



Hearing Statement
Matter 3
Sustainable Design, Energy Efficiency and Renewable Energy

On behalf of:
Derwent Development Management Ltd

In respect of:
Lancaster Local Plan: Climate Emergency Review
Examination in Public

Date:
September 2022

Reference:
MA/DDML/018-10/R001m

1.0 Introduction

1.1 This Hearing Statement is submitted in respect of document EX INS 04 as it pertains to Matter 3 in the context of those questions regarding “Sustainable Design, Energy Efficiency and Renewable Energy”.

1.2 We have also submitted a Hearing Statement which responds to other topics within Matter 4.

1.3 This comprises responses to the following question from EX INS 04:

- 3.1
- 3.2
- 3.5
- 3.6
- 3.7
- 3.9

1.4 We reserve the right to respond to the Council’s comments regarding EX INS 04.

2.0 Responses to Key Questions

Matter 3 - Sustainable Design, Energy Efficiency and Renewable Energy

Q3.1 Is Policy DM29 positively prepared, justified, effective, and consistent with national policy?

- 2.1 The proposed revisions to adopted Policy DM29 are very considerable in scope and comprise (amongst other matters) draft criteria VII, XXI and XXII.
- 2.2 In respect of new criterion VII, its principal focus is to cross-refer to draft Policy DM30C and its intent and approach to deliver Sustainable Design and Construction.
- 2.3 We have provided separate comments under MIQ Q3.9 in regard to draft Policy DM30C which we conclude is unsound as drafted. We have proposed revised wording for Policy DM30C later in this document.
- 2.4 In respect of criterion XXI, its secondary focus is to cross-refer to draft Policy DM30B and its intent and approach to maximise water efficiency.
- 2.5 We have provided separate comments under MIQ Q3.7 in regard to draft Policy DM30B which we conclude is unsound as drafted. We have proposed revised wording for Policy DM30B later in this document.
- 2.6 In respect of criterion XXII, its principal focus is to cross-refer to draft Policy DM62 and its intent and approach to deliver electric vehicle charging facilities.
- 2.7 We have provided separate comments under MIQ Q4.20-4.24 in regard to draft Policy DM62 which we conclude is unsound as drafted. We have proposed revised wording for Policy DM62 within our Matter 4 statement.
- 2.8 Assuming that the proposed revisions to Policies DM30B, DM30C and DM62 are accepted, then we confirm that our stated concerns re Policy DM29 would be withdrawn.
- 2.9 In the event that our proposed revisions to these policies (DM30B, DM30C and DM62) are not accepted then we would conclude that this policy is not positively prepared or justified.

Q3.2 Is the cross-referencing to other policies within Policy DM29 correctly drafted and necessary?

- 2.10 We do not feel that it is necessary for Policy DM29 to cross-refer to other policies (specifically DM30B, DM30C and DM62), notwithstanding the substantive concerns we have in terms of the relative soundness of those policies.

- 2.11 In order to resolve these fundamental issues, we recommend as follows:
- Criterion VII should either be deleted or reworded such that it does not cross-refer to Policy DM30C; and
 - Criterion XXI should either be deleted or reworded such that it does not cross-refer to Policy DM30B; and
 - Criterion XXII should either be deleted or reworded such that it does not cross-refer to Policy DM62.

Q3.5 Is Policy DM30A justified, effective, and consistent with national policy?

- 2.12 We submitted representations in the context of Policy DM30A to the early consultation window in March 2022 making a key point which was that whilst the objective to minimise energy use is agreed, it is important that the policy framework takes the opportunity to embrace a range of positive measures rather than a reliance on a singular metric which may not be the best way forward.
- 2.13 The Council's evidence base plainly recognises that there are considerable viability challenges in terms of the deliverability for commercial development now, and makes no effort to justify how any additional policy obligations would have even a neutral impact upon deliverability. It is our clear view that the additional cost implications that stem from the proposed policy revisions will not be reflected in additional rental income, so it will therefore be a further constraint in the context of a position where the evidence base shows that these uses are non-viable now.
- 2.14 We set out that the policy framework should serve to ensure that opportunities for sustainable economic development are secured, but that this should give proper consideration of the need to maintain viability so that job opportunities for local people can be met. The Council has not accepted our recommendation and have in fact made another revision to the policy text that removes the topic of viability from this policy and would thus serve to reinforce the failure to recognise that the Climate Change emergency will not be met if residents are unable to secure work in Lancaster and have to complete longer commuting journeys to do so.
- 2.15 In the context of the section focused upon "New Major Non-Residential Development" we continue to recommend revised wording that would better recognise the deliverability challenge of BREEAM Excellent for traditional employment uses which suffer considerable viability challenges but are vital if Lancaster is to have a sustainable balance of choices for places to live and work without unnecessary reliance on longer car journeys.

