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**Report of the Chief Planning Officer**

**Report to Development Plan Panel**

**Date: 11 December 2020**

**Subject: Leeds City Council Response to Government Consultation on Raising Accessibility Standards for New Homes**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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**Summary of main issues**

1. In September 2020 Government published a consultation paper which considers how to raise accessibility standards in new homes, recognising the importance of suitable homes for older and disabled people. In particular, the consultation paper considers how the existing optional standards for accessible and adaptable standards for homes and wheelchair user standards are used and whether Government should mandate a higher standard or reconsider the way existing optional standards are used.
2. A proposed Council response has been prepared for Members to consider and comment on. The Government's consultation deadline was 1<sup>st</sup> December and therefore a response has already been submitted, on the basis that it is interim, and pending further comment from this panel a final response will be sent to MHCLG.

**Recommendation**

3. Development Plan Panel is invited to consider and comment on the policy options and proposed Council consultation response.

## **1 Purpose of this Report**

- 1.1 This report outlines the approach to accessible housing standards in Leeds, the Government's consultation proposals and the Council's proposed response to the consultation. It seeks Members' views on the proposed response.

## **2 Background Information**

- 2.1 In 2015, Government introduced a new approach to accessible housing and published a new set of optional national technical standards under planning processes. The new technical standards sought to rationalise the many different housing standards being used at that time, including the Lifetime Homes standard and the Wheelchair Housing Design guide, into a simpler and more streamlined system.

- 2.2 The standards in the Building Regulations are:

- M4(1): Visitable dwellings – the basic standard for all new homes. This section of the Approved Document sets out guidance on the minimum standards of accessibility and is applicable to all newly erected dwellings. Guidance is provided on level access, level thresholds, door and corridor widths, entrance level WCs and accessible heights for controls.
- M4(2): Accessible and adaptable dwellings – sets a higher standard for accessible homes and is broadly equivalent to the Lifetime Homes Standard, providing enhanced accessibility in circulation spaces and bathrooms to make new homes more accessible. It also includes features to make homes more easily adaptable over time to a wide range of occupants, including older people, those with reduced mobility and some wheelchair users.
- M4(3): Wheelchair user dwellings – sets a standard for wheelchair accessible homes. This requirement can be for either a wheelchair adaptable home which includes features to make a home easy to convert to be fully wheelchair accessible or a wheelchair accessible home which includes the most common features required by wheelchair users. It also includes use of any outdoor spaces, parking and communal facilities that may be provided for the use of the occupants.

- 2.3 M4(1) is the default standard and applies as a mandatory requirement. M4(2) and M4(3) are optional requirements that local authorities can apply through planning policies where there is an evidence of local need and where viability supports the requirement. Once triggered, the optional standards then have the same legal weight as the mandatory provisions in the Building Regulations.

- 2.4 Leeds Core Strategy Policy H10 Accessible Housing Standards was introduced into the development plan in September 2019 through the Core Strategy Selective Review (CSSR). Policy H10 requires that all new build housing developments provide 30% of dwellings to meet M4(2) standards and 2% of dwellings to meet M4(3) standards.

- 2.5 The Council spent a significant amount of time and effort in introducing the policy and supporting it through the rigorous examination in public process and

the policy is now being actively used to secure accessible housing provision across Leeds. Leeds is seen as a leading authority on the use of accessible housing standards, and is one of the few authorities in the country to have successfully supported a policy like H10 through a local plan examination process.

- 2.6 In June 2019, Government announced its intention to consult on the accessibility of new homes and on 8 September 2020, the Ministry of Housing, Communities and Local Government published a consultation document 'Raising Accessibility Standards for New Homes'.<sup>1</sup> The consultation document considers options for raising accessibility standards, recognising the importance of suitable homes for older and disabled people.
- 2.7 The Government consultation provides the Council with an opportunity to provide feedback to Government on how accessible housing is being secured in Leeds, our approach, and the opportunities to increase the provision of accessible housing in the future.

### **3 Main Issues**

#### **Consultation Proposals – Policy Options**

- 3.1 The consultation paper seeks views on how to raise the accessibility of new homes, in order to meet Government's objective to ensure that there is enough suitable housing where it is needed. Based on available evidence, 5 broad policy options have been developed. The options range from waiting to see the full impact of recent planning policy changes on the use of the optional technical standards (in areas like Leeds) to mandating higher standards at a national level. Any changes to the standards could only apply to new homes, not to the refurbishment of existing homes.
- 3.2 The following sections of the report set out the 5 policy options outlined in the consultation paper alongside some commentary on the options. The report then goes on to set out the proposed LCC response to the Government's consultation questions.
- 3.3 **Option 1: Consider how recently revised planning policy on the use of optional technical standards impacts on delivery of accessible housing**
- 3.3.1 This option is the 'do nothing' approach which will not directly increase the provision of accessible housing but will help Government to understand the uptake of the optional requirements for M4(2) and M4(3) across different Local Planning Authority areas. This option may be more targeted at those Local Planning Authorities that haven't yet adopted standards.
- 3.3.2 Whilst increased Government understanding of the use of the optional standards is supported, evidence should be sought from LPAs to understand their experiences of implementing the standards through local plan policies. In

