

Appendix 2 – ‘Preferred Options’ Summary of Comments

Hyndburn DM DPD
Consultation Statement (Regulation 22)
January 2017

Development Management Preferred Options: Summary of responses 23rd Nov – 18th Jan 2013

Chapter

Summary of Comments

Guidance Note1,
Section 3 'Location of
Open Space

Network Rail – Diane Clark

Rec via e-mail 9.01.13 townplanningLNW@networkrail.co.uk

Consideration should be given to any potential dangers such as...railway lines.”

Any proposed planning application adjacent to a railway line / Network Rail land has the potential to impact upon the safety, operation and integrity of the land, i.e. impacts that may affect safety, performance, access to Network Rail land and infrastructure (e.g. bridges, cuttings, embankments, signalling and telecoms equipment, overhead lines etc).

In light of this we would request that the following comments are included in the final version of the Development Management – Preferred Options Document:

(1) As Network Rail is a statutory undertaker all planning applications next to, near to, above, under or on the railway and Network Rail land should be issued to Network Rail for consultation and comments. All planning applications should be sent to the following address:

TownPlanningLNW@networkrail.co.uk

(2) Hyndburn Council is reminded that they have a statutory responsibility under planning legislation (Schedule 5 (f)(ii) of the Town & Country Planning (Development Management Procedure) Order, 2010) to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.

Councils are urged to take the view that level crossings can be impacted in a variety of ways by planning proposals:

- By a proposal being directly next to a level crossing
- By the cumulative effect of developments added over time
- By the type of level crossing involved e.g. where pedestrians only are allowed to use the level crossing, but a proposal involves allowing cyclists to use the route
- By the construction of large developments (commercial and residential) where road access to and from the site includes a level crossing or the level / type of use of a level crossing increases as a result of diverted traffic or of a new highway
- By developments that might impede pedestrians ability to hear approaching trains at a level crossing, e.g. new airports or new runways / highways / roads
- By proposals that may interfere with pedestrian and vehicle users' ability to see level crossing warning signs
- By any developments for schools, colleges or nurseries where minors in numbers may be using the level crossing

As a result of increased patronage over crossings, Network Rail could be forced to reduce train line speed in direct correlation to the increase in vehicular and pedestrian traffic using a crossing. This would have severe consequences for the timetabling of trains and would also effectively frustrate any future train service improvements.

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Any planning application which may increase the level of pedestrian and/or vehicular usage at a level crossing should be supported by a full Transport Assessment assessing impact and mitigation measures including assessment of closure. The developer is required to fund any qualitative improvements required to the level crossing identified as a direct result of the development proposed, this may include closure of the level crossing and provision of a replacement footbridge / road bridge.

(3) Where open spaces are proposed for commercial, public or residential uses adjacent to the railway, the developer is to provide (at their expense) a minimum 1.8m high trespass proof fence to prevent unauthorised access to the railway. As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund boundary works, fencing and boundary enhancements necessitated by third party commercial development. Any existing Network Rail fencing at the site has been erected to take account of the risk posed at the time the fencing was erected and not to take into account any presumed future use of the site, where increased numbers of people and minors may be using the site. Therefore, any proposed residential development imports a risk of trespass onto the operational railway, which we would remind the council, is a criminal offence (s55 British Transport Commission Act 1949). As the applicant has chosen to develop a proposal next to the operational railway they must provide a suitable trespass proof fence to mitigate any risks they have imported. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

<http://www.networkrail.co.uk/aspx/1037.aspx>

<http://www.networkrail.co.uk/Champion-athlete-Dai-Greene-heads-campaign-to-prevent-rail-trespass-deaths/>

I include links above to the Network Rail website where you can read pages on general trespass information and our most recent campaign highlighting that some 50 individuals died as a result of trespass on the railway in 2011.

(4) Developers should be advised that prior to submitting planning applications for any commercial or residential development, that said proposals should be submitted to the Network Rail Asset Protection Team for review to ensure that the proposal does not impact upon the railway through any works on site or any future maintenance works.

(5) Where planning applications may increase the footfall at railway stations, that developers are required to provide funding for enhancements to meet the needs of the increased number of passengers via S106 or CIL contributions.

Lancashire County Council – HIGHWAYS. Rec via e-mail 14.01.13 Andrew Coombe. Andrew.Coombe@lancashire.gov.uk

As the lead officer for developer support highways in Hyndburn the area of most interest to me is that of Accessibility in the area. I can confirm that I am happy with the proposals that have been made around this area and the commitment to try and encourage travel by means other than by car. The aspirations that have been set out broadly reflect the position of the County Council and the issues that we consider when looking at how any proposed development will impact on the highway network.

I would like some guidance going forward as to what the Council's thinking is around the move from the existing Section 106 arrangements to the proposed Community Infrastructure Levy and perhaps this should be mentioned / reflected in the accessibility chapter.

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	<p>5) No justification for the restriction on box signs in “certain (unspecified) parts of the conservation areas or on most listed buildings. Modern internally illuminated box signs can often be accommodated on modern-style shop fronts without any adverse impact on amenity. There is no justification for the suggested ban on such commonly -seen forms of shop design, particularly within the mainly commercial parts of the conservation areas. The colour used on plastic signs does not provide enough information as to its relevance. 5.2 is without justification in relation to externally illuminated signs.</p> <p>6) 6.1: there is no explanation with regard to “Colours unrelated to the overall colour scheme”. 6.2 and 6.3, advise given is impractical, also see comments on 5 above.</p> <p>Paragraph 2.4 provides no justification and is to generalised.</p>
Policy DM25	<p>The Coal Authority Rec via e-mail 4.01.13, Claire Streater planningconsultation@coal.gov.uk</p> <p>Representation No.1 Protecting the public and the environment in coal mining areas Comment/Support – The Coal Authority welcomes and supports the policy criterion which addresses unstable land and mining legacy. This is a locally distinctive issue within Hyndburn which is set out in National Planning Policy in paragraphs 109, 120, 121 and 166 of the NPPF.</p> <p>The Coal Authority considers that the policy title and criterion could perhaps be improved through some minor wording amendments as follows:</p> <p>Title – ‘Contaminated or Unstable Land & Storage of Hazardous Substances’</p> <p>“Development proposals in areas where there is evidence of underground mineral working or land instability will be expected to be accompanied by appropriate geo-technical reports that demonstrate that the proposed development is adequately supported and will not have an adverse impact on the integrity of old mine workings.”</p> <p>The Coal Authority welcomes the opportunity to make these comments. We are, of course, willing to discuss the comments made above in further detail if desired and would be happy to negotiate alternative suitable wording to address any of our concerns.</p>
	<p>English Heritage via email rec. 15.01.13 Judith.Nelson@english-heritage.org.uk</p> <p>The diagram on page 37 of the document sets out the framework for the document’s environmental policies. You will be aware that the National Planning Policy Framework includes within the environmental role the protection and enhancement of the historic environment. The NPPF includes at section 12 specific guidance on the protection and enhancement of the historic environment. I suggest therefore that this diagram be revised to specifically address the historic environment in the same way that the natural environment is included.</p>

