



WORTHING LOCAL PLAN 2020- 2036

WBC-E-011

Matter 9 – Built Environment

October 2021



WORTHING BOROUGH
COUNCIL

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Matter 9 – Built Environment

Issue 1: Are the policies relating to the built environment, including heritage assets, justified, positively prepared, effective and consistent with national policy?

Quality of the Built Environment (Policy DM5)

Q161. Is Policy DM5 positively prepared, justified, effective and consistent with national planning policy, in particular paragraph 130 of the Framework which sets out requirements for planning policies relating to design?

Council's Response:

The government has attached significant importance to achieving well-designed places and that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities (paragraph 126 of the NPPF). On this basis, the Council considers that Policy DM5 serves an important role in facilitating well-designed places.

Policy DM5 is consistent with paragraph 130 (a-f) of the NPPF as outlined below:

- Criterion a) i) & ii) of Policy DM5 is consistent with paragraph 130 a) and b)
- Criterion a) iii) is consistent with paragraph 130 d)
- Criterion a) iv) is consistent with paragraph 130 c)
- Criterion a) v) is consistent with paragraphs 8 b) and 154 b)
- Criterion a) vi) is consistent with paragraphs 130 e), 92 b), 104 e) and 106 e)
- Criterion a) vii) is consistent with paragraphs 130 f), 92 b), 97 a) & paragraph 185 a). P.3.i. Secured By Design of National Model Design Codes - Part 2 ([CD/B/44A](#)) provides guidance on security and public space.
- Criterion a) viii) is consistent with paragraph 155 c)
- Criterion a) ix) is consistent with paragraph 131. Further to this, paragraph 5.1 of the National Model Design codes - Part 1 ([CD/B/44](#)) states: *'Nature and green spaces should be woven into the fabric of our villages, towns and cities. This provides benefits in terms of health and wellbeing, biodiversity, climate and flood mitigation and can connect nature to wider surroundings'*
- Criterion a) x) is consistent with paragraph 185 c)

With regards to criterion b) residential annexes are a common form of development within the borough. However, caution needs to be exercised to ensure that this does not result in proposals which are effectively the same as creating a new dwelling, which may be in an inappropriate location and represent unsustainable development. It is considered that the

annexe should once approved remain as a single planning unit with the host dwelling in order to maintain a degree of control for the sake of amenity to local residences and the environment.

With regards to criterion c) see response to Q.163 below.

The Council has proposed modifications M28 and M28 (a). M28 seeks to strengthen the effectiveness of criterion a) ii), viii & ix). M28 (a) brings Policy DM5 into line with the National Model Design Code therefore ensures consistency with national Policy.

Therefore Policy DM5 is positively prepared, justified, effective and consistent with national planning policy.

Q162. Is criterion iv. consistent with national policy on heritage assets? Is it justified to expect all new development to enhance heritage assets and their settings?

Council's Response:

Although there are a large number of heritage assets within Worthing it is acknowledged that a significant proportion of development within the borough will not be in close proximity to these buildings / sites. It is agreed that this criterion should not apply to all development. As such, for clarity, and to ensure that the policy is effective and sound it is proposed that the following amendment is made to criterion iv) of Policy DM5:

iv) **where appropriate**, respect, preserve and enhance heritage assets and settings.

Q163. Is it clear in what circumstances criterion c. would be implemented? If so, is such an approach justified and consistent with national policy, particularly paragraph 56 of the NPPF which sets out when conditions should be imposed?

Council's Response:

Criterion c) is consistent with paragraph 135 of the NPPF which states that:

Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

The paragraph doesn't specify what mechanisms LPAs should implement in order for this requirement to be met. However, Planning Practice Guidance sets out that '*In some cases, local planning authorities may wish to encourage design details to be agreed as part of the initial permission, so that important elements are not deferred for later consideration. It can also be important to ensure that applications to discharge conditions or amend approved schemes do not undermine development quality.*'

Paragraph: 015 Reference ID: 26-015-20191001

The Council originally took the approach to stipulate in criterion c) that Planning Conditions will be used. However, the Council then proposed an amendment to criterion c) through

modification 28 (b) ([CD/H/6](#)):

c) To ensure that the quality of approved development is not materially diminished between permission and completion, where appropriate, the Council will ~~use Planning Conditions to prevent incremental changes being made to approved plans~~ **resist subsequent planning applications** that would impact negatively on the design and quality of the **approved** scheme ~~proposed~~.

The reason for this modification is that the use of planning conditions (as previously worded) would be ultra vires in that they cannot pre-judge how the Council deals with subsequent planning applications. This modification has therefore been proposed to ensure that the policy is effective and sound.