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<sup>1</sup> Link to Government Consultation Paper:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/917626/200813\\_con\\_doc\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/917626/200813_con_doc_-_final.pdf)

Leeds there have been a number of challenges, including with supporting policies through the CSSR Examination in Public and with implementing Policy H10 now that it has been adopted. These challenges can be summarised as follows:

- The process for adopting and implementing M4(2) and M4(3) requirements is complicated by the requirements being optional in Building Regulations terms and being 'switched on' by planning. The process is heavily reliant on developers notifying Building Control Authority which of the dwellings are supposed to meet the M4(2) and M4(3) requirements, giving rise to gaps and risks. These processes necessitate high levels of co-ordination between building control and planning services.
- Preparing and adopting the policy on accessible dwellings is a significant resource challenge (in financial terms and in officer time). This includes the evidence gathering stage and viability assessment, drafting the policies, public consultation, and then justifying the policy at examination stage.
- Implementation of the policy is challenging and requires negotiation and capacity building with the development industry. The implementation of the policy has also required additional processes to be put in place to ensure that M4(2) and M4(3) dwellings are being secured through planning permissions.

3.4 Option 2: To mandate the current M4(2) requirement in Building Regulations as a minimum standard for all new homes, with M4(1) applying by exception only where M4(2) is impractical and unachievable (e.g. a new build flat above a garage). M4(3) would apply where there is a local planning policy in place in which a need has been identified and evidenced.

3.4.1 This option would secure a much higher proportion of M4(2) dwellings at a national level whilst leaving flexibility for requiring M4(3) dwellings based on locally-identified needs. However, there are a number of factors that should be taken into account:

- Viability would need to be considered to ensure that contributions for greenspace, affordable housing and other infrastructure are not undermined or jeopardised.
- The list of exceptions where the M4(2) requirement would be eased and an M4(1) requirement triggered as the fall-back position would need to be made very clear and be very tightly prescribed at a national level to ensure consistency and provide certainty for applicants and for communities. Exceptions could include:
  - Providing flats above ground floor shops or other uses.
- The M4(1) standard should always be discouraged at ground floor level as there is scope for M4(2).
- Exceptions within the current M4(1) requirement can undermine attempts to improve accessibility and there is often varying degrees of flexibility across different Building Control Authorities in a competitive market.

- The current M4(1) visitable standard is often difficult to achieve in flats up to 18m where there is no requirement for a lift to be provided.
- This option still requires LPAs to prepare and implement a policy to require M4(3) dwellings and could lead to lower take-up at a national level as there would be a cost to LPAs for what could be a low percentage of M4(3) dwellings. From a LPA perspective, there may be less of an incentive to invest the resources in preparing a policy for M4(3) on its own.
- Applicants must be required to provide details of accessible housing up front at validation stage including evidence to demonstrate why M4(2) is not achievable (within the prescribed exceptions). Front-loading the provision of this information (through an accessibility statement or an accessible housing plan) would help to avoid negotiations and subsequent revisions to schemes to ensure compliance with the M4(2) and M4(3) standards which takes up time and resources.
- Resources would need to be made available at pace within the development industry to raise awareness and capacity for delivering M4(2) and M4(3) dwellings.

3.5 Option 3: Remove M4(1) altogether, so that all new homes will have to at least have the accessible and adaptable features of an M4(2) home. M4(3) would apply where there is a local planning policy in place in which a need has been identified and evidenced. This would mean that no new homes could be built as M4(1).

3.5.1 This option is very similar to Option 2 but with the removal of the M4(1) standard altogether. The following factors should be taken into account:

- There is a risk with this option that in circumstances where the M4(2) standard is genuinely unachievable there will be protracted negotiations with applicants to agree which M4(2) features can be included within a scheme and which aren't feasible. This could lead to delays and a failure to speed up the planning process.
- In Leeds it may be of benefit as planning officers could focus on securing M4(3) provision.
- This option would still require a planning policy to require M4(3) dwellings which would be expensive and time consuming for the majority of LPAs. Leeds may need to go through a local plan review process in order to change or increase the percentage requirements for M4(3).
- There could be risks to viability for smaller sites though would be relatively easy to implement on larger sites.