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<p>5. Environment</p> <p>Policy EM 1 Integrated Enhancement and Protection of the Region's Environmental Assets</p>	<p>There are no specific policies for landscape character or ensuring that there are no net losses of landscape as a consequence of development. The key requirements of RSS Policy EM1 should be incorporated into this section of the DMDP, particularly the following:</p> <p>"Where proposals and schemes affect the region's landscape, natural or historic environment or woodland assets, prospective developers and/or local authorities should first avoid loss of or damage to the assets, then mitigate any unavoidable damage and compensate for loss or damage through offsetting actions with a foundation of no net loss in resources as a minimum requirement.</p> <p>With regard to specific elements of this integrated approach, the following should be taken into account:</p> <p>Policy EM1 (A): Landscape Plans, strategies, proposals and schemes should identify, protect, maintain and enhance natural, historic and other distinctive features that contribute to the character of landscapes and places within the North West.</p> <p>They should be informed by and recognise the importance of:</p> <ul style="list-style-type: none">• detailed landscape character assessments and strategies, which local authorities should produce, set in the context of the North West Joint Character Area Map (93). These will be used to identify priority areas for the maintenance, enhancement and/or restoration of that character and will under-pin and act as key components of criteria-based policies in LDFs;" <p>The requirement, "with a foundation of no net loss in resources as a minimum requirement" from the above policy is considered to be particularly important and should be a 'golden thread' running through the DMDP's environmental policies.</p> <p>DM14.1 – I suggest adding 'not result in', 'net', 'trees' and 'cultural' to the following sentence to ensure better alignment with Policy EM1 of the RSS:</p> <p>Development proposals should not result in the net loss of trees, and minimise the risk of, harm to trees, woodland or hedgerows of visual, cultural or nature conservation value, including ancient woodland and veteran trees.</p> <p>DM14.3 – "Three new trees should be planted, and maintained, for every one lost" - this would not be sufficient compensation for losses of veteran, mature or culturally important trees.</p> <p>Why is there no policy for high quality rural design? Could the policy title be changed to the following:</p> <p>High Quality Design Design of High Quality Places</p> <p>DM18a. – I suggest altering this policy as follows:</p> <p>Character – the proposed development will help develop a sense of place and history and will respond to and reinforce locally distinctive landscape character.</p>
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<p>Policy DM14 Trees, Woodland and Hedgerows</p>	<p>This ensures better alignment with Policy EM1 of the RSS which has a strong emphasis on landscape character.</p> <p>Neither a. – g. or h. – l. in the policy does not make specific reference to trees whether existing or new as key components of the urban landscape that can create space, frame views, add character, provide cultural richness, etc. In addition I think that safety, inclusiveness and cultural heritage are key considerations that need to be accommodated in a. – l.</p> <p>This policy needs expanding to incorporate a section that specifically relates to historic designed landscapes. Whilst Hyndburn does not have any registered historic designed landscapes – a very unusual occurrence – it does have four sites of national and regional importance and a further 13 of historic interest. Such is the value and importance of these sites that they really do merit a sub section within the policy otherwise heritage assets may be seen as essentially a building based resource.</p>
<p>Policy DM18 High Quality Urban Design</p>	<p>DM28.2. – this should be altered to ensure that the policy includes none cumulative landscape and visual impacts. The altered policy could be worded as follows:</p> <p>The development would not have an unacceptable landscape and visual impacts either as a standalone scheme or in combination with in planning, consented, under construction or operational wind energy development schemes or other tall man made industrial structures such as electricity pylons and stacks.</p> <p>DM28.2.a) the stated requirements are appropriate but substantially more detail is required to ensure that the correct type of photomontages, zone of theoretical visibility maps, etc. are provided with planning applications. These requirements could be set out in an appendix. This really is essential as the standard of this kind of visual information is generally very poor, particularly that provided in support of planning applications for micro and small scale wind energy development. In addition it is important to set out specific standards for visual information and identify the level of documentation expected for the various scales of wind energy development. This should ensure, for example, that the economic viability of micro scale wind energy development is not compromised by disproportionate requirements for submitting visual material with planning applications.</p> <p>DM28.2.a)iii) It is worth bearing in mind that landscape and visual impact assessment can and is done successfully by professionals who are not Chartered Landscape Architects.</p> <p>LCC Archaeology Service</p>
<p>Policy DM19 Heritage Assets</p>	<p>Possible word table to be inserted into the glossary or further supporting text</p> <p>This policy and its associated text are welcomed and, with policy DM19, are considered a positive step in the management of the borough's heritage. The only addition that is suggested here is to further emphasise the value of managing the built environment. The following is some wording that may be of use within the explanatory paragraphs:</p> <p><i>The value of our built environment, and the particular contribution made to our cultural, social and economic life by careful management of change and the enhancement of the existing historic environment, is set out in many places, such as the Government's Statement on the Historic Environment for England 2010 and English Heritage's Constructive Conservation in Practice (2008).</i></p>
<p>Policy DM 28 Wind</p>	<p>Sections 1a and 1b are welcomed, but section 1c seems a little awkward. It is suggested that this is changed slightly to read:</p>

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Energy	<p><i>Where development is permitted (NPPF paragraphs 133-4) the Council will require that a formal record be made and deposited (NPPF paragraph 141 and associated practice guide).</i></p> <p>Would it be useful if Section 2 of the policy cross-referenced the criteria set out under policy DM18 or echoed some of the wording in NPPF paragraphs 137-8? Alternatively the cross-reference to DM18 could be made under policy DM20.</p> <p>The wording in DM19 Section 4 may well need revising, as it does not seem to form a policy statement. The following is suggested for consideration:</p> <p><i>4. Non- Designated Heritage Assets Where development is proposed that may affect a non-designated heritage asset, the Council will have regard to the scale of any harm and the significance of the heritage asset (NPPF paragraph 135) when reaching a decision. Non-designated heritage assets that are demonstrably of equivalent significance to designated assets will be treated as if they are designated. Where development is permitted the Council may require that a formal record be made and deposited (NPPF paragraph 141 and associated practice guide).</i></p> <p>The text accompanying this policy (paragraphs 5.37-8) is fairly short, and it may be that the table and text above may be of use.</p> <p>There is a reference in paragraph 5.42 to 'the former PPS5'; is this correct? Would it be preferable for this statement to be a reference to NPPF paragraph 136 and be accompanied by an appropriate sub-policy:</p> <p><i>(iv) Any proposal for demolition must be accompanied by firm proposals for redevelopment or other acceptable end-use of the site. Any permitted demolition will not be allowed to proceed until the Council are satisfied that the proposals will be implemented.</i></p>
DM 18 High Quality Urban Design	<p>LCC Economic Development</p> <p>vi. In the case of retail development not more than 20% of the sales floorspace would involve the sale of produce other than unprocessed goods from an associated agricultural holding;</p> <p>vii. not harm people's enjoyment of the countryside</p>

