to trade and are supported by the Council. GN4 is therefore a pragmatic approach to consideration of the relevant issues in the local context.

**Issue 7c: Does policy DM29 provide a clear and effective framework for assessing environmental amenity issues?**

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<sup>6</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

<sup>7</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

**46. Policy DM29 2 refers to an 'acceptable distance'. Is this term specific and effective?**

The Council acknowledges that the term 'acceptable distance' is not specific however in this context it is considered to be the most appropriate term. Paragraph 2 of Policy DM29 refers to a number of different sources of pollution (for example from noise, dust, odour or light) and these may each arise from a number of different pollution sources (e.g. roads, abattoirs, chicken farms, sports facilities etc.). Each pollution source will have a very different zone of influence and pollution dispersal. As such it is not possible to stipulate more precise distances within the policy.

Paragraph 120 of the NPPF refers to the need to ensure that '*new development is appropriate for its location*'. It also states that the effects of pollution, and the potential sensitivity of a proposal to adverse effects from pollution, '*should be taken into account*'. The use of the term 'acceptable distance' within DM29 is therefore considered to support the national policy approach set out in the NPPF. It will ensure that pollution will be managed on a site specific basis through the development management process, being taken into account whilst recognising that the circumstances of each site and proposal will be different.

Issue 7d: Proposed modification to policy DM29

**47. The Council has proposed a modification to policy DM29. Specifically the insertion of criteria 1b-d which were omitted in error from the submission version of the plan. Would this change be a main or additional modification? Would the modification affect the soundness of the plan?**

Criteria 1b-d were omitted in error from the Publication (pre-submission consultation) version of the Plan. The Council highlights that the exact text proposed in the modification was included as part 1b-d of the Consultation Draft version of the policy (supporting document DM\_Supp5.5). As set out in the summary of comments and Council response to the Consultation Draft (submission document DM\_Sub2.13d) only one comment was received to Policy DM29 at this stage. This supported the Policy text and resulted in a minor amendment being proposed to the supporting text only.

In the Publication version, though criteria 1b-d were omitted from the policy, reference to them remained in the supporting text (specifically paragraphs 7.33 – 7.35). As such the Council considers the re-instatement of these criteria into the policy to be an additional modification only as opposed to one that materially impacts the policy or plan. The modification will improve the soundness of the plan as it clarifies

the criteria to be considered in the determination of a planning application in accordance with the information in the supporting text.

Issue 7e: Proposed modification to policy DM31

**48. The Council has proposed a modification to policy DM31. Specifically the deletion of paragraph 3. Would this change be a main or additional modification? Would the modification affect the soundness of the plan?**

The Council considers the proposed modification to delete paragraph 3 (reference to water saving devices, grey water recycling and rainwater harvesting) to be an additional modification as it does not materially alter the plan or its policies. The modification is proposed due to the text, as written, being contrary to national policy.

The Written Ministerial Statement of 25 March 2015 confirmed that local authorities have the option of setting additional technical requirements on housing standards over and above Building Regulations in respect of access and water, only where there is a need and this is justified. Hyndburn is not in an area of water stress and therefore the optional technical housing standards for Water are not proposed (see Policy DM16). As such, water efficiency measures should be dealt with through Building Regulations and not the planning system<sup>8</sup>.

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<sup>8</sup> As set out in Planning Practice Guidance [Paragraph: 014 Reference ID: 56-014-20150327](#)