

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

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

Matter 3: The Economy & Town Centres

Issue 3a: Does policy DM1 provide a clear framework for how employment development proposals will be assessed?

- 11. How would application sites outside of the defined urban area be dealt with under policy DM1? If a site falls outside of the defined urban area is it therefore classed as rural for the purposes of this policy and dealt with under DM1 7 as rural employment? How would sites on the edge of the defined urban area but in an accessible location be dealt with?**

The Council can confirm that it is the intention that applications for employment development located outside of the defined urban area (even where located immediately adjacent to it) would be dealt with under paragraph 7 of policy DM1. Paragraph 7 further references Policies DM34-36 of the DM DPD (Rural Issues policies).

The Council recognises that a proposal immediately adjacent to the urban area, in what may be a relatively accessible location, may not be considered to be a typical 'rural' location in a purely geographical sense. In the context of Policy DM1 however it will be considered as such. The purpose of this policy approach is to align with policies in the adopted Core Strategy. Paragraph a) of Core Strategy Policy BD1 (The Balanced Development Strategy) refers to the principle of '*concentrating development within the urban areas*' and Policy E1 (Future Employment Provision) talks about identifying sites '*within the existing urban area on either previously developed land or on greenfield land*'.

Issue 3b: Is the approach to applications regarding existing employment sites justified and effective?

- 12. Policy DM1 2 requires sites considered appropriate for alternative uses to incorporate employment space as part of a mixed use redevelopment. How was the figure of 25% of the original gross internal floor space identified?**

Core Strategy Policy E2 sets the strategic policy framework for the protection, modernisation and development of employment sites in Hyndburn. Specifically para b) of Policy E2 states that the redevelopment of 'adequate' employment sites for alternative uses '*will only be permitted*

when part of the site is redeveloped for appropriate employment (within class B1) ...'. Paragraph 4.16 of the supporting text to Policy E2 confirms that it *'will be developed in more detail in the Site Allocations and Development Management DPDs'*. A principle aim of the DM DPD Policy DM1 is therefore to provide further detail in the interpretation of Core Strategy Policy E2.

The DM DPD Issues and Options consultation¹ (Dm_Supp5.1) initially proposed a figure of 50% of any redevelopment to be redeveloped for B1 uses. Further consideration following the consultation exercise saw this reduced to 25% in the Preferred Options report.

The Council considers that the figure of 25% proposed in Policy DM1 is a fair and proportionate approach to ensure that the underlying rationale of Policy E2 is maintained – specifically the provision of small scale employment uses in new communities of a type that would not cause amenity problems for future residents. The promotion of mixed-use developments is one of the core planning principles set out in paragraph 17 of the NPPF. 25% reflects a less than majority 'part' of any redevelopment and is in line with the thrust of Policy E2.

At the Preferred Options stage the Council introduced an initial policy paragraph setting out an exception to the application of this policy requirement where it is proven to be unviable. This has been retained as paragraph 3 of the Publication version Policy DM1 and further sets the 25% requirement in context. The Council's response to Rep_ID 328 (set out in Submission document DM_Sub3.1) recognises the potentially challenging nature of this policy in some circumstances. Accordingly it indicates that it would be happy to permit developers potential headroom by including reference to market demand and market attractiveness in terms of considering and demonstrating viability issues.

13. How would employment sites deemed of less than adequate quality be dealt with under the policy?

As stated in the Council's response to Q12 above, Policy DM1 is intended to develop Core Strategy Policy E2 in more detail. The Council considers that the policy framework in Policy E2 is more than sufficient for sites of 'less than adequate quality'. As such any proposals of this kind will be dealt with exclusively under paragraph c of Core Strategy Policy E2 when considering the principle of existing employment sites and any change of use.

¹ At Issues and Options stage the policy was referred to as Policy DM2

14. Why does the policy DM1 3 refer to B1 employment space whereas this is not specifically defined in DM1 2?

The intention of paragraph 2 of Policy DM1 is that the 25% of original gross internal floorspace to be redeveloped for new employment development applies to new B1 employment development (Use Classes B1a-c). Other forms of employment development would generally not be considered appropriate around residential uses. The B1 employment focus for redevelopment was clearly set out in the wording of the Policy at the Issues and Options Stage, however the Council accepts that this message may have become slightly confused as the policy has evolved.

