1. **Purpose of Report**

1.1 To advise Members of the outcome of the statutory consultation exercise held on the Development Management Development Plan Document (DM DPD) Publication version, and to seek Cabinet approval of the attached ‘Council Response’ to allow the DM DPD to be submitted\(^1\) to the Secretary of State for independent examination.

2. **Recommendations**

2.1 That Cabinet:

1. Note the number of representations received to the Publication DM DPD and the summary of the main issues raised; and

2. Approve the DM DPD Publication version, and consider and approved the proposed ‘Council Response’, for Submission to the Secretary of State.

3. **Reasons for Recommendations and Background**

3.1 The DM DPD forms an important part of the new Local Plan for Hyndburn. The DM DPD will set out the more detailed planning policies to be used by Development Management Officers and Planning Committee in determining planning applications for the Borough. Once complete, the DM DPD will sit alongside the Core Strategy and

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\(^1\) under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012
Accrington Area Action Plan, parts of the Local Plan already adopted by the Council (in 2012). It will replace the majority of Local Plan (1996) policies that remain extant².

3.2 As set out in detail in the Cabinet Report dated 31st August 2016, the Publication DM DPD contains 39 policies in total, organised into 8 Core Chapters (General Considerations, The Economy & Town Centres, Community Infrastructure, Housing, Environment – Natural & Built, Environment – Design & Quality, Accessibility & Transport, and Rural Matters).

3.3 The DM DPD also contains nine ‘Guidance Notes’ which provide further detailed guidance on specific policy matters where required (for example on issues such as affordable housing and shop front design). It also comprises ‘Policy Maps’ which confirm and identify the spatial extent of key policy constraints referenced within the policies (such as green belt, town centre boundaries etc.).

3.4 The Publication version of the DM DPD (which is the Council’s final version of the document) was open for comment for a period of six weeks between 29th September and the 10th November 2016. During this period a total of 18 organisations made representations, equating to a total of 97 individual comments.

3.5 At this stage of production of the DPD, comments/representations should only relate to the ‘legal compliance’ of the document (with regards to the Town and Country Planning (Local Planning) (England) Regulations 2012, Duty to Co-operate and procedural requirements) or the ‘soundness’ of the document. Table 1 below provides a summary of the comments received, in relation to these two key tests.

<table>
<thead>
<tr>
<th>Representation</th>
<th>No. of representations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the DM DPD ‘Legally Compliant’?</td>
<td>47 Yes, 3 No, 47 Not Stated</td>
</tr>
<tr>
<td>Is the DM DPD ‘Sound’?</td>
<td>16 Yes, 57 No, 24 Not Stated</td>
</tr>
</tbody>
</table>

3.6 Paragraph 182 of the National Planning Policy Framework sets out four separate issues relating to the ‘soundness’ of Local Plan documents. Table 2 provides a breakdown of the 57 representations made in relation to the ‘soundness’ of the document. Respondents could select one or more of the tests of soundness against which they could object.

<table>
<thead>
<tr>
<th>Reason</th>
<th>No. of representations</th>
</tr>
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</table>

² Once the DM DPD is adopted the only policies that will remain extant from the 1996 Local Plan will relate to land allocations. These will be replaced by a Site Allocations DPD, which itself will be produced in accordance with the Council’s published Local Development Scheme (2015-2018).

³ Officers are currently seeking confirmation with regards to the 3 representations on ‘legal compliance’ as they are all made by the same representee yet no details are provided in the representation as to why the DPD is not legally compliant.
| It is not ‘positively prepared’ | 7 |
| It is not ‘justified’ | 32 |
| It is not ‘effective’ | 27 |
| It is not ‘consistent with national policy’ | 22 |
| Reason not given | 7 |

3.7 Section 5 of this report provides further details of the organisations who responded, and a summary of the key issues/policies that representations related to.

