

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

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

Matter 1: Legal compliance, including duty to cooperate

Issue 1a: Has the preparation of the plan complied with the relevant legal requirements?

1. Has the plan been prepared in accordance with the Local Development Scheme (LDS), including timing and content? Does the LDS make clear the relationship between the plan and the Core Strategy, the Hyndburn Area Action Plan and the future Site Allocations DPD?

The Council's latest Local Development Scheme (LDS) (2015 – 2018) (DM_Sub4.1a) was published in October 2015. Section 2 of the LDS clarifies the structure of the emerging Hyndburn Local Plan, including the role that the DM DPD plays in the new Local Plan, and its relationship with the Core Strategy and Accrington Area Action Plan. Table 2 of the LDS provides a summary position of the emerging Local Plan, re-affirming the role of the DM DPD. It confirms that the primary purpose is to provide the detailed policy framework to assist with the processing of applications and decision-making.

Page 11 of the LDS sets a clear timeline of Local Plan work for the three-year period 2015-2018. The DM DPD has been prepared broadly in accordance with the published timetable (both Regulation 18 and Regulation 19 consultations taking place in 2016). Minor delays to the Publication and Submission of the Plan (1-2 months delay when considered against the published timeline) are not anticipated to impact on the overall adoption date. The Council anticipates the DM DPD to be adopted by the end of 2017.

2. Has consultation been carried out in accordance with the Statement of Community Involvement and the relevant Regulations?

The Council's Statement of Community Involvement (SCI) (DM_Sub2.1) was published in September 2006. The Council has consulted in line with the commitments set out in the SCI using methods appropriate to the scope and content of the document being prepared, and in line with relevant Regulations. The DM DPD Reg22 Consultation Statement and Appendices (DM_Sub2.13a-f) sets out in detail how the production of the

DM DPD has accorded with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Borough's SCI.

3. Has regard been had to the Sustainable Community Strategy? In what way?

The Council's last Sustainable Community Strategy (SCS) was published in 2008, and covers the period 2008-2018 (DM_Supp2.13). The Local Strategic Partnership, the body originally responsible for delivery of the objectives of the SCS, was formally dissolved in 2010. This was replaced by a Public Service Board which itself was subsequently wound up in the latter half of 2014. Due to the duty to prepare an SCS being repealed in the Deregulation Act 2015 (paragraph 100) there are no plans to review Hyndburn's SCS once it has come to the end of its natural life.

The Council has had regard to the key principles and outcomes set out in the SCS. The three key priorities are to ensure 'sustainable growth', 'narrowing the gap' and 'assessing impact'. Key outcomes are summarised on p26 of the SCS. Despite its formal status diminishing, the objectives contained within it are still being seen as driving priorities of the Council.

These priorities and outcomes have therefore been considered in the drafting and evolution of the numerous policies in the DM DPD. A policy context and relationships table is set out after each policy in the DM DPD, which includes a direct reference to relevant Core Strategy policy links. The Core Strategy itself has the principles, aims and outcomes of the SCS firmly embedded within it and the policies in the DM DPD will therefore reinforce these aims.

4. Has the plan been subject to Sustainability Appraisal (SA) and does it comply with the relevant Regulations? Is it clear how the SA has influenced the plan?

The preparation of the DM DPD commenced in 2012 and sustainability appraisal has been a key influence on its development at each stage. The DM DPD Submission version is accompanied by a Sustainability Appraisal Main Report (SA) (DM_Sub1.4) setting out in full the stages of SA undertaken. Section 4 of the SA Main Report identifies 'Specific Recommendations and Mitigation' for each chapter of the DM DPD. Each one has been individually considered in light of the policy aims and, in the main, recommendations have been incorporated into the DM DPD. Differences in the 'Consultation Draft' policies and 'Publication' version policies highlight the latest changes arising from the SA process.

The SA is submitted in accordance with the requirement of the Planning and Compulsory Purchase Act (2004). The appraisal incorporates the requirements of the European Directive 2001/42/EC, as transposed into English Law by the Environmental Assessment of Plans and Programmes Regulations 2004 (The SEA Regulations). Furthermore, the process followed is consistent with the Government's Planning Practice Guidance on SEA and SA.

5. Is it likely that the plan would have a significant effect on a European site (either alone or in combination with other plans or projects)? If so, has an appropriate assessment been carried out in accordance with the relevant Regulations?

The policies in the Hyndburn DM DPD do not propose any specific development or allocation of land for development. The Plan policies are to ensure proposals are well designed and that any impacts associated with development are appropriately managed and controlled. Nevertheless the Council has completed a screening report for Appropriate Assessment of the DM DPD (DM_Sub1.5). The screening report considers any potential effects of the policy framework on sites of international nature conservation value (including the Natura 2000 network).

The screening report concludes that the DM DPD does not present a risk to the conservation objectives of such sites and it is not therefore necessary to undertake an appropriate assessment. Natural England has confirmed to the Council in writing (on 6 February 2017) that it is happy with both the content and approach taken of the screening report and that it agrees with this conclusion.

6. Has the plan been prepared in accordance with the relevant Act and Regulations?

Yes the plan has been fully prepared in accordance with the relevant parts of the Planning and Compulsory Purchase Act 2004, Localism Act 2011 and the Town and Country Planning (Local Planning) (England) Regulations 2012 as set out in the relevant supporting and submission documents.

7. Is the plan and its policies consistent with national planning policy and guidance? Are there any significant departures from national policy? If so, have these been justified?

