

**NORTH SOMERSET COUNCIL**  
**Examination of Development Management Policies**

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Dear Mr Quick

**MODIFICATIONS TO NORTH SOMERSET DEVELOPMENT MANAGEMENT POLICIES DOCUMENT**

1. As indicated in the final hearing session on 4 November 2015 and as confirmed by the subsequent note ED/27 I am writing to set out my interim views on the further modifications that are needed to make the North Somerset Development Management Policies (DMP) document sound.
2. I have given full consideration to all the representations made about the DMP including the oral contributions at the hearing. My final conclusions regarding soundness and procedural compliance will be given in the report to be produced following consultation on the proposed main modifications. Nevertheless, having regard to the criteria for soundness and to assist at this stage, I shall provide brief explanations for my preliminary findings.
3. The National Planning Policy Framework sets out various principles on plan-making in paragraphs 154 and 157. In addition, paragraph 158 refers to adequate, up-to-date and relevant evidence. The Planning Practice Guidance (PPG) on Local Plans at paragraph 014 also provides that appropriate and proportionate evidence is essential. These policies and guidance have been taken into account in conducting the examination and in reaching my initial findings. I shall not reiterate them in reviewing the individual policies.
4. The views expressed may alter in the light of any further evidence that emerges including the consultation process and are therefore given here without prejudice to the conclusions that will appear in the final report. This will also cover other main issues that arose during the examination but which are not dealt with in this letter.
5. I understand that following the discussion that took place at the hearing the Council is intending to make modifications to Policies DM2, DM10, DM11, DM12, DM19, DM34, DM48, DM56 and DM58 in the interests of effectiveness. The nature of these was confirmed at the hearing and I shall not repeat them. Some of these policies are also the subject of my comments below and I shall deal with the relevant policies in turn.

**Policy DM2: Renewable and low carbon energy**

6. PC8 excludes conversions from the requirement to submit an Energy Statement but they are specifically included within Policy CS2 of the Core Strategy regarding sustainable design and construction. Therefore to be consistent with the Core Strategy this exception should be removed.

**Policy DM9: Trees**

7. The NPPF refers to appropriate landscaping. Whilst the aim of maintaining tree cover is understandable the provisions of Table 1 would not assist in ensuring that green infrastructure is considered at an early stage of the development process or that aftercare is effective. Furthermore, whilst Table 1 would provide certainty, no clear correlation between trunk diameter and the number of replacement trees required has been shown having regard to the differences in canopies between species. The document *Trees in the Townscape* mentioned at the hearing indicates that the similar standards referred to in Bristol are contained in a draft supplementary planning document rather than a development plan policy.
8. FPC9 and PC16 refer to “taking account” of Table 1 and that it is a “starting point”. However, the absence of a clear link between its expectations for the number of trees to replace those lost mean that its inclusion in the DMP is not justified and should be removed together with any associated references.

### **Policy DM12: Development within the Green Belt**

9. In determining whether the extension or replacement of a building is inappropriate development paragraph 89 of the NPPF makes no reference to openness. To be consistent with national policy references to openness should therefore be removed from the first and second paragraphs under this heading. However, openness is an essential characteristic of the Green Belt. Therefore the third paragraph could say that in all cases consideration should be given to the impact on openness.

### **Policy DM19: Green Infrastructure**

10. The Council accepts that not all development should be required to contribute to green infrastructure. However, the phrase “where appropriate” in FPC16 is not clear. This should be deleted and consideration given to a more detailed expression of when this will be required having regard to the size of the development and its location.

### **Policy DM27: Bus accessibility criteria**

11. The NPPF seeks to promote sustainable transport. Nevertheless it is not apparent that the target bus service frequency is justified having regard to existing levels of service and the main development areas identified in the Core Strategy. The intentions of service providers are also unknown. Given the threshold of 10 dwellings or 1,000 sq m I am not satisfied that this is the most appropriate strategy as it could have unintended consequences in terms of inhibiting future development.
12. The alternatives for the Council are therefore to review the thresholds for development, to remove the target bus service frequency or to provide further evidence to address the matters above.

### **Policy DM33: Inclusive access into non-residential buildings and spaces**

13. FPC20 is intended to make the policy less prescriptive but the phrase “where appropriate” is not clear and should be deleted. From the discussion at the hearing the policy is intended to relate to the public realm around larger scale and newly planned areas and the Council should make a change to this effect.