3.8 A separate report ‘Development Management DPD Publication – Representations and proposed Council Response’ is also attached to this Cabinet report offering a full breakdown of all the 97 representations. For each representation the following details are provided:

- References to the specific part of the DM DPD to which the Representation relates;
- Why that part of the DM DPD is not considered to be legally compliant or sound;
- What changes the representee considers are necessary;
- Additional comments of relevance from the representee; and
- The proposed Council response and accompanying notes of relevance

4. **Alternative Options considered and Reasons for Rejection**

4.1 The DM DPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. As the preparation of this document is to be in accordance with this legal framework there are no alternative options for its preparation.

5. **Consultations**

5.1 A wide range of people and organisations have been involved in the evolution of the DM DPD up to this point. Four main public consultation events have now been undertaken:

- May-June 2012 (Issues and Options)
- Nov-Jan 2013 (Preferred Options)\(^4\)
- Feb-Mar 2016 (Consultation Draft); and
- Sep-Nov 2016 (Publication) pre-submission version.

5.2 At each stage of the process comments received during consultation periods have been taken into account in subsequent versions and these have all been reported

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\(^4\) Both of these early consultations were completed in accordance with earlier regulations the Town and Country Planning (Local Development) (England) Regulations 2004
through Cabinet. This has led to a reduction in the number of outstanding comments from 248 at the previous Consultation Draft stage, down to 97 at this Publication stage.

5.3 The Council is unable to make further changes to the DM DPD at this point\(^5\) and therefore all representations set out in the attached report are to be submitted alongside the Publication version plan to the Secretary of State for independent examination by the Planning Inspectorate (PINS).

5.4 Whilst it is not a legal requirement, PINS state\(^6\) that it is very helpful for the local authority to indicate its response to representations received at the Submission stage. The attached report therefore provides the proposed Council Response to each individual comment in the final column along with notes of relevance. Cabinet is asked to consider and approve the proposed Council Response under each representation.

**Summary of representors**

5.4 The 18 organisations that have made representations to the Publication version DM DPD are listed below in the order that they were received. Those highlighted in bold relate to organisations that have objected and that will therefore have to be considered further by the Planning Inspector appointed by PINS. A summary of the main issues raised by each of these ‘objecting’ parties is also set out below.

- P. Wilson & Company Ltd (on behalf of R&J Townson)
- P. Wilson & Company Ltd (on behalf of Messrs Townson & Coar)
- Theatres Trust
- Environment Agency
- Outdoor Advertising Consultants (on behalf of the British Sign & Graphics Association)
- Historic England
- Ribble Valley Borough Council (Officer delegated response)
- The Coal Authority
- Persimmon Homes Lancashire
- Home Builders Federation (HBF)
- United Utilities
- RPS Planning and Development (on behalf of Clowes Developments Ltd – owners of former Huncoat Power Station)
- Canal and River Trust
- Planning Prospects (on behalf of Dransfield Properties Ltd)
- JWPC Ltd
- Cushman & Wakefield (on behalf of Royal Mail Group Ltd)
- Blackburn with Darwen Borough Council

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\(^5\) Without having to re-consult on any proposed modifications

\(^6\) p12 of ‘Procedural Practice in the Examination of Local Plans’, The Planning Inspectorate, June 2016 (4\(^{th}\) Edition v.1)
NJL Consulting (on behalf of Peel Holdings Land and Property Ltd)

Summary of the key issues

5.5 The following is a summary of the matters/subjects of objection raised by the 10 organisations who seek amendments to one or more parts of the DPD. These are set out in full in the accompanying report and will be considered by the Planning Inspector (once appointed by PINS) in more detail at the examination in public.