3.6 Option 4: To mandate the current M4(2) requirement in Building Regulations as a minimum standard for all new homes with M4(1) applying by exception only, a set percentage of M4(3) homes would also need to be applied in all areas. So rather than local authorities setting a local planning policy for the provision of M4(3), a defined and constant percentage would apply to all new housing.

3.6.1 This option would make provision of M4(2) and M4(3) mandatory across the country; local authorities would no longer need to introduce the optional standards through a planning policy, as Leeds has done.

3.6.2 This option would significantly boost the delivery of both M4(2) and M4(3) requirements across the country and is the best option in terms of increasing the delivery of accessible homes. It would make it much easier to achieve the Best Council Plan objectives of improving the availability of suitable housing for all residents in Leeds.

3.6.3 There are a number of observations that should be taken into account:

- This option would remove the financial burden placed on LPAs seeking to implement local planning policies.
- It would be simpler to understand from a Building Control Authority perspective and an applicant perspective as expectations will be clear up front.
- There are concerns regarding viability, however the extra cost of providing M4(3) homes in particular are likely to be off-set by higher prices (as outlined within the Council's Economic Viability Study).
- A regional approach to the percentage requirements for M4(3) may be helpful, to account for differences in viability between different housing market areas at a LPA or sub-regional level. An online tool would be required so that applicants and Building Control Authorities are able to access the required standard for a particular area. It would be beneficial for Leeds only if the M4(3) % is set higher than the current H10 requirement of 2%.
- The exceptions to justify M4(1) as opposed to M4(2) would need to be very clearly defined, as with Option 2.
- Again, as with Option 2, applicants must be required to provide details of accessible housing up front at validation stage including evidence to demonstrate why M4(2) is not achievable (within the prescribed exceptions). Front-loading the provision of this information (through an accessibility statement or an accessible housing plan) would help to avoid negotiations and subsequent revisions to schemes to ensure compliance with the M4(2) and M4(3) standards which takes up time and resources.
- Resources would need to be made available at pace within the development industry to raise awareness and capacity for delivering M4(2) and M4(3) dwellings.

3.7 Option 5: Change the content of the mandatory technical standard. This could be done by upgrading the statutory guidance to create a revised M4(1) minimum standard. This revised standard could be pitched between the existing requirements of M4(1) and M4(2), adding more accessible features into the minimum standard.

3.7.1 This option proposes to increase the minimum requirements of the M4(1) visitable standard but is not clear on what changes (if any) there would be to

the optional requirements for M4(2) or M4(3). However it does not go much further than Option 1.

3.7.2 This option could risk over-complicating the standards and basic requirements of M4(1) without clarity on what would happen with the M4(2) standard and the M4(3) standard. It could generate substantial work for LPAs and Building Control Authorities with only marginal benefits. There are a number of concerns with this approach:

- A significant amount of work would be required at the national level to upgrade M4(1) which could be disproportionate to the gains (in accessibility terms) generated by improving the standard, as opposed to implementing M4(2) as the new basic standard outlined in Options 2, 3 and 4. It is unclear how much difference there would be between M4(1) and M4(2) standards.
- LPAs would still be required to 'switch on' M4(2) and M4(3) through planning policies.
- It would be difficult and complex for Building Control Authorities to implement and generate only marginal improvements beyond the current M4(1) standard.
- Local authorities who have already been through LP examination processes to require M4(2) and M4(3) may need to go through the local plan examination process again.
- It could be confusing for Building Control Authorities to assess the standards.
- It is also unclear what the exceptional circumstances may be to justify the differences between the upgraded M4(1) and M4(2) provision.

### **Consultation Questions**

3.8 The Council's proposed response to the consultation questions within the consultation paper is set out at **Appendix 1**.

## **4 Next steps**

4.1 A copy of **Appendix 1** was sent to MHCLG in time for the deadline of 1<sup>st</sup> December as an "interim response". Subject to Members' comments a final Leeds City Council response will be submitted to Government following this meeting.

## **5 Corporate Considerations**

### **5.1 Consultation and engagement**

5.1.1 Informal consultation with the Leeds Older People's Forum and the Leeds Access and Use-Ability Group has helped to inform the Council's proposed consultation response.

5.1.2 The Government's consultation deadline was on Tuesday 1 December and it was not possible to bring a paper to Development Plan Panel for consideration in advance of the consultation deadline. An interim draft response has

therefore been submitted to Government pending further comments from Development Plan Panel.

## **5.2 Equality and diversity / cohesion and integration**

5.2.1 An initial EIA assessment of the proposed policy options has been prepared by the Government which finds that any of the options, including the 'do nothing' option will have a positive impact on the protected characteristics of age and disability. The Government assessment concludes that the policy options will have a positive equalities impact. No negative impacts have been identified.

