

Birmingham City Council
Planning Policy
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Dear Sir / Madam

DEVELOPMENT MANAGEMENT IN BIRMINGHAM DOCUMENT : PRE-SUBMISSION CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above-mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations in response to this consultation and in due course attend Examination Hearing Sessions to discuss matters in greater detail.

The Development Management in Birmingham Document will provide up to date development management policies for the purpose of determining planning applications. This Development Plan Document (DPD) contains sixteen policies arranged in themes reflecting the adopted Birmingham Development Plan (BDP). When adopted the DPD will replace the policies of the Saved 2005 Birmingham Unitary Development Plan.

Policy DM10 - Standards for Residential Development

Policy DM10 Bullet Point (1) requires that all residential development meets the minimum Nationally Described Space Standards (NDSS) with exceptions only considered in order to deliver innovative high quality design, deal with exceptional site issues or specialised user requirements under **Bullet Point (6)**.

If the City Council wishes to adopt the optional NDSS then this should only be done in accordance with the 2019 National Planning Policy Framework (NPPF) (para 127f & Footnote 46). Footnote 46 of the 2019 NPPF states that "*policies may also make use of the NDSS where the need for an internal space standard*



can be justified". As set out in the 2019 NPPF, all policies should be underpinned by relevant and up to date evidence which should be adequate, proportionate and focussed tightly on supporting and justifying the policies concerned (para 31). The City Council should gather evidence to determine whether there is a need for NDSS in Birmingham city. The National Planning Practice Guidance (NPPG) sets out that *"where a need for internal space standards is identified, Local Planning Authority (LPA) should provide justification for requiring internal space policies. LPA should take account of the following areas need, viability and timing"* (ID : 56-020-20150327). The City Council should provide a local assessment evidencing the case for the city. If it had been the Government's intention that generic statements justified adoption of the NDSS then the standard would have been incorporated as mandatory in the Building Regulations, which is not the case.

The City Council's evidence is set out in DM10 Standards for Residential Development Topic Paper. This document does not contain evidence to justify the City Council's policy requirement. Need is generally defined as *"requiring something because it is essential or very important rather than just desirable"*. The NDSS should only be introduced on a "need to have" rather than a "nice to have" basis. The identification of the need for the NDSS must be more than simply stating that in the past some dwellings have not met the standard. The City Council should identify the harm caused or may be caused in the future and identify if there is a systemic problem to resolve. The City Council's own supporting evidence identifies no systemic problem indeed the City Council confirms that the majority of surveyed dwellings are compliant or close to compliant with the NDSS. It is also noted that the referenced planning appeal case related to a conversion rather than new build scheme.

The HBF is not aware of any evidence that market dwellings not meeting the NDSS have not sold or that those living in these dwellings consider that their housing needs are not met. There is no evidence that the size of houses built are considered inappropriate by purchasers or dwellings that do not meet the NDSS are selling less well in comparison to other dwellings. The HBF in partnership with National House Building Council (NHBC) undertake an annual independently verified National New Homes Customer Satisfaction Survey. The 2018 Survey (the most up to date information available) demonstrates that 90% of new home buyers would purchase a new build home again and 87% would recommend their housebuilder to a friend. The results also conclude that 93% of respondents were happy with the internal design of their new home, which does not suggest that significant numbers of new home buyers are looking for different layouts or house sizes to those currently built.

As set out in the 2019 NPPF, the City Council should understand and test the influence of all inputs on viability. The cumulative impact of infrastructure, other contributions and policy compliant requirements should be set so that most sites are deliverable without further viability assessment negotiations (para 57). The deliverability of the DPD should not be undermined (para 34). The City Council should prepare a viability assessment in accordance with guidance to ensure that policies are realistic and the total cost of all relevant policies are not

of a scale that will make the DPD undeliverable (ID : 61-039-20190315). The City Council's updated viability evidence is set out in Financial Viability Assessment Report by BNP Paribas dated November 2019 in which only a limited number of NDSS compliant house typologies are tested.

The requirement for NDSS reduces the number of dwellings per site therefore the amount of land needed to achieve the same number of dwellings must be increased. The efficient use of land is less because development densities have been decreased. At the same time, infrastructure and other contributions fall on fewer dwellings per site, which may challenge viability, delivery of affordable housing and release of land for development by a willing landowner especially in lower value areas and on brownfield sites.

There is a direct relationship between unit size, cost per square metre, selling price per metre and affordability. The impact of adopting NDSS on affordability should be assessed. The City Council has not undertaken such an assessment. The City Council cannot simply expect home buyers to absorb extra costs. Over the last two decades housing affordability in the city has worsened. In Birmingham in 1997 the median affordability ratio was 2.81, which has doubled by increasing to 5.59 in 2018.