- 2.16 Our revised wording for this section is provided below:

Major development within Use Classes C1 (Hotels) and C2/C2A (Residential Institutions) and major non-residential buildings, excluding uses within Classes B2 (General Industrial), B8 (Storage and Distribution), E(g)(iii) (Industrial Processes) and agricultural buildings, should aim ~~will be required~~ to meet the most up to date BREEAM 'Excellent' standard. Where the 'Excellent' Standard cannot be achieved ~~for those uses~~, evidence must be submitted with an application to the satisfaction of the City Council. The BREEAM 'Very Good' standard must be met as a minimum ~~for those uses~~.

- 2.17 We set out that upon accepting these revisions that we would withdraw our concerns re Policy DM30A, so the decision to ignore our helpful contribution must lead to a conclusion that the policy is not positively prepared. In addition, the policy would not be effective because these policy requirements will impede the deliverability of the very same uses which are central to the sustainability of the district and would fail the tests of soundness as written.

Q3.6 Are the requirements to provide a Sustainable Design Statement and Energy Statement necessary?

- 2.18 Policy DM30A includes a section entitled "Sustainable Design Statement". The text implies that the Sustainable Design Statement would be a blanket requirement and should incorporate an Energy Statement. The second paragraph then appears to provide a clarification that the need for an energy statement (in the context of non-residential uses) would be limited to major development only.

- 2.19 Even setting aside whether the imposition of this policy has been shown to have no adverse impact upon deliverability of Plan-led objectives, we would strongly recommend that the scope of this policy should only be applied to those development proposals where its implementation would contribute to these ambitions and secure tangible benefit.

- 2.20 To that extent, we do welcome that the policy makes some reference to "major development" in terms of the need for an energy statement. However, this would still mean that there is a blanket policy requirement for a Sustainable Design Statement and that there would be a whole range of major developments "caught" by this requirement which would not actually generate significant construction activity which would be the principal focus of any such ambition to be met through the implementation of the broader ambitions of Policy DM30A.

- 2.21 We would recommend that (in the context of non-residential development) that the requirements for Sustainable Design Statements and Energy Statements should be focused upon those major developments which will result in considerable construction activity. That would therefore exclude minor development and some forms of major development such as:

- S73 revisions to an approved scheme to amend operating hours;
- S73 revisions to an approved scheme to amend the types of permitted users; and
- Change of use of an existing premises.

2.22 We would suggest the following amended phrasing to this section of Policy DM30A:

*The above issues and requirements are to be evidenced in a Sustainable Design Statement to be submitted with the planning application **as may be relevant**. The Sustainable Design Statement shall include an Energy Statement.*

*The submission of an Energy Statement will be required to demonstrate compliance with this policy for all new residential developments and major non-residential developments **as may be relevant** (including residential institutions – Class C2 and C2A and the non-residential part of mixed use developments).*

The Energy Statement must include evidence to show how the design and build of the development will meet the requirements of this policy, how the energy hierarchy has been used to minimise the impact on viability, how monitoring and evaluation will take place during the construction/built stages and the provision of post occupancy advice to residents, to ensure the performance gap between design and build is minimal. The Energy Statement should include an assessment of whole life cycle emissions.

For the sake of clarity, in the context of non-residential development a "relevant" development is a major scheme that will result in considerable additional construction activity."

2.23 Assuming that the proposed revisions set out above are accepted through the Examination, we conclude that this responds to our stated concerns and we cordially withdraw any outstanding objection in this respect.