The Council prepared a Publication (pre-Submission) version of the DM DPD that it considered was consistent with the NPPF and PPG. A number of representations were received during the Regulation 19 consultation

concerning the consistency of certain aspects of the DM DPD with national policy and guidance. These are detailed in submission document DM_Sub3.1 which provides each representation in full, including the proposed Council response.

A summary of all the representations received (and set out in DM_Sub3.1) that related to the soundness of the document on 'consistency' grounds is provided below.

Resolved - representations on policies that are 'not consistent with national policy' where the Council has proposed a change to resolve:

- GC2: Infrastructure, Planning Obligations & CIL – Rep_ID 278, 307, 308 and 323
- DM1: Employment Development – Rep_ID 324, 343
- DM3: Town Centre Development – Rep_ID 329
- DM10: New Residential Development – Rep_ID 344
- DM23: Demolition of Buildings in Conservation Areas – Rep_ID 333
- DM29: Environmental Amenity – Rep_ID 345
- DM33: Sustainable Transport Infrastructure – Rep_ID 300, 301

Unresolved - representations on policies that are 'not consistent with national policy' where no Council change is proposed

- DM1: Employment Development – Rep_ID 325
- DM22: Heritage Assets – Rep_ID 332
- DM28: Shop Fronts and Security Shutters – Rep_ID 264
- GN4: Advertisements – Rep_ID 265, 268-271
- GN5: Shop Front Design – Rep_ID 266, 267

As such there are 5 policies/guidance notes listed above with representations on grounds of 'consistency' that remain outstanding i.e. where no Council change is currently proposed. The Council does not consider any of these to be significant departures from national policy. The Council has set out its response (and justification for no changes) to each of these in submission document DM_Sub3.1.

8. On 7 February 2017, the Government published the housing white paper entitled Fixing Our Broken Housing Market. Does this white paper have any implications in relation to the soundness of the plan?

The Government's Housing White Paper (HWP), published 7 February, comprises an extensive set of ideas and proposals on planning matters that the Council would group into three broad categories:

1. Confirming changes/reforms that are going to happen (i.e. that have previously been consulted on and will be legislated);
2. Consultation on potential further changes;
3. Signposts to future consultations on additional changes.

Many of the proposals set out in the HWP relate to strategic planning matters. In general the HWP reasserts the need for a plan led system and is aimed at ensuring that plans are put in place speedily and effectively, and that development comes forward at a faster pace. The DM DPD forms a key plank of Hyndburn's Local Plan. Its adoption will therefore help to meet this aim by providing more certainty for prospective developers in the area.

The Council considers that the key points of relevance to the DM DPD relate to matters of housing design, and developer contributions.

- Housing design (paragraphs 1.44 – 1.55) – the Government proposes to amend the NPPF to improve (and strengthen) the approach to design in new developments (1.46), and to ensure more efficient use of land through more suitable density of developments (1.53). The Government also indicates a review of the implementation of the 'one size fits all' approach to space standards (1.55), though it recognises that this will need to ensure it avoids a race to the bottom in the size of homes on offer (this matter is discussed further under the Council's response to Matter 5: Housing, specifically Question 34);
- Developer contributions (paragraphs 2.28 – 2.30) – the Government will examine the options for reform of the system of developer contributions to ensure direct benefits for communities;

The Council's view is that these proposals do not threaten the overall soundness of the emerging DM DPD, nor any individual policies per se. The Council believes that a pragmatic approach to the HWP is necessary in order to progressing the DM DPD and Local Plan. None of the points of detail referred to above fall into the first category of ideas (i.e. those that have previously been consulted on and will be legislated). The Council's view is that to wait for certainty on any of the proposed changes would be detrimental to the Borough in delaying the Local Plan coming forward.

Issue 1b: Has the duty to cooperate been met?

9. Has the duty to cooperate been met? On what strategic issues has cooperation taken place? Are there any unresolved strategic issues?

In preparing the DM DPD, Hyndburn Council has engaged constructively, actively and on an on-going basis with neighbouring boroughs and other relevant bodies on strategic issues. The Council has produced a Statement of Compliance with the Duty to Co-operate (DM_Sub1.8) in which it sets out how it has sought to meet its 'duty to cooperate'.

The DM DPD does not contain any site-specific allocation policies. The plan deals with the detailed policy framework to be used in the determination of planning applications in the Borough. Essentially it is therefore concerned with local policy matters only, and the strategic nature of the document is very limited. DM_Sub1.8 summarises the external linkages and issues on matters such as housing, the economy, retail and service centre catchments, infrastructure, biodiversity and the green belt. It discusses the implications of the DM DPD on these matters where relevant.

The only (potential) outstanding strategic matters relate to Policy DM3 and Blackburn with Darwen Borough Council's objection to aspects of the policy. Hyndburn Council considers these to be 'potential' strategic matters in that they relate to the Peel Centre. The retail park has the potential to have a significant impact on at least two planning areas due to its geographical location. Hyndburn Council's response to Blackburn with Darwen Council's representations (Rep_ID 346 and 347), and its efforts to co-operate in their resolution, can be found in submission documents DM_Sub1.8(b-c) and DM_Sub3.1.

Despite the unresolved nature of the issues raised in Blackburn with Darwen Council's representations, Hyndburn Council considers it has fully met and satisfied the requirements of the duty to co-operate. The duty is not considered to be a duty to agree, and no specific objections have been made relating to the duty itself from any party.