#### **Policy DM42: Accessible and adaptable housing**

14. The PPG indicates that the proportion of new accessible or adaptable and wheelchair user dwellings should be clearly stated. However, the Council is unable to set a single threshold or quantum of provision due to variations across the District. Given the general evidence of need due to the ageing population in North Somerset this approach is sound provided that there is a commitment to an early review of the policy. This should therefore be 'written-in' at this stage with a view to establishing specific targets based on experience and the provisions of paragraph 009 of the PPG in due course.

#### **Policy DM45: Conversion of rural buildings to residential use**

15. The criteria relating to traditional construction and attempts to secure an economic use (third and fourth bullet points) reflect former Government policy that has now been cancelled. As such, they are not consistent with current Government policy and should be removed as there is insufficient local justification to support such a divergence. The seventh bullet point requires a "sustainable location". Whilst recognising the intention in the NPPF to facilitate the use of sustainable modes of travel the NPPF also encourages the reuse of existing resources. Therefore, in line with paragraph 55 of the NPPF, the Council should consider re-wording this provision along the lines that the building should not be in an isolated location remote from a settlement with a range of services and facilities.

#### **Policy DM46: Rural workers dwellings**

16. There is no justification for requiring applicants to provide an "independent appraisal" which should be removed.

#### **Policy DM48: Broadband**

17. The Council is giving consideration as to whether the policy should relate to large scale developments rather than all developments in order that its application is proportionate. In any event, given that conditions would be imposed there is no justification for requiring a separate connectivity statement and this reference should be removed.

#### **Policy DM51: Agriculture and land-based rural business development**

18. The PPG provides that requiring the demolition of a permanent building by condition is unlikely to be reasonable. This guidance would have taken account of the provisions of the General Permitted Development Order which, in any event, relates to 'permitted development' rather than that granted planning permission. Consequently the final paragraph should be removed to achieve soundness and, if necessary, adjustments made to other policies to take account of this change.

#### **Policy DM55: Extensions, ancillary buildings or intensification of use for existing businesses located in the countryside**

19. The Council accepted at the hearing that the second sentence of the penultimate paragraph relating to further expansion is an advisory note. As it

does not provide a clear indication of how a decision maker should react to a development proposal it should be removed from the policy.

### **Policy DM56: Conversion and reuse of rural buildings for employment development**

20. It is not apparent why an employment use would need to be near to an appropriate range of services and facilities. In line with Policy 45 the Council should consider revising the wording along the lines that any building should not be in an isolated location remote from its potential workforce.

### **Policy DM57: Conversion, reuse and new build for visitor accommodation in the countryside**

21. As with Policy DM45 criterion iii. regarding traditional construction should be removed. There is no expectation in paragraph 28 of the NPPF that applicants should be required to demonstrate a business case. Rather this paragraph supports the provision and expansion of tourist and visitor facilities in appropriate locations. Demand for rural holidays lets is unlikely to be met in rural service centres. Preventing any change to permanent residential use within 10 years would be likely to deter investment.

22. I acknowledge the Council's concern about future changes to residential use. However, if suitable conditions were imposed then this would, of course, be controlled through the planning application process and considered against Policy DM45 which also contains a locational provision. Given that the Council indicated that there are lots of holiday lets there does not appear to be any justification for resisting changes from holiday accommodation to residential use per se.

### **DM58: Camping and caravan sites**

23. For similar reasons to Policy DM57 requiring a business case is not justified. If conditioned to holiday use in line with the first bullet point any residential use would require planning permission. Whilst some caravans in the District are said to be registered for Council tax this is a matter for potential enforcement. The Council may nonetheless wish to consider making clear that the policy relates solely to holiday rather than residential caravan sites.

### **Policy DM59: Garden centres**

24. Notwithstanding the extensive range of goods sold at Cadbury Garden Centre there is no justification to restrict non-garden related goods to 15% of net sales floorspace and require products to have been made or grown within a 30 mile radius. There is no evidence to indicate that the increasing vacancy rates in the main town centres over the last 10 years can be attributed solely to the growth of garden centres as 'destinations' in their own right. The first bullet point should therefore be deleted and any significant retail impacts assessed under the second bullet point having regard to other retail policies.

