

Optional Housing Standards: Building Regulations Part M4(2) and M4(3) Guidance Note: November 2018

Introduction

1. South Lakeland District Council, as planning authority for the district outside the National Parks, is introducing the optional Building Regulations M4(2) and M4(3) for accessible and adaptable homes through Policy DM11 of its Development Management Policies Development Plan Document (DMDPD).
2. Policy DM11 will require all new build (not conversions/change of use) homes in the district to meet the M4(2) standards for accessible and adaptable homes, and 5% of homes on sites over 40 units to meet the M4(3) wheelchair adaptable standard. Policy DM11 of the DPD sets out specific circumstances whereby homes may be exempted from the new requirements, for example due to site slopes or exceptional viability issues. The DPD and accompanying background information and evidence can be found on the Council's [website](#)¹.
3. This policy is being introduced to ensure that new homes being built in the district are more accessible and adaptable to help meet people's needs as they change through their lifetime. These homes, whilst being suitable for everyone, will particularly benefit our ageing population, families with children, and anyone that may live with temporary or permanent disabilities or mobility impairments.
4. When adopted the DMDPD will form part of the Local Plan for South Lakeland (outside the National Parks), and planning decisions must therefore be taken in accordance with it unless material considerations indicate otherwise.
5. This note provides some guidance on the introduction of the standards in the lead up to the formal adoption of the DMDPD and explains how the emerging DPD policy will be taken into account in planning decisions in the transitional period. It is intended to raise awareness of the forthcoming formal adoption of these standards, so that developers, agents and applicants can prepare for their introduction.

¹ <https://www.southlakeland.gov.uk/planning-and-building/south-lakeland-local-plan/development-management-policies-development-plan-document-dpd/development-management-policies-dpd-examination>

Update on the preparation of the DMDPD

Progress to date

6. The Council commenced the preparation of the DMDPD in 2015, and submitted it to the Planning Inspectorate in February 2018 for public examination, with hearings taking place in June 2018.
7. On 28 June 2018 the Council received the Inspector's post-hearings letter and published it on the DMDPD Examination webpage². The Inspector confirmed in his letter that he is satisfied that the principle of the policy in requiring all new homes to be M4(2) compliant is justified based on the evidence presented. The Inspector has however requested some modifications to the policy wording to improve its clarity for decision making. The Council has therefore proposed two additional criteria to clarify that the M4(2) and M4(3) standards will not be required where site specific factors mean that step-free access to the dwellings cannot be achieved, or where the dwellings are located on the first floor or above of a non-lift serviced multi-storey development.

Next steps

8. The proposed modifications are being subject to a six week consultation period commencing 25 October 2018. Representations to this consultation will be provided to the Inspector for his consideration and he will then proceed to issue his final examination report. Upon receipt of the final report the Council will conduct the necessary procedures for the DMDPD to be formally adopted, at which point it will form part of the adopted development plan for the district. Adoption is currently scheduled for 26 February 2019.

Status of the DPD and transitional arrangements for decision making

Weight to be attached to Policy DM11 before the DPD's adoption

9. The National Planning Policy Framework (at paragraph 48) states that local authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

² <https://www.southlakeland.gov.uk/planning-and-building/south-lakeland-local-plan/development-management-policies-development-plan-document-dpd/development-management-policies-dpd-examination/>

10. The Development Management Policies DPD is clearly at an advanced stage of preparation as explained above. In the course of the examination, including the hearings, the Inspector has considered the objections raised to Policy DM11 and has reached the conclusion that the principle of the policy is justified. It is therefore considered that the unresolved objections from the formal Publication stage are now resolved in the Inspector's view.
11. Given the advanced stage of preparation of the DMDPD, and the confirmation from the Inspector in his letter on 28 June that the overarching principles of Policy DM11 are justified, the Council considers that it is correct that significant weight should now be attached to Policy DM11 in decision making.

Transitional arrangements for decision making until the DPD's adoption

12. In the transitional period until the formal adoption of the DMDPD the Council will judge the weight to be attached to Policy DM11 of the DMDPD on a case by case basis. For schemes that are at an advanced planning stage (for example full applications have been submitted following the pre-application process) and will be approved prior to the DPD's adoption the Council will be pragmatic in its approach and take into account the viability and housing delivery issues that may arise from requiring significant design amendments to schemes at a late stage.
13. For proposals that are currently at an early design and planning stage and are likely to be approved prior to the DPD's formal adoption, developers should be factoring the new requirements into their schemes at the earliest opportunity and raise any potential site specific issues with the Development Management service. The Council will attach significant weight to Policy DM11 in these cases.

Decision making after the DPD's adoption

14. From the date of the formal adoption of the DMDPD the Council will expect all residential proposals to accord with Policy DM11 of the DMDPD unless material considerations indicate otherwise. The policy does allow for exemptions in exceptional circumstances and any scheme approved after this date that does not conform to Policy DM11 will need to provide justification as to why the requirements cannot be met.
15. The site specific circumstances whereby exemptions to the policy requirement may be considered acceptable include:
 - Where the physical characteristics of the site (e.g. its topography or physical constraints) result in the standards being practically unachievable.
 - Where the viability of the scheme would be significantly harmed.
 - Where step-free access to dwellings cannot be reasonably achieved.

- Where dwellings are on the first floor or above of a multi storey building that has no lift provision.

16. It is acknowledged that the adoption of the DPD could affect a number of emerging development schemes, including schemes that are currently at an early design and planning stage and also some schemes that are currently at a more advanced stage of preparation but are unlikely to be determined before the DPD is adopted. The Council would encourage applicants who have emerging schemes that may be determined after the DPD's adoption to contact the Council's Development Management service at the earliest opportunity to discuss the implications.

Preparing for the new standards

17. The Council recognises that the introduction of the new building regulations on accessible and adaptable homes constitute an important policy change in the planning authority area. It is working to develop procedures within the Development Management and Building Control departments to ensure the smooth implementation of the new policy. The Council is also planning on publicising and communicating the new requirements as the DMDPD nears adoption, particularly to those builders, architects and potential applicants who may not already be aware of the progress of the DMDPD.
18. The Council would encourage all developers, architects, agents, building control bodies and applicants to prepare themselves for the introduction of the new building regulation accessibility standards at the earliest opportunity. We are aware that some developers have already taken steps to consider the implications for their standard house types and would encourage others to do the same if they have not done so already. The Council would also welcome the opportunity to meet with local developers to discuss any further queries in relation to the introduction of the new standards.

Further Information

HM Government: The Building Regulations 2010: [Approved Document M – Access to and use of buildings](#)³

Ministry of Housing, Communities and Local Government: Planning Practice Guidance – [Housing: optional technical standards](#)⁴

South Lakeland District Council: [Evidence Paper: Optional Housing Standards](#)⁵

Contact Details

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/540330/BR_PDF_AD_M1_2015_with_2016_amendments_V3.pdf

⁴ <https://www.gov.uk/guidance/housing-optional-technical-standards>

⁵ <https://www.southlakeland.gov.uk/media/4174/updated-optional-housing-standards-evidence-paper-aug-2017.pdf>