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DM19 Heritage Assets

DM 20 Demolition of
Buildings in a
Conservation Area

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<p>DM36 Farm Diversification</p>	
<p>Policy DM 7 – New Housing Development</p>	<p>Environment Agency. Rec via e-mail 9.01.13, (Rachel Welsby) nwnorthplanning@environment-agency.gov.uk</p> <p>New housing can play a key role in preventing, minimising and managing the risks of flooding, both on the application site itself and in the wider locality. The NPPF Technical guidance at Paragraph 5 explains that: “The overall aim should be to steer new development to Flood Zone 1” it continues to explain that where this is not possible, sites in Flood Zone 2 should be considered next and only if there are still no available sites in Flood Zones 1 or 2, should Flood Zone 3 be considered.</p> <p>New housing is considered “more vulnerable” within the NPPF guidance; therefore when new housing is proposed outside flood zone 1, the sequential and exceptions tests must be applied by ‘ranking’ available sites in the manner described.</p> <p>We propose an addition to Policy DM7, to include two new points L and M.</p> <p>l. Proposals do not increase the risk of flooding on the site or elsewhere and where possible reduce the risks of flooding overall.</p> <p>m. The surface water run-off rates generated by the developed site will be no greater than those generated by the undeveloped site.</p> <p>Although Guidance Note 1 makes reference to some important aspects, we have identified a gap between policies DM8 and DM16 which means that wildlife or plant species which are not categorised as a ‘protected’ might not receive sufficient protection or benefit from new proposals when designing their amenity space. To address this we recommend an addition to Policy DM8 to create a new point f.</p>

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<p>Policy DM 8 – Open Space Provisions</p>	<p>f. Where sensitive or important plant and wildlife species are identified, an appropriate buffer zone should be provided to protect and where possible enhance their habitat. Where an existing habitat is disturbed, compensatory habitats and mitigation schemes should be considered and proposed.</p> <p>Sites which include any works within 8 metres (measured from the top of the bank) of a Main River as defined by the Water Resources Act 1991 and the North West Regional Byelaws will require prior written consent from the Environment Agency. Proponents are advised to contact our Flood and Coastal Risk Management team at the pre-application stage so that their design can take account of the Agency’s needs and rights of access into account when designing their proposals.</p> <p>Correction – Sequential and Exceptions testing only applies to “more vulnerable” development described in the NPPF Technical Guidance (formerly in PPS25).</p> <p>Table 3 of the technical guidance state that all proposals for development in Flood Zone 2 and 3 must be accompanied by a site specific flood risk assessment. The nature and extent of the assessment could vary depending on the applicability of Strategic Flood Risk Assessment and Environment Agency standing advice.</p> <p>Minor amendment - to paragraph 3 of policy DM17. First line to refer to Sustainable Drainage Systems (SUDS) and then SUDS thereafter.</p> <p>Addition – to create a new paragraph following on from para 5.22. As a general starting point, all applicants should ensure that they use up-to-date modelling to calculate flood risks/mitigation schemes and ensure that their drainage schemes comply with the advice in BREEAM Pol 03.</p> <p>Flood Risk Assessments should include the following information as a minimum:-</p>
<p>Policy DM17 – Flood Risk Management and Water Resources</p>	<ul style="list-style-type: none"> - clear plans and drawings showing the precise positions and sectional information on the proposed land levels. - commentary and data to demonstrate that the development will not increase risk elsewhere and where possible reduces flood risk overall. - evidence that the development is appropriately flood resilient and resistant, including safe access and escape routes where required. It should show that any residual risk can be safely managed through emergency planning. - give priority to the use of sustainable drainage systems based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development.