The City Council should recognise that customers have different budgets and aspirations. An inflexible policy approach for NDSS for all dwellings will impact on affordability and effect customer choice. The introduction of the NDSS for all dwellings may lead to customers purchasing larger homes in floorspace but with bedrooms less suited to their housing needs. A future purchaser needing a 2 bedroomed home may only be able to afford a 2 bed / 3 person dwelling of 70 square metres with one double bedroom and one single bedroom rather than 2 bed / 4 person dwelling of 79 square metres with two double bedrooms. This may lead to the unintended consequences of potentially increasing overcrowding and reducing the quality of their living environment. Non-NDSS compliant dwellings may be required to ensure that those on lower incomes can afford a property, which meets their bedrooms requirements.

It is possible that additional families, who can no longer afford to buy a NDSS compliant home, are pushed into affordable housing need whilst the City Council is undermining the delivery of affordable housing.

The City Council should assess any potential adverse impacts on meeting demand for starter homes / first-time buyers because the greatest impacts are on smaller dwellings, which may affect delivery rates of sites included in the housing trajectory in the adopted BDP. The delivery rates on many sites will be determined by market affordability at relevant price points of dwellings and maximising absorption rates. An adverse impact on the affordability of starter home / first time buyer products may translate into reduced or slower delivery rates.

Before the DPD is submitted for examination, **Policy DM10 Bullet Point (1)** should be modified, the City Council should not require the NDSS for all residential development.

If the NDSS is adopted, then the City Council should put forward proposals for transitional arrangements. The land deals underpinning identified allocated sites in the adopted BDP will have been secured prior to any proposed introduction of the NDSS in this DPD. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. The NDSS should not be applied to any reserved matters applications or any outline or detailed approval prior to a specified date.

Previously in the DPD Preferred Options consultation, the City Council was requiring all dwellings to be compliant with optional M4(2) standards. It is noted that this requirement has been modified in **Policy DM10 Bullet Point (2)** so that housing developments of 15 or more dwellings should seek to provide at least 30% of dwellings as accessible and adaptable homes in accordance with Building Regulation Part M4 (2) unless demonstrated to be financially unviable.

If the City Council wishes to adopt the optional standards for M4(2) then this should only be done in accordance with the 2019 NPPF (para 127f & Footnote 46) and the NPPG. Footnote 46 of 2019 NPPF states that “*planning policies for housing should make use of the Government’s optional technical standards for accessible and adaptable housing where this would address an identified need for such properties*”. As set out in the 2019 NPPF, all policies should be underpinned by relevant and up to date evidence which should be adequate, proportionate and focussed tightly on supporting and justifying the policies concerned (para 31). The NPPG sets out the evidence necessary to justify a policy requirement for M4(2) standards. The City Council should apply the criteria set out in the NPPG (ID 56-005-20150327 to 56-011-20150327) to ensure that an appropriate evidence base is available to support its proposed policy requirements.

All new homes are built to Building Regulation Part M Category 1 (M4(1)) standards which include level approach routes, accessible front door thresholds, wider internal doorway and corridor widths, switches and sockets at accessible heights and downstairs toilet facilities usable by wheelchair users. These standards are not usually available in the older existing housing stock and benefit less able-bodied occupants. The optional M4(2) standard should only be introduced on a “need to have” rather than a “nice to have” basis. Need is generally defined as “*requiring something because it is essential or very important rather than just desirable*”. If the Government had intended that evidence of an ageing population alone justified adoption of optional standards then such standards would have been incorporated as mandatory in the Building Regulations, which is not the case. M4(1) standards are likely to be suitable for most residents.

The NPPG sets out that evidence should include identification of :-

- the likely future need ;
- the size, location, type and quality of dwellings needed ;
- the accessibility and adaptability of the existing stock ;
- variations in needs across different housing tenures ; and
- viability.

The City Council's evidence set out in DM10 Standards for Residential Development Topic Paper does not contain evidence to justify the City Council's policy requirement. It is noted that the Office for National Statistics (ONS) Overview of the UK Population dated November 2018 estimated that 18.2% of the UK population were aged 65 years or over in 2017 increasing to 26.5% by 2037 compared with only 13% increasing to 16% in Birmingham. Many households moving into new housing are likely to be younger persons and families.

Many older people already live in the city. Many will not move from their current home but will make adaptations as required to meet their needs, some will choose to move to another dwelling in the existing stock rather than a new build property and some will want to live in specialist older person housing. The existing housing stock is considerably larger than the new build sector so adapting the existing stock is likely to form part of the solution.

It is also important to note that not all health problems affect a household's housing needs therefore not all health problems require adaptations to homes.

The City Council has not justified the quantum of at least 30% M4(2) compliant dwellings set out in **Policy DM10 Bullet Point (2)**. Furthermore, the policy fails to take into account site specific factors such as vulnerability to flooding, site topography and other circumstances, which make a site unsuitable for M4(2) compliant dwellings (as set out in the NPPG ID : 56-008-20150327). Before the DPD is submitted for examination, **Policy DM10 Bullet Point (2)** should be modified.