- **P. Wilson & Company Ltd** – requests an amendment be made to the Green Belt boundary at Knuzden (however this is not a matter to be covered by the DM DPD);
- **Outdoor Advertising Consultants** – argues that the additional guidance on advertisements and shop fronts contained in Guidance Notes GN4 and GN5 is unnecessary, excessively detailed and prescriptive;
- **Persimmon Homes Lancashire** – argues that a number of policies are unsound including GC2 (Infrastructure, Planning Obligations and CIL), DM10 (New Residential Development), DM11 (Open Space Provision in New Residential Development), DM12 (Affordable Housing), DM16 (Housing Standards), DM17 (Trees, Woodland and Hedgerows), DM20 (Flood Risk Management and Water Resources), DM26 (Design Quality and Materials), DM31 (Waste Management in all new Development), DM32 (Sustainable Transport, Traffic and Highway Safety) and DM33 (Sustainable Transport Infrastructure);
- **Home Builders Federation** – argues that a number of policies are unsound including GC2 (Infrastructure, Planning Obligations and CIL), DM10 (New Residential Development), DM12 (Affordable Housing), DM16 (Housing Standards) and DM26 (Design Quality and Materials);
- **RPS Planning and Development** – argues that a number of policies are unsound including GC2 (Infrastructure, Planning Obligations and CIL), DM1 (Employment Development) and DM3 (Town Centre Development);
- **Planning Prospects Ltd** – argues that a number of policies are unsound including DM1 (Employment Development), DM3 (Town Centre Development), DM11 (Open Space Provision in New Residential Development), DM22 (Heritage Assets) and DM23 (Demolition of Buildings in Conservation Areas);
- **JWPC Ltd** – argues that a number of policies could be improved including DM4 (Retail Frontages), DM5 (Hot Food Takeaways), DM7 (Cultural & Community Facilities), DM8 (Public Houses), DM13 (Development of Housing within Residential Gardens), DM14 (Housing with Care for Older People and People with Disabilities) and DM16 (Housing Standards);
- **Cushman & Wakefield** – argues that a number of policies are unsound including DM1 (Employment Development), DM10 (New Residential Development) and DM29 (Environmental Amenity);
- **Blackburn with Darwen Borough Council** – argues that Policy DM3 (Town Centre Development) is unsound; and
- **NJL Consulting** – argues that Policy DM3 (Town Centre Development) is unsound.

### Next steps

5.6 The Publication DM DPD is now required to be submitted to the Secretary of State, for which this report seeks Cabinet approval. The Council will have to submit the DPD along with the representations received and a significant list of other supporting documents set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 and the PINS guidance ‘Procedural Practice in the Examination of Local Plans’.

5.7 Officers will prepare these supporting documents and, following Cabinet and Council approval, will aim to formally submit the DPD late in January 2016. A Planning Inspector will then be appointed and a date for an examination in public will be agreed (anticipated late Spring / early Summer). It is anticipated that the Council will have a final adopted DM DPD sometime late in 2017.

### Implications

<table>
<thead>
<tr>
<th>Financial implications (including any future financial commitments for the Council)</th>
<th>The DPD will now be subject to an Examination in Public and there will be a need for the Council to fund this, the cost is estimated at around £15,000 with savings having been made by appointing a Programme Officer internally.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal and human rights implications</td>
<td>A DPD is a part of the statutory development plan for the Borough. It is therefore the starting point for considering planning applications and should be given considerable weight in decision-making once it reaches the ‘Publication’ stage. Once adopted, the DM DPD will be given full-weight in decision-making.</td>
</tr>
</tbody>
</table>
| Assessment of risk | There are no significant risks associated with submission of the DM DPD. An Inspector may determine that further amendments should be made to the document following the Examination in Public; however these are not legally binding. Should there be ‘major

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7 For example a Consultation Statement, Sustainability Appraisal, relevant Habitat Regulations Assessment documents, a Statement of Compliance with the Duty to Co-operate, Legal and Soundness self-assessment checklists etc.
| **Equality and diversity implications**  
* Equality and diversity implications*  
* A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.*  
| The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report, Cabinet must have regard to the need to:  
  - eliminate unlawful discrimination, harassment and victimisation; and  
  - advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and  
  - foster good relations between those who share a relevant protected characteristic and those who don't.  
For these purposes, the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. When making a decision in respect of the proposals in this report, members should have regard to the Customer First Analysis annexed to this report.

7. **Local Government (Access to Information) Act 1985:**  
**List of Background Papers**

7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*

Development Management DPD Publication – Representations and proposed Council Response