- At the Issues and Options stage the B1 employment focus for redevelopment was clearly set out in the wording of the Policy. This reflected the specific requirement set out in paragraph b) of Core Strategy Policy E2, which was a key purpose of the policy in the first place;
- At the Preferred Options stage additional text (under paragraph 2) was included referring to the exception of the application of the 25% rule where it is proven unviable. At this point it was still clear that B1 uses applied to the whole section (paragraph 2) relating to existing employment sites;
- At the Consultation Draft stage of the DM DPD re-formatting was introduced in an attempt to make the policy structure clearer overall. As a result of this the previous two paragraphs both listed under paragraph 2 (at Preferred Options) were numbered paragraphs 2 and 3. As a result the reference to B1 uses became detached from the reference to the 25% rule.

For clarity therefore the Council would be happy to add text within policy DM1 to clarify that the 25% rule set out in paragraph 2 refers to B1 uses only.

Issue 3c: Proposed modification to policy DM1

15. The Council has proposed modifications to policy DM1. Specifically, changes to paragraph 1a, the addition of text at the end of paragraph 1a and replacing paragraphs 5 and 6 with new wording. The Council has also proposed to remove the reference to policy E2 in paragraph 2 of the policy. Would these changes be main or additional modifications? Would the modifications affect the soundness of the plan?

The Council considers that each of the proposed modifications to DM1 set out above should be classed as additional modifications. For the reasons set out below, none of the proposed changes materially alter the plan or

policy, nor do they affect the soundness of the document in any negative way.

In response to each of the proposed modifications:

- Changes to paragraph 1a – this modification simply provides clarity of interpretation of the policy, the Inspector’s submission of Question 11 (addressed above) reflects the need for such clarity;
- Addition of text at the end of paragraph 1i – inclusion of reference to viability under point 1i reflects the need set out in the NPPF (paragraph 173) to give ‘*careful attention to viability and costs in plan-making and decision taking*’. As such this modification is considered to improve the soundness of the DPD through greater consistency with national policy.
- Replacement of paragraphs 5 and 6 – these changes are intended to clarify and remove repetition of the policy and consolidate the previous two paragraphs into a clearer, more concise single paragraph. As previously drafted paragraphs 5 and 6 contained repetition of elements of the sequential test (e.g. in the distinction between large office developments and smaller ones). This failed to provide clear, effective guidance to applicants; and
- Removal of the reference to Core Strategy Policy E2 in paragraph 2 – the text proposed to be removed is considered unnecessary in this context. All policies in the Local Plan should be considered in full in any decision making and the direct link of DM1 to E2 is set out in the Policy context and relationships table following the policy.

Issue 3d: Does policy DM3 set out an effective framework for the determination of applications in out of town centre locations? Is the approach justified and effective?

16. Policy DM3 titled ‘Town centre development’ deals with proposals for both town centre and out of centre locations. Is the approach of setting out the policy based on main town centre uses rather than geographical locations effective and justified?

Yes, the Council has provided further information on the reasoning for its approach to Policy DM3 in its response to the Inspector’s Initial Questions (2) dated 27 February 2017. In this context however, it is important to note that Policy DM3 does incorporate a geographical locational element in its structure, even if its primary structure is not focused around specific centres. The policy sets out the policy approach for proposals in Town/Local centres first, followed by proposals in edge or out of centre locations. The policy also then incorporates centre specific information in the form of proposed local retail impact thresholds.

The Council's view is that an alternative approach of structuring the policy by each specific centre/retail location in the Borough would create a repetitive and ineffective policy, not suited to the DM DPD. The adopted Core Strategy already provides a policy framework for the three main centres of Accrington, Great Harwood and Rishton (through policies A3, GH2 and R2). Policy DM3 also commits to fully identifying the retail hierarchy, including the formal status of the Peel Centre, in the forthcoming Site Allocations DPD. The Council considers the Core Strategy and Site Allocations DPD to be a far more appropriate context for dealing with such matters than the DM DPD.

17. Are the local retail impact thresholds set out within the policy justified?

The Council has submitted a Retail Thresholds Evidence Note (supporting document DM_Supp2.4) which sets out its justification in full for adopting the local retail impact thresholds in Policy DM3. The Evidence Note sets out a balanced assessment of all factors listed in the Planning Practice Guidance. The Council considers this to be a robust and sound approach in light of the identified vulnerabilities of some of Hyndburn's centres.