### **Policy DM64: Primary shopping frontages**

25. To be effective the penultimate bullet point should provide greater detail about how the loss of retail floorspace will be assessed having regard to the size and scale of the unit and its location as mentioned at the hearing.

26. At Weston-super-Mare it is proposed to extend the primary shopping frontage along Regent Street in order to provide better linkages with the seafront. However, it is not clear how this aspiration would be advanced by the policy which largely seeks to protect Class A uses. Positive support for Class A uses is already contained in Policy DM63. Given what I observed of the existing mix of uses in this part of the town, where the existing proportion of Class A1 uses appears to be lower than elsewhere in the Weston primary frontage, the proposed expansion is not justified. Therefore, unless the Council is able to demonstrate that the proportions of existing land uses are comparable to elsewhere in the primary frontage, the proposed expansion should be removed from the DMP.

### **Policy DM66: The sequential approach for retail development**

27. Outside the town centres the policy requires, in addition to the sequential test, that an impact assessment is undertaken for any development of over 200 sq m. The national default set out in the NPPF is 2,500 sq m but paragraph 26 allows for a locally set threshold. This should be proportionate. None of the factors set out in paragraph 016 of the PPG on *Ensuring the Vitality of Town Centres* have been considered in setting the threshold in the DMP. The Council's concern is that setting different thresholds for different centres would be complicated but the potential impact on smaller centres does not justify the figure selected. As such, this element of the policy approach should be removed to achieve soundness.

28. In terms of taking this forward there are a number of possible options. Policy CS21 of the Core Strategy refers to development outside town centres not having an adverse impact on the vitality and viability of them. There is therefore already policy in place to deal with this matter although the requirement for undertaking an impact assessment would be for the scale of development referred to in the NPPF. In this scenario Policy DM66 would simply list the sequential preferences for the different scales of new development but could encourage the preparation of an impact assessment.

29. Alternatively the Council would need to undertake a retail study to address the matters listed in paragraph 016. This is likely to take some time and would therefore delay the adoption of the DMP. Another way of dealing with this would be to simply omit Policies DM65-DM67 from the DMP and return to them once a locally appropriate threshold had been devised based on suitable evidence. This could, perhaps, be inserted into the Sites and Policies Plan Part 2.

30. Policies DM65 and DM67 are clearly linked to Policy DM66. For similar reasons there is no sound justification as to why an impact assessment is required for any development at the retail parks irrespective of size. Any local threshold should take account of paragraph 016 of the PPG and the likely consequences for the town centres. Given the provisions of Policy DM66 in relation to the sequential test and other policies regarding development in the countryside, Policy DM67 appears to be unnecessary. In addition, the 200 sq m 'cut-off' is not justified.

### **Policy DM69: Location of sporting, cultural and community facilities**

31. Requiring the sharing of facilities to be investigated might lead to a more efficient use of land but the Council accepted that this provision would not be

used as a reason for refusal. Consequently this criterion does not accord with the principles in paragraph 154 of the NPPF and should be removed.

## **Finally**

32. I am not inviting comments from the Council or anyone else on the preliminary views expressed in this letter. They are primarily provided for the purpose of identifying the matters where consideration should be given to modifications in order to achieve soundness. These are in addition to those already contained in the schedule of proposed changes (ED/24a). Could the Council let me know as soon as possible if there are any points of fact or clarification that it wishes me to address.
33. However, in respect of Policies DM27, DM64, DM66 and related retail policies I am prepared, in the interests of pragmatism, to allow the Council to provide further evidence if it wishes in relation to bus accessibility, the extended primary shopping frontage along Regent Street and the local threshold for impact assessment. Others would be able to comment on any such material, if necessary, as part of the consultation on the proposed main modifications. Could the Council indicate how it intends to deal with these matters as a preliminary step and of likely timescales?
34. Otherwise the comments in this letter should 'feed into' the full schedule of proposed main modifications that the Council is preparing and I invite the Council to progress this. The Council should also review whether there are any consequential changes arising from the soundness issues identified and the subsequent response to ensure that the Plan reads coherently as a whole. Further details about the process to be undertaken are set out in ED/27 of the final hearing session and I shall not repeat them here. However, the Council should contact me via the Programme Officer if there are any procedural or other questions.

*David Smith*

INSPECTOR

13 November 2015