The government has attached significant importance to achieving well-designed places and that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities (paragraph 126 of the NPPF). On this basis, the Council considers that it is justified to resist subsequent planning applications that would impact negatively on the design and quality of the approved scheme.

The Council proposed modification M28 (a) stating that the Council will prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. The design guides will provide guidance on the circumstances that criterion c) will be triggered.

Q164. What is the justification for suggested modifications M27, M28, M28(a) and M28(b) and are they necessary for soundness?

Council's Response:

The Council is of the view that these modifications are necessary for soundness.

M27 - the proposed modification helps to demonstrate that the Council will positively consider applications for tall buildings on appropriate sites. This will help to ensure that the most efficient use is made of available land and that the positive approach to development will help to meet identified needs (whilst still being consistent with achieving sustainable development).

M28 - the proposed modifications to criteria ii) and ix) help to clarify the important role that trees can play in supporting and improving the quality of the built environment. This is in line with the revised NPPF which highlights the contribution that trees can have on the urban environment and that they can also help mitigate and adapt to climate change. These changes will ensure that the policy is consistent with national guidance.

M28 - the proposed modifications to criterion viii) provide additional clarity as to how the policy requirements relating 'impacts' (noise, vehicular movements, loss of open space) will be applied. This will help to ensure that the policy is effective.

M28(a) - As explained within [WBC-E-02 Response to IL01](#) (p.1-14) the revisions to the supporting text (paragraphs 5.59, 5.72, 5.73) and the new criterion d) of Policy DM5 highlights and links the revised NPPF and the recently published national guidance, including the National Design Guide and the National Model Design Code. This change will

ensure that the policy is consistent with national guidance.

M28(b) - The use of conditions (as previously worded) would be ultra vires in that they cannot pre-judge how the Council deals with subsequent planning applications. The modification is therefore proposed to ensure that the policy is effective.

Public Realm (Policy DM6)

Q165. Is Policy DM6 positively prepared, justified, effective and consistent with national planning policy, in particular paragraphs 130 and 131 of the Framework which sets out the requirements for planning policies relating to design and the public realm?

Council's Response:

The enhancement of the public realm in Worthing, particularly in the town centre and seafront, is an integral part of the strategic objectives (SO13) for the town. Adur & Worthing Councils Corporate Plan, 'Platforms for Our Places' ([CD/X/4](#)) identifies a corporate commitment to deliver a programme of public realm improvements in Worthing to enhance the town centre. To complement this, the Council in partnership with WSCC has prepared a Public Realm Strategy ([CD/U/1](#)). Further to this, a Seafront Investment Plan ([CD/U/2](#)) was prepared in parallel which provides a comprehensive plan and delivery strategy for revitalising and reviewing the town's seafront.

In response to the economic shocks generated from the Covid-19 pandemic, the Councils published 'And Then...bouncing back in post pandemic Adur and Worthing' ([CD/X/5](#)) which recognises that better public realm is a likely bi-product of the pandemic and thus the Council will look to bring forward key aspects of our public realm work ahead of schedule.

It is evident that the enhancement of the public realm in Worthing is essential to support the vitality of Worthing Town centre in accordance with paragraph 86 of the NPPF. Good quality public realm that encompasses streets, parks, green infrastructure and pedestrian / cycle routes is essential in creating environments that people want to live and work in.

Whilst Policy DM6 has some cross-over with Policy DM5, it is considered that it was best to treat policy requirements associated with the public realm in a separate policy given that the enhancement of the public realm is a corporate priority of the Council. However, Policy DM6 should not be read in isolation and thus should be read alongside Policy DM5 (and other relevant policies) which is in conformity with paragraphs 130 and 131 of the NPPF. To ensure consistency with paragraph 131 of the NPPF, the council has proposed modification M28 to strengthen the effectiveness of the policy with regards to trees.

Q166. Is it sufficiently clear to decision makers, developers and local communities when and how improvements to the public realm and public art would be required and what scale of provision is likely to be sought? Is the policy justified and will be effective in meeting the Council's stated objectives?

Council's Response:

Within the 'Development Requirements' for site Allocations A7 (f), A12 (e) & A14 (d) there is explicit reference to public realm provision to be provided within future development proposals therefore making it clear to developers when and how improvements to the public realms would be required. In addition, criterion c) of Policy DM9 is explicit in that it is sufficiently clear that proposals for improvements to the public realm that are in line with the Council's Public Realm Strategy and Seafront Investment Plan will be supported.

