

BIRMINGHAM DEVELOPMENT MANAGEMENT DPD EXAMINATION

MATTER 5 – HOMES & NEIGHBOURHOODS POLICIES

This Hearing Statement is made for and on behalf of the HBF, which should be read in conjunction with our representations to the pre-submission consultation dated 21st February 2020. This representation answers specific questions as set out in the Inspector’s Matters, Issues & Questions document issued on 24th September 2020.

Matter 5 – Homes & Neighbourhoods Policies

Issue – Are the individual policies clear, justified and consistent with national policy and will they be effective?

Policy DM10 – Standards for Residential Development

Q60. Is there sufficient evidence to justify the use of the Nationally Described Space Standards (NDSS)?

There is insufficient evidence to justify the adoption of a policy requirement for the NDSS for all dwellings.

The 2019 National Planning Policy Framework (NPPF) requires all policies to 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). Therefore, a policy requirement for adoption of the NDSS must be justified by credible and robust evidence. 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*”. The National Planning Practice Guidance (NPPG) also 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...”.

The City Council’s evidence is set out in DM10 Standards for Residential Development Topic Paper dated October 2019 (EBD40). This document does not contain evidence to justify the City Council’s policy requirement. The City Council’s evidence comprises of an appraisal of residential development schemes (3,489 dwellings on 54 sites) that received planning permission between July 2016 and June 2019. The key conclusion of this analysis is that only 24% of these dwellings were found to fall below the NDSS by more than 10%, which means that the NDSS was either exceeded, met or within 10% of compliance in 3 out of 4 dwellings (see para 6.34). This suggests that the current policy approach is effective without the need for any additional policy

intervention. The City Council's evidence has not identified any systemic problem. This conclusion is consistent with the results of the HBF's annual National New Homes Customer Satisfaction Survey.

Furthermore, the reference to one planning application dismissed at appeal does not provide robust evidence in support of the adoption of the NDSS for all dwellings in Birmingham. This conversion rather than new build apartment scheme included some very small studio apartments less than half the minimum space standard for one-bedroom apartments. The Inspector's reference to the NDSS is not an endorsement for the City Council to adopt a policy requirement for the NDSS. As shown by the City Council's analysis of consented schemes and the HBF Survey, there is no evidence demonstrating that current dwelling sizes are providing poor quality living accommodation.

Other than the analysis of consented schemes and reference to one unsuccessful planning appeal, the City Council has not provided any locally specific data for Birmingham. Information from the Housing Standards Review on the social benefits of the NDSS are not specific to the city and therefore do not justify the need for the adoption of the NDSS for all dwellings in Birmingham.

In the absence of appropriate, robust and justified evidence of need, the HBF object to the blanket policy approach for all dwellings to meet NDSS, which should be deleted from Policy DM10.

Q61. Has the effect of the use of space standards on viability been adequately demonstrated?

The effect of adopting NDSS for all dwellings has not been adequately demonstrated.

As set out in the 2019 NPPF, 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). A viability assessment should be prepared in accordance with the NPPG to ensure that policies are realistic and the total cost of all relevant policies are not of a scale that will make the adopted Birmingham Development Plan and the Development Management DPD undeliverable (ID : 61-039-20190315). The NPPG sets out that "*where a need for internal space standards is identified, 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's updated viability evidence is set out in Financial Viability Assessment Report by BNP Paribas dated November 2019 (EBD71). In the Residential Development Topic Paper (EBD40), the City Council states that viability assessment testing has been based on the NDSS (see para 6.39) and adoption of the NDSS would not undermine the viability of residential development.

However, the HBF note that only a limited number of NDSS compliant house / apartment typologies were viability tested. Only six out of sixteen NDSS

typologies were applied to the 35 site typologies. There is no explanation given for which NDSS were selected. The selective choosing of NDSS house / apartment floorspace assumptions may skew viability test results. The testing of an average size does not test NDSS because it ignores the individual bedroom dimension specifications set out in the NDSS and the relationship between number of bedrooms / persons and selling price points.

It is also noted that some large housing scheme typologies were tested but the Langley Strategic Urban Extension (SUE) for 6,000 dwellings was excluded. This SUE is a significant contributor to meeting the housing requirement of the adopted Birmingham Development Plan. The NDSS may reduce the number of dwellings achieved on the site meaning planning obligations and infrastructure costs will be shared across fewer dwellings. This cumulative impact should be taken into consideration.

The Viability Assessment Report shows that not all residential schemes are viable despite the selective testing of NDSS typologies and the omission of the SUE. In contradiction to the City Council's statement in the Topic Paper, the Viability Assessment Report concludes that the cumulative impact of all proposed policy requirements would result in the residual land value of sites falling below the existing land value. Trade-offs between affordable housing contributions, infrastructure and Development Management DPD policy compliant requirements will be necessary therefore in such circumstances, a flexible policy approach is required. The rigid imposition of the NDSS to all dwellings without the ability for developers to negotiate non-compliance due to impact on viability will undermine the delivery of residential sites to meet the housing requirement of the adopted Birmingham Development Plan.