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<p>Policy DM25 – Contaminated Land</p>	<p>Amendment to point 1. of policy DM25 to read</p> <p>1. Where development is proposed on previously developed land, land known to be contaminated land or potentially contaminated land; a site investigation will be required and remediation proposals agreed to render harmless the contamination identified. Prior to the commencement of development (or in accordance with an alternative programme agreed), the remediation works shall be carried out and a validation report submitted to evidence that the works have been successful or explain what further works are needed to make the contamination harmless.</p> <p>Addition to create point d. of policy DM26</p> <p>d. where the proposal poses an unacceptable risk to water quality or wildlife habitats.</p> <p>The focus of policy DM31 is to address provisions for the management of household waste. National Indicators suggest that only 35% of Hyndburn's household wastes are sent for recycling, reuse or composting, this makes the area one of the lowest performing in the region. Developers should be encouraged to integrate recycling, reuse and composting facilities for household waste as part of their developments.</p> <p>There is no reference to water saving devices, grey water recycling and rainwater harvesting within the draft policy. It is more cost effective to save water; it will save energy and reduce CO₂ emissions, whereas greywater and rainwater systems can sometimes increase the total amount of energy and emissions. However, simple, low cost greywater diversion systems can save considerable quantities of water at a time of peak demand. We recommend that additional consideration is given to adding commentary on these aspects into the policy to encourage integration of such measures into proposals where appropriate.</p> <p>Additionally, there is no reference to sewage waste disposal. Developers should be able to demonstrate there is enough capacity within the existing sewerage infrastructure to accept flows from proposed sites. We would be likely to oppose developments which propose to dispose of foul and sewage waste by non-mains drainage systems where they are located in or reasonably near to publically sewered areas. Where there is insufficient existing capacity, the developer should phase their works to correspond with timing of relevant improvement and infrastructure works coming forward.</p>
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<p>Policy DM26 – Pollution Control</p> <p>Policy DM31 – Waste Management within Residential Development</p>	<p>Natural England Rec via email 14.01.13, Sally Maguire Sally.Maguire@naturalengland.org.uk</p> <p>Overall, Natural England is satisfied that the Hyndburn Development Management Preferred Options Paper considers the natural environment and specifically notes that the following key environmental areas are covered: the natural environment, the urban environment, environmental protection and climate change with a variety of development management policies. Protecting and enhancing natural resources is a key challenge of delivering the growth required to meet the needs of communities, business and infrastructure.</p> <p>Natural England supports the draft Development Management Policies set out within the Preferred Options paper as they cover a range of topics. In particular, DM8 (Open Space Provision in Residential Development), DM14 (Trees and Woodland), DM15 (Protection and enhancement of the natural environment), DM16 (Protected species) and DM17 (Flood risk management and water resources), DM28 (Wind energy) will help to ensure that the natural environment is protected and enhanced within Hyndburn.</p> <p>Green Infrastructure</p> <p>As mentioned in our previous response, reference 53028 sent 18 June 2012, the importance of Green Infrastructure (GI) is clearly recognised in the Hyndburn adopted Core Strategy, through Policy ENV 3 and although touched upon in the Preferred Options paper (specifically under DM14 Trees and Woodland, and Policy DM30 Protection of Open Spaces, <u>it needs to be better integrated into the Preferred Options report</u>. GI is particularly relevant to the environmental policies, but there are also opportunities for GI links to be made through all the key areas: balanced development, education, housing and health etc. The Core Strategy provides a clear focus in relation to GI provision and where possible such provision should be incorporated into new development and this needs to be reflected in the Preferred Options paper preferably in the form of a specific GI policy.</p> <p>In addition this plan could also emphasise the multi-functional benefits of GI to biodiversity, amenity, recreation and health and wellbeing and the need to consider GI and demonstrate how GI and green and open spaces could link to the wider GI network and interlink with access, the landscape and biodiversity. Consideration also should be given to the ongoing maintenance and management that green spaces and green infrastructure will require. Please refer to the Lancashire GI Strategy for reference; 12pp A4.indd - Central Lancashire.</p>
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	<p>(High Quality Urban Design) would benefit from having Green Infrastructure embedded into it. Even though this policy touches upon streetscape and landscape this policy could go further to ensure GI is factored into the design of new development.</p> <p>Open Space</p> <p>Natural England supports the Policy DM30 Protection of Open Spaces. This section of the plan could go further to ensure there is appropriate quality and quantity of green space to meet identified local needs. We recommend the use of ANGSt as a useful tool that can help ensure adequate provision of accessible natural greenspace. Natural England's Accessible Natural Greenspace Standard (ANGSt) provides a set of benchmarks for ensuring access to places near to where people live. ANGSt can be used as an indicator to monitor the quality of green space and is accessibility. There are also other national standards such as Green Flag for parks and open spaces and the County Park accreditation schemes.</p> <p>Please refer to NPPF par 73 "Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision".</p> <p>Rural</p> <p>Natural England welcomes that you have identified the contribution the rural areas make to the Borough of Hyndburn and the need to protect it from inappropriate development, particular Policy DM35 (New Building and Conversion in the Green Belt and Countryside). This section of the plan could be improved if it made reference to the importance of soils and their environmental value, particularly Best and Most Versatile Agricultural Land (BMV).</p> <p>Parts of Hyndburn contains Best and Most Versatile Agricultural Land. Most of our land area is in agricultural use. How this important natural resource is used is vital to sustainable development. This includes taking the right decisions about protecting it from inappropriate development. Please refer to the following guidance for support http://publications.naturalengland.org.uk/publication/35012.</p> <p>Natural England believes that Local Plans should give appropriate weight to the roles performed by the area's soils. These should be valued as a finite multi-functional resource which underpin our well being and prosperity. Decisions about development should take full account of the impact on soils, their intrinsic character and the sustainability of the many ecosystem services they deliver. Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society, for example as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably. As a result the degree to which soils are going to be disturbed/harmed as part development and whether „best and most versatile“ agricultural land is involved should be considered. The conservation and sustainable management of soils also is reflected in the National Planning Policy Framework (NPPF), particularly in paragraphs 109 and 112. When planning authorities are considering land use change, the permanency of the impact on soils is an important consideration. Particular care over planned changes to the most potentially productive soil is needed, for the ecosystem services it supports including its role in agriculture and food production. This section of the plan could also be improved if it reflected the value of the natural environment to the local economy. Please refer to par 28 from the NPPF „Local Plans should... support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside“.</p> <p>Habitat Regulations and Strategic Environmental Assessment</p>
Policy DM 18	
Policy DM30	

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<p>Policy DM35</p>	<p>Thank you for consulting us on the Sustainability Appraisal of the Preferred Option report. Natural England is satisfied that the effects on the natural environment have been represented through the appraisal of the Development Management policies and do not wish to comment further.</p> <p>The lack of further comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of areas affected by this plan in the decision making process.</p> <p>We have not had sight of the Habitat Regulations Assessment (HRA) of this plan. Under the terms of amendments made to the Habitats Directive in 2007, Local Development Documents, as provided for in Part 2 of the 2004 Planning and Compulsory Purchase Act are considered to require a Habitats Regulation Assessment.</p> <p>There is no statutory guidance on what stage of Plan production to best prepare an HRA but Natural England recommends that HRA begins at an early stage and if necessary continues through all the stages of plan production. HRA Methodologies are at a relatively early stage of development and examples of Best Practice have not yet emerged. As Best Practice emerges the methodology undertaken for this HRA may develop.</p> <p>Screening is necessary even where there are no European designated sites within the plan area, since possible impacts on sites outside the borough also need to be considered. In addition the screening needs to consider not just the potential impacts of this plan but also any cumulative or in combination effects when taking account of other plans and projects including those in relevant authorities beyond the borough boundary.</p> <p>Whilst the SA and HRA are two separate processes and should be highlighted upon separately there are a number of links between the two. For example, evidence gathered for the HRA on European sites can be fed into the SA process and the findings of the HRA can assist with the SA.</p>
<p>Policy DM21</p>	<p>Theatres Trust. Rec via email 16.01.13 Rose Freeman rose.freeman@theatretrust.org.uk</p> <p>We support this particular policy which will protect your existing cultural and community assets. Likewise, the inclusion of theatres in Guidance Note 7a for parking standards.</p> <p>However, there is a word missing in the sentence at the top of page 51 within the policy wording of DM21 – that the building or site cannot be utilised for other community or cultural uses.</p> <p>Our only comment would be that there is no mention of the Community Infrastructure Levy in the document – perhaps as a Guidance Note?</p>

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DM7

In addition to its role as navigation authority and guardian in respect of the Leeds & Liverpool Canal, the Trust is a landowner in the Borough with an interest in the regeneration of a number of canalside, brownfield sites. Part of paragraph 174 of the National Planning Policy Framework is acknowledged in the preferred options consultation document, i.e. 'in order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle.' It is then emphasised in paragraphs 4.9 and 4.10 of the consultation document that:

- 'The Council will advise the applicant / developer of the level of financial contribution required as part of the pre-application / planning application process'; and

- 'If the applicant or their agent believe that the level of s.106 contributions required will render the scheme unviable, the Council will expect the developer to undertake and submit a financial appraisal of the proposal and take an "open book" approach. In arriving at a final level of s.106 contribution, the Council will consider the purpose of the contribution and the priority it should be given in planning terms.'