Further to this, the [Worthing CIL Infrastructure Investment Plan 2020 - 2023](#) (Revised in 2021) sets out potential future priority projects which includes Public Realm and Public Art (Table 3). The IIP sets out that the Council's emerging Public Realm Strategy promotes a step change in the overall quality of the public realm. It helps to support the vitality and viability of Worthing town centre by improving access from the railway station, promoting enhanced pedestrian and cycle accessibility and enhancing the overall appearance and attractiveness of the area. This joint infrastructure project with the County Council is dependent on a funding strategy that includes CIL funding. The priority projects identified are:

- Railway Approach to town centre
- South Street
- Portland Road
- Montague Place

The IIP sets out that the priority projects that are selected for each financial year are dependent on the amount of CIL money that has been collected. Money can only be allocated if it is in the pot (not borrowed against projected income). Therefore projects will only be able to spend CIL money that it has been allocated for the financial year.

Adur & Worthing Councils are progressing an update to the Adur & Worthing Public Art Strategy ([CD/U/3](#)). The strategy will provide additional guidance on when and how improvements to public art would be required and what scale of provision is likely to be sought.

Policy DM6 also needs to be read in conjunction with Policy DM9: Infrastructure.

It is therefore considered that the policy is sufficiently clear and that it is justified and effective in meeting the Council's stated objectives.

Q167. Is the requirement for public art as part of all major development justified and based on adequate, proportionate and up-to-date evidence, particularly in relation to the effect on viability?

Council's Response:

The requirement for public art as set out in criterion f) has been informed by the Adur & Worthing Public Art Strategy ([CD/U/3](#)) which is currently in the process of being updated. Public art is seen as a key component of achieving enhanced public realm spaces, particularly in the town centre and seafront. Given that the enhancement of the public realm is a strategic objective (SO13) as part of the Council's corporate commitment to improve public realm in Worthing (see response provided to Q.165), the Council considers that the requirement for public art as part of all major development is justified. The policy should be read in conjunction with Policy DM9: Infrastructure.

In the context of the NPPF, public art contributes to strong, vibrant communities through the creation of quality places and related health, social and cultural well-being benefits. Planning Practice Guidance provides further guidance in relation to the approach. The PPG refers to cultural wellbeing and cultural facilities generally in both urban and rural areas, and the need for the development control system to have regard to these issues and facilities in planning for sustainable development.

National Model Design Code Part 2 ([CD/B/44A](#)) provides guidance on the preparation of masterplans for larger sites with public art being identified as a way of helping to create a sense of identity and character (p.43).

The Council considers that the provision of public art in major development schemes would represent a very minimal proportion of the overall cost to developers and the Council is of view that it would not, in isolation, make a scheme unviable that would have otherwise been viable. The Whole Plan Viability Assessment ([CD/G/14](#)) tested all policy requirements within the assessment. Furthermore, the WPVA builds in an appropriate buffer / margin so that the requirements set out in the WLP are not set at the margins of viability and are able to support development when economic circumstances adjust.

Q168. Is the policy sufficiently flexible to take account of the individual characteristics of sites and their environs, the nature of development proposed and whether implementation of public realm and art improvements are necessary or feasible?

Council's Response:

The policy has been written in a manner that allows for opportunities to come forward that seek to improve the public realm rather than setting out prescriptive requirements. Planning applications will be assessed on their own merits. Criterion c) is clear that proposals for improvements to the public realm that are in line with the Council's Public Realm Strategy and Seafront Investment Plan will be supported. In addition, within the 'Development Requirements' for site Allocations A7 (f), A12 (e) & A14 (d) there is explicit reference to public realm provision to be provided within future development proposals therefore making it clear to developers when and how improvements to the public realm would be required.

Q169. What is the justification for suggested modification M29 and is it necessary for soundness?

Council's Response:

As originally drafted the policy contained wording relating to illuminated advertisements that have since been considered to be unnecessary. It is considered that the first sentence of Policy DM6(e) is adequate for the effective and proper control of advertisements in the borough and that it is in accordance with the requirements of the NPPF and related planning practice guidance. This change will ensure that the policy is effective and consistent with national policy.

Historic Environment (Policies DM23 and DM24)

Q170. Does Policy DM23 satisfy the requirement set out in paragraph 190 of the NPPF for the plan to set out a positive strategy for the conservation and enjoyment of the historic environment?

Council's Response:

Paragraph 190 of the NPPF requires Plans to include a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats.