18. Does the policy take sufficient account of established commercial sites in out of centre locations? Would proposals to extend or alter existing floorspace be dealt with in the same way in terms of the application of the local retail impact thresholds? Would this be effective and justified?

The Council has agreed to a proposed modification to Paragraph 3.21 of the DM DPD to insert text recognising the sustainability credentials of groupings of facilities (including in established commercial locations). This is in response to Rep_ID 350 as set out in the Council Response to Reg19 representations (DM_Sub3.1). The formal identification of the retail hierarchy, which may include some established commercial sites in out of centre locations, will be determined in the Site Allocations DPD.

Footnote 22 clarifies the appropriate retail impact threshold to adopt for any future proposals at such locations. The Council would be happy to consider including this within the body of the policy text should it be considered necessary to enhance the clarity of Policy DM3.

Would proposals to extend or alter existing floorspace be dealt with in the same way in terms of the application of the local retail impact thresholds?

Footnote 19 provides the context for the application of the local retail impact thresholds. It currently confirms that it applies to applications for

gross new floorspace and includes mezzanine floors and extensions. At present the footnote does not specify the scenario of an alteration of existing floorspace, although this is set out specifically in the supporting text (paragraph 3.27). The intention of the policy is that the retail impact thresholds should apply to all new types of retail floorspace, including where a change may occur from convenience goods retail to comparison or vice-versa.

As such the Council would seek to clarify this point through a suitable amendment to footnote 19 to read '*gross floorspace, including extensions and mezzanine floors and change in the form of retailing*'. The Council considers this to be a minor additional modification that does not materially change the policy as it reinforces the point already made in paragraph 3.27.

Would this be effective and justified?

Policy DM3 is effective as it provides a clear policy expectation which is based on effective joint working on cross-boundary strategic priorities. Blackburn with Darwen Borough Council's initial objections (at Consultation Draft stage) to the retail impact thresholds proposed were withdrawn following effective co-operation between Officers.

The policy approach is justified on the grounds of the latest evidence on the health, vitality and viability of centres in Hyndburn presented in the Retail Study (2016). Paragraph 26 of the NPPF is clear that the Council has a duty to ensure that the impact of any future proposals is considered appropriately, and that the local policy framework supports the viability and vitality of town centres.

19. Is the reference within DM3 1b (page 25) to some circumstances where the Council may require an assessment where a proposal falls beneath the thresholds set justified and consistent with national policy? What is the purpose of doing this? How will the Council decide which proposals would require this assessment? Is the policy sufficiently clear to applicants and decision makers?

The Council has provided further information on the reasoning behind including this exception in Policy DM3 in its response to the Inspector's Initial Questions (5) dated 27 February 2017. In summary it is to provide flexibility should circumstances within a specific centre change significantly over time (e.g. the health, vitality and viability of a centre deteriorate).

The Council believes that this is adequately reflected in the wording of the exception as it stands. Paragraph 1b (page 25) of DM3 references '*the health of a specific centre*' for context within the policy wording. It also

states that *'the Council will justify any such request carefully'*. Should it be considered necessary to provide any further clarity for applicants and decision makers the Council would suggest adding further wording into the second bullet point of paragraph 3.26. This could state that only under circumstances where the health of a specific centre has deteriorated significantly would this be requested.

Issue 3e: Proposed modification to policy DM3

- 20. The Council has proposed modifications to policy DM3. Specifically, changing the title of the policy to 'Development of main town centre uses'; the removal of 'viability' from DM3 1a; the insertion of additional text in to paragraph 3.21 relating to other established commercial locations; and the insertion of text into paragraph 3.26 relating to specialist or niche retailing. Would these changes be main or additional modifications? Would the modifications affect the soundness of the plan?**

The Council considers that all the proposed modifications to Policy DM3, including additional ones proposed in its response to the Inspector's Initial Questions (2) dated 27 February 2017, should be dealt with as additional modifications. None of the proposed changes materially affect the plan or policy. The modifications are intended to improve the soundness of the document by making it clearer, ensuring it is consistent with national policy, and that it is more effective in its delivery of the policy objectives.

Issue 3f: Is the approach to Hot food takeaways set out in policy DM5 justified?