In the absence of adequate viability testing, the HBF object to the inflexible blanket policy approach for all dwellings to meet NDSS, which should be deleted from Policy DM10.

Q62. Should the policy include a transitional period?

If the NDSS is adopted, a transitional period should be included in the policy.

The 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).

It is unreasonable for the City Council to disallow a transitional period following adoption of the Development Management DPD. Whilst the City Council's intention to adopt the NDSS may have been in the public domain, this intention carries little weight. The City Council's evidence of need, viability assessment and blanket policy approach have been continuously challenged by the development industry. Ahead of the adoption of the Development Management DPD, there was no requirement for land deals to take account of the NDSS. Many land deals underpinning identified allocated sites in the adopted Birmingham Development Plan will have already been secured. If no transitional period is proposed post adoption of the NDSS, development of

these sites may be jeopardised. The NDSS should not be applied to any outline, detailed or reserved matters applications prior to a specified date so that housing sites already in the planning system can move through to completion before adoption of the NDSS is enforced.

Q63. Is there sufficient evidence to justify the requirement for 30% of dwellings to meet M4(2) Category 2 – Accessible and Adaptable Dwellings?

There is insufficient evidence to justify the requirement for M4(2) compliant dwellings for at least 30% dwellings on sites of 15 or more dwellings.

The 2019 NPPF requires all policies to 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). Therefore, a policy requirement for M4(2) dwellings must be justified by credible and robust evidence. As stated in the 2019 NPPF, “...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...” (Footnote 46 & para 127). The NPPG sets out the evidence necessary to justify a policy requirement for M4(2) standards (ID 56-005-20150327 to 56-011-20150327).

The City Council’s supporting evidence is set out in Chapter 6 (paras 6.1 – 6.22) of DM10 Standards for Residential Development Topic Paper (EBD40). The Topic Paper provides generic statements rather than a robust evidence base to justify the policy requirements in the context of local need / demand.

There is an absence of rationale for the choice of 15 or more dwellings as the threshold for selecting sites to provide at least 30% M4(2) dwellings. This choice of threshold for qualifying development proposals is unduly onerous. There is also no evidence to justify the at least 30% proportion of dwellings. The City Council state that 30% is considered appropriate but with no indication of its derivation.

From population projections and a Joint Strategic Needs Assessment, the City Council state that “...there will be a larger elderly population who will be living longer and are likely to living with disabilities in their later years...’ It is agreed that the population of Birmingham is going to “age” in the future and for older people care needs become more significant. However, an ageing population affects the whole country and is not an issue specific to Birmingham. It is most likely that other parts of the UK will be impacted by an ageing population to a greater extent. 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. All new homes are built to Building Regulation Part M Category 1 (M4(1)) standards, which are likely to be suitable for most residents.

The City Council’s evidence from the Housing Register provides an insight into specifics for affordable housing but it does not provide an evidential basis for a

requirement to be applied to at least 30% of both affordable and for sale market dwellings on sites of 15 or more dwellings.

In the absence of appropriate, robust and justified evidence of need, the HBF object to the requirement for 30% M4(2) dwellings on sites of 15 or more dwellings, which should be deleted from Policy DM10.

Q66. Is point 6 of the Policy effective in enabling flexibility within the policy?

Bullet Point 6 provides insufficient flexibility to be effective. Exceptions should not be restricted to exceptional issues.

This inflexible policy approach fails to reflect the type of residential development brought forward across the city. A significant proportion of development opportunities are on small brownfield sites often irregular in shape or conversions of existing buildings, which may not be able to meet all criteria set out in Policy DM10. Some forms of residential development including student accommodation, build to rent schemes and specialist accommodation for older persons may also be unable to meet all criteria within this policy.

The preceding Bullet Point 2 of Policy DM10 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 (NPPG ID : 56-008-20150327).

The Viability Assessment Report also shows that not all residential schemes are viable.

A more positive and flexible policy approach should be taken in Bullet Point 6.

Does the change proposed by the Council address the shortcomings in this regard?

The City Council's proposed changes will provide some additional flexibility but further refinement of the wording is needed.

Q67. Is the weight of Policy being applied to the Birmingham Design Guide?

The reference to the Birmingham Design Guide within the wording of Policy DM10 should be removed to prevent any misinterpretation that the weight of policy is being applied to the Birmingham Design Guide.

Any reference to the Birmingham Design Guide in the supporting text should be clear that this is a guidance document only, which does not form part of the adopted DPD.

Do the Council proposed modifications overcome this?

The Council have not proposed any modifications to overcome the potential misapplication of weight given to the Birmingham Design Guide.