To support and deliver these objectives and complement and implement national legislation and policy from a local perspective the WLP includes two separate, but related, policies relating to the Historic Environment. In line with the NPPF and Historic England Guidance, the first of these (Policy DM23) 'The Strategic Approach' provides a positive and proactive strategy. This clearly addresses the requirements of paragraph 190 in that it commits the Council to a work programme that will update existing local guidance and take opportunities to seek improvements to heritage assets. The Council's Local Development Scheme ([CD/W/8](#)) confirms that this work will commence in spring 2022.

The Council has liaised with Historic England and local amenity groups throughout the preparation of the WLP. At Regulation 19 stage there were no representations submitted making any objection to the Council's policies for the historic environment. At the stage the representation from Historic England (ref SDWLP-46) included the following conclusion:

We welcome the inclusion of policies for the historic environment in the local plan that meet the obligation for preparing the positive strategy required by the NPPF. The key test of the soundness of the plan and the achievement of sustainable development as defined in the NPPF in respect of the elements that relate to the historic environment, in our view, have been met.

Q171. Is Policy DM24 justified, effective and consistent with national policy as set out in Section 16 of the NPPF? In particular:

i. Criterion c. suggests 'Heritage Impact Assessments' are only necessary where development would lead to substantial harm to, or total loss of a designated heritage asset. Is this consistent with national policy? Should the policy be modified to make it clear the impact assessments would be required wherever there may be potential for harm to designated or undesignated heritage assets? Is the policy clear how the Council would make use of any statements submitted?

ii. Is the policy consistent with the NPPF, in particular paragraphs 200 and 201, with regard to the circumstances in which development that results in harm to heritage assets may be permitted? In particular, does the policy reflect the concepts of 'less than substantial' and 'substantial' harm?

iii. Is the policy consistent with the NPPF, in particular paragraph 203, with regard to how proposals affecting non-designated heritage assets should be considered?

iv. Is criterion i. sufficiently clear and effective in terms of how important views will be identified and how decision makers will assess the impact of development on views

Council's Response:

Policy DM24 'The Historic Environment' clearly sets out heritage issues that proposed development should take account of and that the Council will consider when making decisions on relevant planning applications. As explained, within the response above, there has been support and no objection to the approach that the Council has advanced for the historic environment and this includes endorsement from Historic England.

Overall, the Council is of the view that Policy DM24 is justified, effective and consistent with national policy - particularly the NPPF and Historic England Guidance. More specifically, an in response to the Inspector's questions i) - iv):

i) Paragraph 202 of the NPPF states: *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.*

It is acknowledged that that current wording relating to Heritage Impact Assessments included within criterion c) only relates to designated assets. In part, this is because the Council has split the policy into the following sections: Designated Heritage Assets (c to f) and then undesignated assets (g to i). To ensure that the policy is effective and consistent with national policy the Council proposes the following modification that will ensure that Heritage Impact Assessments can be required to help inform the determination of planning applications that would impact on non-designated assets.

Add the following sentence to the end of criterion g):

Where proposed development may impact negatively on an undesignated heritage asset the Council will, where appropriate, require a Heritage Impact Assessment which will help to inform the determination of the application.

ii) To clarify the circumstances in which development that results in harm to heritage assets may be permitted and ensure that the policy is effective and consistent with the NPPF the Council proposes the following modification to criterion c).

Development should not adversely affect the setting of heritage assets. **Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, the Council will refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Where proposals may result in harm to a designated asset,** ~~Where a proposed development would lead to substantial harm to, or total loss of a designated heritage asset,~~ a Heritage Impact Assessment must be submitted describing the significance of any heritage assets affected, including any contribution made by their setting.

iii) Criteria g) to i) of Policy DM24 clearly describes the type of undesignated heritage assets found in Worthing and how development proposals that might affect them will be considered. It is made clear that proposals should respect, support, and where possible, positively contribute to the essential character of these assets. This along with the modification proposed above (see i) above) provides a clear, effectively and positively prepared policy that is consistent with the NPPF.

iv) The Council considers that the wording of criterion i) clearly explains how guidance on important views will be incorporated within the Council's Conservation and Heritage Guide when it is updated. It would not be appropriate for a Local Plan policy to be overly detailed and include reference to specific views. However, the policy goes on to helpfully set out in i) to iv) locations where the consideration of views will be particularly important. Again, without being unduly prescriptive, the policy explains that 'where views are demonstrably important to local character, development proposals should respect and protect what makes that view special'. Whilst more advice in this regard will be included within the updated Guide it is considered that for a Local Plan policy this wording is sufficiently clear and effective.

Worthing Borough Council
Planning Policy
Portland House
44, Richmond Road
Worthing
West Sussex
BN11 1HS



WORTHING BOROUGH
COUNCIL