Whilst these provisions may respond in part to the NPPF, it is made clear in the NPPF in the first part of paragraph 174 that:

'174. Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing. They should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards.'

(Underlining for emphasis).

In this regard, the requirement arising from the NPPF is to make such an assessment of cumulative impact in formulating standards / requirements, i.e. as part of the plan-making process. There does not appear to be any indication in the consultation document as to whether this assessment has been undertaken. Such an assessment should be undertaken to ensure the 'soundness' of the document in respect of being 'consistent with national policy' and 'effective', i.e. deliverable. This is particularly important given:

- the relative strength of the housing market in Hyndburn;
- the Adopted Core Strategy emphasis on giving priority to 'developing brownfield land within the urban areas, focussing investment and improvement in key regeneration areas.'
- Evidence in the form of the 'Affordable Housing Viability Assessment Final Report' (2009) for the borough in which consultants appointed by the Council recommended an approach of seeking affordable housing in the first instance only where sites benefit from grant funding and in a 'context of one of the most difficult and challenging housing markets in the country...'

The assessment should encompass the cumulative impact of both proposed planning obligation policies and other requirements proposed in the draft document such as those proposed under draft Policy DM13 ('Minimum Space Standards for Residential Development') and under draft Policy DM7 ('New Housing Development').

It is noted that paragraphs 4.8 to 4.10 do not provide full details of the authority's approach to developer contributions. However, the Canal & River Trust is satisfied that the adopted Core Strategy provides sufficient clarity in respect of the need for the developers of site adjacent to or in the vicinity of the Leeds & Liverpool Canal to make off-site contributions towards the canal infrastructure where necessary, in order

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to mitigate for site specific impacts in accordance with paragraph 176 of the National Planning Policy Framework.

The Canal & River Trust is generally supportive of this policy approach and the indication that developer contributions will be sought where necessary towards the improvement of transport infrastructure, particularly to encourage walking and cycling. However, in order to ensure that the DPD is consistent with the adopted Core Strategy it would be helpful to clarify in the supporting text that such improvements will where necessary include works to the canal towpath as a specific form of transport infrastructure.

Section 3 of Guidance Note 1 refers to the location of public open space provision as part of new housing development and states:

“Consideration should be given to any potential dangers such as from nearby electricity cables, busy roads, railway lines and the possible attraction and dangers of watercourses, canals or reservoirs.”

The Canal & River Trust would advise that it is not appropriate for the canal to be referred to as a hazard in the same context as electricity cables and busy roads. The canal constitutes an attractive leisure and recreation asset and the Trust encourages public access and enjoyment of the network. The provision of public open space and informal amenity space can with positive design encourage the public enjoyment of the canal corridor. The Trust would suggest that the guidance note should be amended so that it is consistent with Policies A4, A6 and R3 of the adopted Core Strategy which encourage development to relate positively to the canal and integrate the waterway into the public realm.

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DM 34	
Guidance Note 1	<p>United Utilities Rec: 18th an via e-mail and lett</p> <p>Policy DM7 New Housing Development</p> <p>Housing development will be supported provided:</p> <ul style="list-style-type: none">a. It is designed to a high standard using appropriate materials;b. It will not have an unacceptable adverse impact on neighbouring development by virtue of it being over-bearing or oppressive, overlooking, or resulting in an unacceptable loss of light;c. Highways are designed in accordance with the Manual for Streets and are designed in a way to keep vehicle speeds less than 20mph whilst facilitating access for larger vehicles.d. Provision is made for the storage of wheelie bins and other waste containers as part of the development. The developer will be expected to meet the initial cost of providing one set of wheelie bins and waste containers for each property;e. An appropriate mix of housing types and tenure is proposed in line with Policies H1 and H2 of the Core Strategy;f. The design meets the requirements of the Building for Life assessment criteria;g. The design meets the requirements of the Code for Sustainable Homes;h. The design incorporates a high standard of landscaping and a scheme and programme of landscaping that demonstrates how landscaped areas will be maintained for the duration of the development;i. The design is in line with the minimum space requirements set out in Policy DM13;j. The design incorporates sufficient open space, and;

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k. Proposals for residential extensions are designed in accordance with the guidance set out within the Supplementary Planning Document “Householder Design Guide” that was adopted by the Council in September 2009; and

l. Development proposals are required to have regard to the surface water drainage hierarchy as detailed within Policy DM17. Surface water can have a significant impact on the capacity of sewerage infrastructure, therefore sustainable methods for dealing with it must be considered and applicants should demonstrate how surface water run-off will be addressed within new developments without having any detrimental impact on existing utility infrastructure.

Policy DM17 Flood Risk Management and Water Resources

All development proposals outside Flood Risk Zone 1 will be expected to undertake and satisfy the Sequential Test and, if necessary the Exception Test. For proposals on non allocated sites, applicants must demonstrate as part of the site-specific flood risk assessment that all other reasonably available sites within zones at lower probability of flooding have been considered.

All major development proposals will be expected to set out how the development will deal with surface water drainage and contribute towards the improvement of drainage infrastructure off-site if necessary. Major development proposals should seek to reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage techniques.

Development proposals are required to follow the drainage hierarchy as set out below when disposing of surface water and must utilise Sustainable Drainage Systems (SuDs) whenever practical. The options for the management of surface water discharge are:

- Continue and/or mimic the site’s current natural discharge process;
- Store for later use;
- Discharge into infiltration systems located in porous sub soils;
- Attenuate flows into green engineering solutions such as ponds; swales or other open water features for gradual release to a watercourse and/or porous sub soils;
- Attenuate by storing in tanks or sealed systems for gradual release to a watercourse;
- Direct discharge to a watercourse;
- Direct discharge to a surface water sewer;
- Controlled discharge into the combined sewerage network, only if it can be demonstrated that there are no other viable options.

The use of SUDS will be required unless an applicant can demonstrate that they are not feasible. Applicants must demonstrate how surface water run-off will be addressed without having any detrimental impact on existing sewer infrastructure.

SUDS can not only reduce the risk of surface water flooding, but also contribute to water quality improvements and biodiversity enhancements.

Development must also reduce the usage of water and incorporate high standards of water efficiency and also conserve the quality of water through minimising the risk of pollution from all sources.

As highlighted above, surface water being discharged into the sewers can have a significant impact on the capacity of existing infrastructure. This in turn may result in a lack of available capacity to accommodate the levels of new development the Council aspires to deliver as a means to encourage economic growth; meaning new development may have to be delayed until infrastructure upgrades can be undertaken. It is therefore critical that Policy DM17 is sufficiently worded to ensure strict guidelines are applied for dealing with surface water discharge.