5.2.2 It is clear that of the 5 proposed policy options, some options (particularly 2 and 4) will have a more beneficial impact for those in need of accessible housing. The comparative benefits of the options set out in the paper could be further clarified and this will be clarified in the Council's response.

## **5.3 Council policies and the Best Council Plan**

5.3.1 There is a clear role for planning in delivering against all of the Council's priorities as established through the Best Council Plan (BCP).

5.3.2 The proposed policy options to improve the delivery of accessible housing have a clear relationship to BCP ambitions for improving health and wellbeing outcomes by enabling people to receive care in the right place (in their own homes).

5.3.3 Additionally, the options will help to meet BCP housing priorities by providing housing of the right quality, type, tenure and affordability in the right places and by providing the right housing options to support older and vulnerable residents to remain active and independent.

5.3.4 Increasing the provision of accessible housing in Leeds will also help Leeds to become an Age Friendly City.

## **5.4 Resources, procurement and value for money**

5.5 There are no specific resource implications arising from this report.

## **5.6 Legal implications, access to information, and call-in**

5.6.1 There are no specific legal implications arising from this report.

## **5.7 Risk management**

5.7.1 Should accessible housing provision not increase in Leeds there are risks to residents in terms of securing the right type of housing to meet their needs.

## **6 Conclusion**

6.1 This report has set out the Government's consultation document, including 5 broad policy options which seek to increase the accessibility of new homes. The Council's proposed response to the consultation document concludes that

Policy Option 4 is the most preferable as it will significantly boost the delivery of accessible housing at a national scale.

## **7 Recommendation**

- 7.1 Development Plan Panel is invited to consider and comment on the policy options and proposed Leeds City Council consultation response.

## Appendix 1 – Draft Council Response

### ***Do you support the Government's intention to raise accessibility standards for new homes?***

Proposed response:

Yes. The Government's intention to raise accessibility standards echoes the ambitions of Leeds City Council and is in line with Best Council Plan objectives.

### ***Which of the 5 options do you support? Please explain your reasons (including the advantages and disadvantages of your preferred option(s)).***

Proposed response:

Based on the assessment outlined in 3.3 – 3.11, Leeds City Council supports Option 4. Commentary on Option 4 as set out above will be inserted in to the response here.

Option 4 would significantly boost the supply of accessible housing at a national level, with M4(2) now becoming the mandated basic standard for all new homes and a set percentage of M4(3) dwellings being required.

### ***If none – do you think the Government should take a different approach?***

Proposed response:

N/A.

### ***Do you agree with the estimated additional cost per dwelling of meeting M4(2), compared to current industry standards, in paragraph 44? If no, please comment on what you estimate these costs to be and how you would expect these costs to vary between types of housing e.g. detached, semi-detached or flats?***

The consultation paper also includes some commentary on the costs associated with mandating M4(2) as the basic standard across all new housing in England. The paper suggests that the estimated cost is £311m per annum across a 10-year appraisal period. This is the additional cost of building new homes as a result of the policy, the majority of which would likely fall on developers in the first instance.

Proposed response:

N/A – suggest no response. The Council does not have access to the evidence to be able to respond to this question in detail. The Council used Government figures to justify the proposed accessible housing policy through the CSSR process as part of viability evidence.

***Do you agree with the proportion of new dwellings already meeting or exceeding M4(2) over the next ten years in paragraph 44? If no, please comment on your alternative view and how you would expect this to vary between types of housing e.g. detached, semi-detached or flats?***

The estimated additional cost per new dwelling is approximately £1,400 for units which would not already meet M4(2). Government has estimated that 10% of new dwellings already meet or exceed M4(2), and that this percentage would grow over time even without Government intervention, to 30% in 10 years' time.

Proposed response:

The increase in delivery of M4(2) is assumed to be dependent on more LPAs adopting a local plan policy. Should the delivery of M4(2) be left to the market alone it is not considered that the percentages of M4(2) dwellings would increase. Monitoring of planning applications since the introduction of the Leeds Core Strategy Policy H10 suggests that applicants have a limited understanding of the M4(2) requirements and securing accessible housing provision in line with the policy requirements has required substantial effort on the Council's part in terms of negotiating with applicants and the establishment of new procedures.

It is not considered that the provision of M4(2) would increase naturally without a planning policy requirement or a mandating of M4(2) as the new baseline standard by Government, particularly if there are market uncertainties regarding Covid-19 and economic recovery.

***Do you have any comments on the costs and benefits of the other options set out above? If yes, please provide your comments including any evidence to support your response.***

Proposed response:

Commentary on Policy Options 1, 2, 3 and 5 will be inserted into the response here.