Q3.7 *Is Policy DM30B justified and consistent with national policy?*

2.24 Consistent with some of our commentary re Policy DM30A, in the context of Policy DM30B it is important that the policy framework takes the opportunity to embrace a range of positive measures rather than a reliance on a singular metric which may not be the best way forward.

2.25 In the context of the paragraph concerned with "New Major Non-Residential Development" we continue to recommend revised wording that would better recognise the deliverability challenge of BREEAM Excellent for traditional employment uses which suffer considerable viability challenges but are vital if Lancaster is to have a sustainable balance of choices for places to live and work without unnecessary reliance on longer car journeys.

2.26 As we have set out consistently, the Council's evidence base readily accepts that there are considerable viability challenges in terms of commercial development now, and continues to propose additional policy obligations without any attempt to show that this would have even

a neutral impact upon deliverability. It is our clear view that the additional cost implications that stem from the proposed policy revisions will not be reflected in additional rental income, so it will therefore be a further constraint in the context of a position where the evidence base shows that these uses are non-viable now.

- 2.27 Our revised wording for this section is provided below:

All major non-residential development should incorporate water conservation measures. This should aim to ensure ~~so~~ that predicted per capita consumption does not exceed the appropriate levels set out in the applicable BREEAM 'Excellent' standard. Where the 'Excellent' Standard cannot be achieved, evidence must be submitted with an application to the satisfaction of the City Council. In that event, the applicant shall ensure that either Building Regulations or BREEAM 'Very Good' standard must be met as a minimum.

The design of new developments should consider maximise the inclusion of water efficiency and consumption measures, such as rainwater/ or greywater recycling, green roofs, low flow taps and showers, low flush toilets, rain gardens and water butts in the construction of new buildings.

- 2.28 In the event that this amendment is not maintained through the Examination process, we confirm our objection to any universal obligation to benchmark a development's acceptability in the context of the BREEAM approach despite the clear evidence that there are other entirely appropriate methodologies not least of which is the Building Regulations process.
- 2.29 We set out that upon accepting these revisions that we would withdraw our concerns re Policy DM30B. Without doing so, the policy would not be effective because these policy requirements will impede the deliverability of the very same uses which are central to the sustainability of the district and would fail the tests of soundness as written.

Q3.9 *Is Policy DM30C justified and consistent with national policy?*

- 2.30 Policy DM30C is concerned with sustainable design and construction, and at its outset it highlights that it would pertain solely to major development and through later text it is clear that it is focused upon construction activity.
- 2.31 Even setting aside whether the imposition of this policy has been shown to have no adverse impact upon deliverability of Plan-led objectives, we would strongly recommend that the scope of this policy should only be applied to those development proposals where its implementation would contribute to these ambitions and secure tangible benefit.
- 2.32 To that extent, we do welcome that the policy makes some reference to "major development". However, this would still mean that there is a blanket policy requirement for the consideration of the 5 cited criteria and the drafting of a Sustainable Design Statement.

- 2.33 As we have alluded to in the context of other policies, there would be a whole range of major developments “caught” by this requirement which would not actually generate significant construction activity which would be the principal focus of any such ambition to be met through the implementation of the broader ambitions of Policy DM30C.
- 2.34 We would recommend that (in the context of non-residential development) that the requirements for consideration of the DM30C requirements should be focused upon those major developments which will result in considerable construction activity. That would therefore exclude minor development and some forms of major development such as:
- S73 revisions to an approved scheme to amend operating hours;
 - S73 revisions to an approved scheme to amend the types of permitted users; and
 - Change of use of an existing premises.
- 2.35 We would suggest the following amended phrasing to the initial section of Policy DM30C:
- Proposals for major developments **as may be relevant** should demonstrate how they achieve sustainable and environmentally conscious development, including climate change mitigation and adaptation. **For the sake of clarity, in the context of non-residential uses, a “relevant” development is a major scheme that will result in considerable additional construction activity. This should take ~~taking~~** into account the following:“*
- 2.36 Assuming that the proposed revisions set out above are accepted through the Examination, we conclude that this responds to our stated concerns and we cordially withdraw any outstanding objection in this respect.