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Policy DM24 Environmental Amenity

Development will be required to protect, and where possible improve, the amenity of surrounding existing and future residents. The Council will require that new development:

a. Does not result in the loss of privacy or unacceptable increase in the sense of enclosure. On all new residential development the following space standards should be achieved:

i. Single storey and Two storey, at least 21 metres shall be maintained between facing windows of habitable rooms;

ii. Single storey and Two storey, where windows of habitable rooms face a blank gable or a wall with only windows to non-habitable rooms, at least 12 metres shall be maintained, and;

iii. For each additional storey above 2 storeys, or where land levels create an equivalent difference in the heights of the buildings, an additional set back of 3 metres shall be required.

b. Does not result in the unacceptable loss of outlook;

c. Benefits from adequate levels of daylight and sunlight, and;

d. Does not create an unacceptable levels of noise, vibration, artificial light, odour, fumes of dust pollution during construction and over the life of the development; and

e. Proposals for sensitive new developments (such as residential) should be located an acceptable distance away from sources of pollution (including noise, dust, air, odour, light and traffic) from existing operational businesses (such as treatment works) to ensure there are no adverse impacts on amenity.

New development of sensitive uses, such as housing, should not be located adjacent to existing treatment works or any utility infrastructure which has the potential to impact on their future amenity. Planning applications for sensitive development proposed near such works should require advance consultation with United Utilities PLC and must be supported by the relevant impact assessments.

Policy DM28 Wind Energy

Proposals for the development of wind turbines will be supported provided the requirements of Core Strategy Env 5 and the following criteria are satisfied:

1. The development should not have an unacceptable adverse impact on the operation of radar systems required for commercial or military air traffic safety.

2. The development would not have an unacceptable impact on the landscape by virtue of the cumulative impact with existing schemes.

Proposals for wind turbine development should be accompanied by:

a) An appropriately detailed landscape impact assessment that assesses the impact of the proposed development on the landscape which should include:

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- i. Photomontages illustrating the proposed development in the context of existing or consented turbine development and other landscape features;
 - ii. Plans illustrating the visual impact and the cumulative visual impact;
 - iii. A report undertaken by an appropriately qualified landscape architect that assesses the impact of the development.
3. The development would not result in an unacceptable cumulative impact on other features or recognised importance such as bird populations or the historic environment.
 4. The integrity of any area of deep peat should not be adversely affected, included by dissection for access roads. In addition, development on land that has a peat layer greater than 50cm deep where water is currently used or is planned to be used for drinking water supply is not acceptable. This is because of the resultant long-term negative impact on water quality when peat is disturbed.
 5. The development would not have an adverse impact on television reception.

The development of wind farms on peat soils has a number of associated risks which include:

The development of wind farms on peat soils have a number of associated risks which include major disruption to the hydrology of the area which may result in long-term degradation of the peat leading to increase in dissolved organic carbon compounds in the water. Damage to peat soil systems as a result of drainage or construction may be impossible to restore. Deterioration of raw water quality will also result in increased or additional treatment at our works.

Generation of sediment (eroded peat) will reduce the capacity of reservoirs over time.

When peat is disturbed, a habitat which should be sequestering carbon can emit carbon in a variety of forms, Dissolved Organic Carbon (DOC), Particulate Organic Carbon (POC), gaseous CO₂.

Alteration of the hydrology of streams associated with peat bodies may negatively influence the flood hydrograph of river catchments, thereby accentuating flood risks downstream.

In general once a peat system has been disturbed, this tends to precipitate a chain reaction of events that leads to loss of carbon, degradation of habitat, negative impacts on raw water quality and alterations to the hydrological functions and services of the upper catchments of river systems.

Policy DM35 New Building and Conversion in the Green Belt and Countryside

- a. New buildings and the conversion of existing buildings for residential use in the Green Belt will be permitted where:
 - i. there is a need for occupation by agricultural or forestry workers as set out in Guidance Note 8, or;

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	<p>ii. if a traditional building exists of substantial construction as demonstrated by a structural survey (no more than 30% re-build excluding the roof) and is capable of being converted without substantial extensions as set out elsewhere in this policy, or;</p> <p>iii. it involves the redevelopment of a previously developed site.</p> <p>b. In all cases:</p> <p>i. There must be a suitable access in place, or be able to create a suitable access without adversely impacting on rural character;</p> <p>ii. Satisfactory arrangements have been made for the discharge of foul and surface water. It must be demonstrated that the proposed development, where necessary, can be serviced by existing utility infrastructure, or that a co-ordinated approach will be applied between the phased delivery of development and delivery of future infrastructure works;</p> <p>iii. Proposals should protect nature conservation features and species;</p> <p>iv. In the case of replacement dwellings, these will be permitted on a one for one basis where the replacement is on the same building footprint as the existing unless siting it in an alternative location within the curtilage would be visually less prominent. In all cases any replacement dwelling should not be materially larger than the one it replaces. The mass, height and design of the building should be appropriate to its setting and subject to the limitations on extensions elsewhere in this policy;</p> <p>v. The site must be capable of being developed without adversely affecting the character of the rural landscape and in the case of previously developed sites, buildings must be sited so as not to be detrimental to the visual amenities and not be materially larger than existing buildings on the site;</p> <p>vi. Appropriate use of materials, which are fit for purpose and are sensitive to the site and its location;</p> <p>vii. For residential proposals, any new curtilage which is being created should be proportionate to the size of the building and be in keeping with the surrounding rural landscape.</p> <p>Should new water and/ or waste water infrastructure be required to accommodate new development, there may be a need to co-ordinate this through a phased approach to allow upgrading improvements. It will also be necessary to consider how the location of the point of connection to infrastructure for new development can help to minimise flood risk and impact on watercourses.</p>
DM 10	<p>JWPC Planning Consultants</p> <p>Policy DM10 – Development of Housing within Residential Gardens proposes a ‘strong presumption against the development of housing within the garden or curtilage of residential properties’, but also provides circumstances within which this type of development will be permitted, as follow:</p> <p>a. Where the development is required to accommodate dependants with special care needs, or;</p> <p>b. Where a new dwelling is proposed on an area that has been previously developed; and</p> <p>c. The new dwelling would not be larger than the building that it would replace and the resultant dwellings would each have adequate</p>