Policy DM10 Bullet Point (4) states that all new residential development must provide sufficient private useable outdoor amenity space appropriate to the scale, function and character of the development and adequate provision for recycling/ refuse storage and collection*. (*Standards are set out in Places for Living Supplementary Planning Document (SPD), which will be replaced by the Birmingham Design Guide). Under **Bullet Point (3)** separation distances* between buildings are set out in the City Council's SPD / Design Guide.

The Birmingham Design Guide has not been subject to the same process of preparation, consultation and examination as the Development Management DPD and does not form part of the DPD. The City Council should not convey the weight of the DPD onto this Design Guide / SPD. The Regulations indicate that an SPD does not have statutory force and is not the subject of examination. It is defined as something that is not a DPD.

Before the DPD is submitted for examination, **Policy DM10 Bullet Points (3) and (4)** should be modified to remove inappropriate references to the City Council's Design Guide / SPD.

Policy DM15 – Parking & Servicing

Policy DM15 Bullet Point (2) requires that new development meets parking provision, including parking for people with disabilities, cycle parking, infrastructure to support the use of low emission vehicles and car clubs in accordance with the City Council's Parking SPD. Under **Bullet Point (3)** parking should be designed to be secure and fully accessible to all users and adhere to the principles of relevant SPDs.

It is known that the City Council is consulting (ends on 28th February 2020) on a new Parking SPD, which will replace the existing Car Parking Guidelines SPD (2012) and elements of the Birmingham Parking Policy (2010). This new Parking SPD proposes that every new residential building with an associated car parking space must have at least one electric vehicle charging point (EVCP). Unallocated parking spaces off street 5 or more spaces 20% active EVCP provision and passive capacity for all spaces. Unallocated parking spaces on street subject to EV Network Charging requirements.

The Regulations make it clear that development management policies, which are intended to guide the determination of applications for planning permission should be set out as Local Plan policy yet **Policy DM15** states that the car parking requirements including provision of EVCPs will be carried forward in an SPD. This gives DPD status to a document, which is not part of the DPD and has not been subject to the same process of preparation, consultation and Examination. This is not compliant with the Regulations. Where an SPD is prepared, it should only be used to provide more detailed advice and guidance on the policies in the DPD and not as an opportunity to introduce requirements of a policy. As defined in 2019 NPPF Glossary, an SPD is capable of being a material consideration in planning decisions but is not part of the DPD.

The HBF is supportive of encouragement for the use of electric and hybrid vehicles via a national standardised approach implemented through the Building Regulations to ensure a consistent approach to future proofing the housing stock. Recently the Department for Transport held (ended on 7th October 2019) a consultation on Electric Vehicle Charging in Residential & Non-Residential Buildings. This consultation set out the Government's preferred option to introduce a new functional requirement under Schedule 1 to the Building Regulations 2010, which is expected to come into force in the first half of 2020. The inclusion of EVCP requirements within the Building Regulations 2010 will introduce a standardised consistent approach to EVCP in new buildings across the country. The requirements proposed apply to car parking spaces in or adjacent to buildings and the intention is for there to be one charge point per dwelling rather than per parking space.

The Government has also recognised the possible impact on housing supply, where the requirements are not technically feasible. The Government's consultation proposed introducing exemptions for such developments. The costs of installing the cables and the charge point hardware will vary considerably based on site-specific conditions in relation to the local grid. The introduction of EVCPs in new buildings will impact on the electricity demand from these buildings especially for multi-dwelling buildings. A requirement for large numbers of EVCPs will require a larger connection to the development and will introduce a power supply requirement, which may otherwise not be needed. The level of upgrade needed is dependent on the capacity available in the local network resulting in additional costs in relation to charge point instalment. The Government recognises that the cost of installing charge points will be higher in areas where significant electrical capacity reinforcements are needed. In certain cases, the need to install charge points could necessitate significant grid upgrades which will be costly for the developer. Some costs would also fall on the distribution network operator. The City Council's viability assessment includes a cost estimate for individual EVCP provision but not any additional costs for network upgrades. Any potential negative impact on housing supply should be mitigated with an appropriate exemption from the charge point installation requirement based on the grid connection cost. In the instances when this cost is exceptionally high, and likely to make developments unviable, it is the Government's view that the EVCP requirements should not apply.

It is the HBF's opinion that the City Council should not be getting ahead of Government proposals for Building Regulations. Before the DPD is submitted for examination, **Policy DM15 Bullet Points (2) and (3)** should be modified.

Conclusion

Under the 2019 NPPF to be found sound the Birmingham Development Management DPD should be positively prepared, justified, effective and consistent with national policy (para 35). **Policies DM10 and DM15** are unsound. Before the DPD is submitted for examination, these policies should be modified. It is hoped that these representations are of assistance to the City Council. In the meantime, if any further assistance or information is required from the HBF, please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**



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