- 21. How would the term 'over concentration' in relation to proposals for hot food takeaways in policy DM5 1b be defined when determining applications? If the Council has specific criteria in mind when assessing this should this be included within the policy in the interests of clarity and effectiveness?**

The Council has provided further information in relation to the term 'over concentration' in its response to the Inspector's Initial Questions (6) dated 27 February 2017. In its response it also proposed to move reference to this term to the final criteria of Policy DM5 (1g) to relate it more directly to amenity. The Council would also be happy for the specific factors listed in its response (that would be taken into account in determining 'over concentration') to be included within the supporting text of the policy. These factors include:

- The number of other hot food takeaways in the immediate area;
- Other shops serving the local community, taking into account their number, location, type and importance to the specific location for meeting local needs;

- The nature of adjoining/nearby uses (residential, retail, pubs);
- Any potential benefits to the wider community of the proposal; and
- Impact on local amenity in line with criteria 1g of Policy DM5.

22. Policy DM5 1c refers to hot food takeaway restriction zones. Paragraph 3.33 of the plan acknowledges that there is no evidence demonstrating a causal link between the number of hot food takeaways and obesity. Is the policy justified?

One of the core planning principles set out in paragraph 17 of the NPPF states that planning should *'take account of and support local strategies to improve health, social and cultural wellbeing for all'*. In relation to Local Plans specifically, paragraph 171 of the NPPF states that *'Local Planning authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population ... including expected future changes, and any information about relevant barriers to improving health and well-being'*.

The Council has engaged with all relevant health organisations in preparing the DM DPD². Policy DM5 follows evidence and best practice advice set out by a range of other health and government organisations (Public Health England, Local Government Association, and the Healthy Urban Development Unit). The Council has provided further references to these in its response to the Inspector's Initial Questions (7) dated 27 February 2017.

To definitively prove a causal link requires clear evidence that one thing is responsible for causing the other. It is widely recognised that obesity is a very complex issue relating to multiple factors including poor diet, lack of physical activity, genetics and medical reasons. As a result it is very difficult to isolate any one specific factor and definitively demonstrate its specific contribution to obesity. Therefore whilst the policy does not provide any evidence of a direct 'causal link' it is based on evidence suggesting increased risk factors and associations with obesity³. The Council is seeking to take a pro-active approach to ensuring that the health of young people in the Borough is considered within the planning context⁴.

The Government's Planning Practice Guidance explicitly states that *'the link between planning and health has been long established. The built and*

² Including Lancashire County Council (Strategic Public Health Lead), East Lancs Public Health Network, East Lancashire Clinical Commissioning Group, Communicare NHS Trust, NHS Property Services Ltd

³ <http://www.healthyplaces.org.uk/themes/access-to-healthy-food/hot-food-takeaways/> - references two academic texts on this subject in the American journal of preventative medicine (2008) and the American Economic Journal (2010).

⁴ Paragraph 171 of the NPPF specifically states that Councils should take account of *'expected future changes'* in health

natural environments are major determinants of health and wellbeing'. It goes on to state that the range of issues to consider in both plan-making and decision making can include *'planning for an environment that supports people of all ages in making healthy choices'*⁵.

As such the Council believes that the policy approach is fully justified on the basis of the NPPF, PPG and evidence and best practice from relevant health organisations. The Council is also meeting its commitment to explore the issue in the DM DPD, as set out in the adopted Core Strategy (paragraph 4.48).

Issue 3g: Proposed modification to policy DM7

23. The Council has proposed modifications to policy DM7. Specifically, to insert additional text regarding the use of vacant buildings. Would this change be a main or additional modification? Would the modification affect the soundness of the plan?

The proposed modification is in response to a representation by the Theatres Trust. The NPPF is clear from the outset that one of the key roles of the planning system is to perform a social role creating access to local services *'that reflect the community's needs and support its health, social and cultural well-being'* (paragraph 7, NPPF). Planning policies and decisions should also *'deliver the social, recreational and cultural facilities and services the community needs'* (paragraph 70, NPPF). The proposed modification would help to more easily facilitate cultural and community uses in the Borough and therefore help enable the delivery of sustainable development. As such the modification is considered to improve the soundness of the document.

The Council considers the proposed modification to be an additional modification as it does not materially affect the policy. It would however be happy for the term *'and meanwhile'* to be removed as this is considered to be unnecessary (and duplicating) in the context of the term *'temporary'*.

⁵ Paragraph: 002 Reference ID: 53-002-20140306