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	<p>garden and car-parking areas, and; d. The development would not cause harm to the character and appearance of the locality.</p> <p>We consider that this Policy as written conflicts with the National Planning Policy Framework (NPPF) and should be amended. Paragraph 53 of the NPPF states that local planning JWPC Ltd – January 2013 2 authorities should consider the case for setting out policies to resist inappropriate development (our emphasis) of residential gardens, for example where development would cause harm to the local area. Although the policy provides a caveat at criterion d. to allow development that would not cause harm to the character and appearance of the locality, the use of AND at the end of criteria b. and c. gives this a limited potential to be used in planning decisions. Criteria b., c., and d. are to be read together, and in that context the policy considers residential gardens in a similar way to previously-developed sites within the Green Belt in the NPPF. We consider that this objection would be overcome by the AND at the end of criteria b. and c. being changed to OR. This would allow sensible new developments within gardens to be approved where they did not harm the local area, whilst also ensuring that garden areas around larger properties that may be considered part of the local character are not lost to inappropriate development. Our proposed amended policy would read as follows:</p> <p>a. Where the development is required to accommodate dependants with special care needs, or; b. Where a new dwelling is proposed on an area that has been previously developed; or c. The new dwelling would not be larger than the building that it would replace and the resultant dwellings would each have adequate garden and car-parking areas, or; d. The development would not cause harm to the character and appearance of the locality.</p>
Policy DM7	<p>Tony McAteer on behalf of Morris Homes</p> <p>In particular, Morris Homes would object to the requirement that where a S.106 Agreement is required, the S.106 Agreement should be signed with the 13 week timescale (para 1.19). Whilst they accept that it might be preferable to have an agreement in place, this is not always possible. To place such a requirement implies that the Council would refuse an otherwise acceptable development if the Agreement was not signed. It is respectfully submitted that such an approach is contrary to good planning, the Council's commitment to work in partnership with developers, and has no basis in planning legislation. The Council must be aware that in major developments there can be a number of interested parties, some of whom, especially banks, will not consider signing S.106 Agreements until there is a Committee resolution to approve the scheme. To suggest planning permission will not be granted unless the Agreement is signed with the 13 week timescale is unreasonable.</p> <p>Morris Homes consider that the requirement of Policy DM 7 are overly onerous in respect of the following criteria:</p> <p>F, It is submitted that the criterion should require developers to seek to meet Building for Life criteria to reflect those occasions when should a requirement would a requirement would adversely effect the viability of the development. The criterion should read "The design meets the requirements of the Building for Life Assessment criteria where possible."</p> <p>G, It is submitted that this criterion should require developments to meet the current Building Regulations as these include Code for Sustainable Homes. The Regulations may change in the future and developers should only be obliged to meet the current</p>

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	<p>requirements.</p> <p>Morris Homes consider that the requirement of Policy DM 8e that developers will be expected to fund the maintenance of public open space for a period of 20 years is unreasonable and contrary to national guidance on conditions. The requirement should be reduced to 10 years as in other local authority areas. There is no justification for the Council's proposals and it represents the type of financial burden on the developers the Government is advising should be removed.</p> <p>Morris homes consider that the reference of Affordable Housing that is included in Policy DM9 should either include the definition that appears in the glossary at page 93 of the DPD within the justification of the policy, or, at the very least direct readers of the DPD to the Glossary where a definition is to be found.</p> <p>They also consider that it is not in accordance with the requirements of Registered Providers to state that affordable housing should be "scattered though the development." Providers request that affordable housing is grouped together to assist in their management of the properties. The terms "scattered" should be replace by "provided."</p>
Policy DM 8e	<p>Morris Holmes Consider that the Council should not seek to preclude any Registered Providers from operating within the Borough. For this reason paragraph 4.17 should be extended to include "but working with other Registers Providers would not be precluded."</p>
	<p>Morris Homes strongly object to policy DM13. It is unreasonable for the Council to seek to impose arbitrary space standards on market housing or indeed any other form of housing, especially as the English Partnership Standards are out of date and have been abandoned by MCA. Such a requirement would render many developments unviable and is contrary to the Government's policy of prompting economic growth the provision of housing.</p>
Policy DM9	<p>Whilst Morris Homes generally support the intentions of Policy DM 18, they consider the criteria e, f and g and meaningless and so subjective that any reader would give them any number of meanings. They Consider that these criteria should be deleted.</p>
Para 4.17	

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tree cover in the district. However, it is less applicable to woodland (where for example trees might be coppiced rather than removed completely) and, for reasons explained above, it should not be applied to ancient woodland where we would like to see any loss avoided.

One of the weaknesses in this policy is that it does not make any specific reference to the need to create more woodland. Woodland expansion is mentioned in para 5.6 of the sub text, where we were pleased to read that a number of initiatives have increased tree cover in the borough from 4% to 8% but, as you rightly point out,, this is still significantly below the national average.

We would like to see the policy contain a clear commitment to planting more trees in a range of environments and to creating more woodland. As it said in the Natural Environment White Paper section 2.53

Paragraph 5.4 sets out some of the key social, economic and environmental benefits which can be derived from woodland and there is a clear inference from this that creation of more woodland near to where people live would be a good thing. Creating new woodland as part of green infrastructure in new development is often easier than adding new woods in more established housing areas and the Council may wish to look at allocating some funds from developer contributions (eg Section 106 or CIL) for this purpose. There is also currently quite generous Forestry Commission funding available for woodland creation, through the Woodland Grants Scheme.

The Independent Panel on Forestry has recently recommended that woodland cover in England should be increased from the current 10% to 15% by 2060. The report on pages 22 to 24 also refers to the Woodland Trust's Access to Woodland Standard. This standard has been adopted by a number of local authorities in their LDF documents (including Leeds and Calderdale). Leeds have used the standard to calculate targets for creating new woodland based upon the data which we were able to supply on how much access people have to woodland in their area. For example, our Access to Woodland Standard shows that in Hyndburn only 17% of people have access to a wood of at least 2 hectares in size within 500 metres of their home. You do much better on the second element of the standard, a 78% of people in Hyndburn have access to a 20ha wood within 4km of their home.

We would be happy to talk to the Council further about how to incorporate and use our Access to Woodland Standard if you would find this helpful. Later in the document in Policy DM30 on Protection of Open Space, it refers to local standards but refers the reader to "Appendix XXX", which does not appear to be attached to the consultation document. Nevertheless, it does indicate to us that the Council is familiar with using access standards and so extending this to woodland is something which you might like to consider.

We would like to see this policy make a more specific reference to the role which new tree and woodland planting (in appropriate locations) can play in improving water quality and flood risk management..

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DM17 Flood Risk Management	
DM1	<p>How Planning Consultancy on behalf of Great Harwood LLP Rec: Lett & E-mail 18.1.13</p> <p>Policy DM1: Employment Development states that employment development will be supported provided the proposals accord with a number of criteria listed within the policy. Section 2 of this policy goes on to state that: “Employment sites of ‘adequate’ quality that are considered appropriate for alternative uses (subject to provision of Core Strategy Policy E2(b and c) will be required to incorporate employment space as part of a mixed use redevelopment. 25% of the original gross internal floorspace should be redeveloped for business</p>

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use.

Exception to the above will be permitted where a viability exercise demonstrates that the continuing use of the 25% of the floorspace for employment purposes is unviable. The viability exercise must reflect the full economic cycle and consider the different types of appropriate B1 employment space.”

The supporting text to Policy DM1 (included within footnote 4) confirms that the classification of whether an employment site is ‘adequate’ has been taken from the Council’s Employment Land Study (2008), which categorises employment sites as follows:

- ‘Good’: Sites that should be protected and maintained in the current use;
- ‘Adequate’: Sites currently in employment use and performing well, fully or almost occupied. Sites have potential for other uses but not in the short term; and
- ‘Poor’: Sites no longer suited to modern day employment use, alternative uses would be more appropriate.
-

Policy DM1 therefore incorporates flexibility into the redevelopment of existing ‘adequate’ employment sites, as defined by the Council’s Employment Land Study (2008)¹. This indicates that the Council is aware that it is not always possible to develop sites in accordance with an intended/allocated use. This is supported in principle as it reflects Government objectives of adopting a proactive approach towards development.

However, whilst it is appreciated that justification will be required as to why a site should be released for alternative forms of development it is important that policy requirements are not too onerous and ultimately prevent development from being delivered. At present, no justification is provided in relation to the requirement for 25% of the original gross internal floor space being redeveloped for business use.

Within the supporting text to Policy DM1, paragraph 2.12 of the Development Management DPD Preferred Options document states that although the development of a mix of land uses often results in more sustainable patterns of development and this may be appropriate in some circumstances, this is often not possible on smaller sites; however, no threshold is provided. In principle, the inclusion of flexibility is supported although this should also be incorporated into Policy DM1 itself in order to ensure this flexibility is carried forward during future development management decisions.

Support is also given to the fact that Policy DM1 takes account of viability and confirms that exception to the requirement for 25% of the original gross internal floorspace being redeveloped for business use will be permitted where a viability exercise demonstrates that this would be unviable. Again, this reflects Government objectives of adopting a proactive approach towards development.

However, it should also be noted that whilst the definition of ‘adequate’ employment sites has been taken from the Council’s Employment Land Study, this was published in 2008, and is therefore somewhat outdated; particularly when taking into consideration the current economic downturn which will have significantly impacted upon the condition and occupancy rates of employment sites within the Borough over recent years.

Paragraph 22 of the National Planning Policy Framework (NPPF)² confirms that:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their

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merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

The thrust of the above guidance is to ensure that only the best and most suitable employment sites are retained for such uses rather than imposing blanket protectionist policies that prevent redevelopment for alternative uses. Due to the length of time between the publication of the Employment Land Study and the adoption of the Development Management DPD, the definitions used to categorise employment sites within the Employment Land Study are of significantly reduced relevance and will impede the redevelopment of employment sites which have deteriorated since their original assessment.

Furthermore, paragraph 19 of the NPPF states:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

In accordance with the NPPF, it is therefore strongly suggested that the Council either undertake an update to the existing Employment Land Study in order to ensure the categorisation of employment sites as ‘good’, ‘adequate’ or ‘poor’ remains relevant to each individual site, or that the reference to such categories is removed to ensure that

each proposal for the alternative use of employment land or buildings is treated according to its individual site circumstances. This amendment will ensure compliance with national planning policy and help to deliver sustainable development.

Housing

Policy DM7:

New Housing Development states that housing development will be supported provided it fulfils a number of criteria. Whilst it is appreciated that the purpose of this policy is to set out the criteria that will be taken into consideration when determining planning applications for residential development, the Development Management DPD should not include policy requirements which are too onerous and subsequently prevent development from being delivered. Ultimately, each proposal for new housing development should be assessed in accordance with its individual site circumstances and Policy DM7 should be amended to reflect this.

Policy DM8: Open Space Provision in New Residential Development

States that residential developments for 10 or more dwellings must make adequate provision for public open space. The policy confirms that this should be provided on site or through the improvement of nearby open space in accordance with a number of principles. The supporting text within paragraph 4.12 of the Development Management DPD Preferred Options also states that it may not be possible or desirable for open space provision to be provided on site in all circumstances, and that in such cases financial contributions will be sought from developers to improve and/or develop nearby existing facilities. Whilst it is acknowledged that adequate open space should be provided to meet the needs of new residents, in accordance with the NPPF any financial contributions requested should be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.³ It is also suggested that Policy DM8 be amended to provide more flexibility by referencing a site’s viability should a requested open space contribution render a proposed residential development unviable.

Policy DM9: Affordable Housing states that new housing development for 15 or more dwellings should provide 20% affordable housing that will be provided in accordance with a number of criteria and that although there will be a presumption in favour of on-site provision, off-site provision will also be permitted where it has been identified and justified by the developer. This flexibility to provide affordable housing requirements offsite is supported in principle however the policy should be amended to ensure accordance with paragraph 50 of the NPPF, which states that local planning authorities should:

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DM7	<p>"Where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution [emphasis added] of broadly equivalent value can be robustly justified."</p> <p>As drafted, Policy DM9 does not allow for the payment of a financial contribution in lieu of affordable housing as is suggested within the NPPF, despite the fact that this is permitted within Guidance Note 2 appended to the Preferred Options document. The policy should therefore be amended to incorporate sufficient flexibility for a financial contribution to be made where this would be the most appropriate solution for the specific site circumstances in order to add to the creation of sustainable communities.</p> <p>Policy DM9 also states that in schemes of 15 units or more, if the developer considers that the affordable housing requirements makes the development unviable, it will be necessary for the developer to complete a scheme viability assessment which includes affordable housing provision. It also confirms that the applicant will be expected to meet the cost of an independent consultant to appraise the finding of the viability assessment and report them to the Council.</p> <p>There is support in principle for the indication that viability will be taken into account when assessing the provision of affordable housing as part of new schemes and that the precise requirement for tenure, size and type of affordable units will also be negotiated on a case by case basis, as indicated within Guidance Note 2 appended to the Preferred Options document.</p> <p>However, the requirement of the applicant to fund the assessment by an independent consultant is not supported. Instead, this cost should be covered by the planning application fee submitted with the proposals, which are calculated based on the size and type of development proposed.</p> <p>Conclusion</p>
DM8	<p>It is recommended that the Development Management DPD is amended to ensure that it is based upon an up to date evidence base, is fully in accordance with national planning policy and encourages a pro-active approach to development by incorporating flexibility into future policies in line with the Government's pro-growth agenda. In particular, this flexibility should take into consideration a site's viability in order to ensure each proposal is assessed on a case by case basis, thus delivering sustainable development across the Borough.</p>