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# Report to South Derbyshire District Council

**by Jill Kingaby BSc(Econ) MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

Date 10 May 2016

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)  
SECTION 20

REPORT ON THE EXAMINATION OF THE SOUTH DERBYSHIRE  
LOCAL PLAN – PART 1

Document submitted for examination on 8<sup>th</sup> August 2014

Examination hearings held 25<sup>th</sup> November to 5<sup>th</sup> December 2014, 23<sup>rd</sup> October 2015,  
and 8<sup>th</sup> to 10<sup>th</sup> December 2015.

File Ref: PINS/F1040/429/1

## Abbreviations Used in this Report

AA	Appropriate Assessment
CIL	Community Infrastructure Levy
DCLG	Department for Communities and Local Government
GTAA	Gypsy and Traveller Accommodation Assessment
HMA	Housing Market Area
HWRC	Household Waste Recycling Centre
LDS	Local Development Scheme
MM	Main Modification
NPPF	National Planning Policy Framework
OAN	Objectively Assessed Need
ONS	Office for National Statistics
PPG	National Planning Practice Guidance
PSED	Public Sector Equality Duty
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SDITL	South Derby Integrated Transport Link
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNPP	Sub-national Population Projections
SPD	Supplementary Planning Document
SRFI	Strategic Rail Freight Interchange

## **Non-Technical Summary**

This report concludes that the South Derbyshire Local Plan Part 1 provides an appropriate basis for the planning of the District, providing a number of modifications are made to the plan. The South Derbyshire District Council has specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

Nearly all the modifications to address the soundness of the plan were proposed by the Council. I have amended the detailed wording of one modification, added one consequential modification and included, as a main modification, changes which the Council put forward as "minor modifications". I have recommended the inclusion of modifications after considering the representations from other parties on all the issues.

The Main Modifications can be summarised as follows:

- Modifications to give the most up-to-date housing targets for the Derby housing market area and District, re-based for the plan period 2011-28; in short, that the total housing need in the Derby housing market area is 33,388 dwellings for 2011-28, and at least 12,618 dwellings should be provided in South Derbyshire, over this time period;
- Land west of Mickleover should be identified as a strategic site for around 1,650 dwellings in a new Policy H19;
- Policy S5 should make clear that "a minimum" of 53 hectares of new employment land is sought in South Derbyshire 2011-28, with changes to Policies E1, E4 and E5 to increase and widen the range of sites available;
- A new Policy E7 should be added to encourage rural businesses in well-designed, new buildings with modifications to Policy E2 to ensure that appropriate protection is given to landscape and other environmental assets. Policy INF10 should be strengthened so as to promote tourism development opportunities;
- Modifications to protect, conserve and enhance heritage, landscape and rural character as sought by English Heritage (now Historic England) and the National Trust, and to reflect the latest Government policy and guidance on good design in the built environment; and
- Amendment of Policy INF1 to reflect the Council's current position on developing a CIL charging schedule and revising its Planning Obligations SPD.

## Introduction

1. This report contains my assessment of the South Derbyshire Local Plan Part 1 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) (NPPF) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the South Derbyshire Pre-Submission Local Plan Part 1 (March 2014) which is the same as the document published for consultation in March-April 2014 [C.1]<sup>1</sup>. The Council published a Schedule of Proposed Minor Modifications to the Pre-Submission Local Plan, C.6 with C.32, when submitting the plan to the Inspectorate for examination. This Schedule was considered by representors before and at the hearings, and I take it into account in my report.
3. After the hearings held in November and December 2014, which included a joint hearing session with the Inspector appointed to examine the Local Plan for Amber Valley, I pointed out a number of deficiencies in relation to the soundness of the South Derbyshire Local Plan to the Council. Following additional work, some undertaken jointly with Amber Valley and Derby City Councils, additional hearings were held in October and December 2015.
4. My report deals with the main modifications that are needed to make the submitted plan sound and legally compliant and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act, the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix to this report.
5. The main modifications that are necessary for soundness and legal compliance all relate to matters that were discussed at the Examination hearing sessions in 2014 and 2015. After the sessions held in December 2015, the Council prepared a comprehensive schedule of proposed main modifications and carried out sustainability appraisal (SA) where necessary, and this schedule was subject to public consultation for more than six weeks in early 2016. I have taken account of the consultation responses in coming to my conclusions in this report, and in this light I have made amendments to detailed wording and added consequential modifications in a small number of cases where these are necessary for consistency or clarity. None of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and SA that has been undertaken. I have explained the amendments in the report. I am satisfied

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<sup>1</sup> [ ] Documents shown in brackets are numbered as they appear in the Examination Library

that the proposed main modifications would not alter the underlying strategy or direction of the plan.

## Assessment of Duty to Co-operate

6. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A of the 2004 Act in relation to the Plan's preparation. South Derbyshire District Council advised that it had worked constructively, actively and in an ongoing manner since 2009, alongside Derby City and Amber Valley District Councils, with which it forms a housing market area (HMA). The partnership carried out joint studies of housing requirements, sustained regular contact between officers, and set up working groups relating to transport, education, infrastructure, flood risk and cross-boundary sites as well as housing. Elected members of the three Councils engaged through a Joint Advisory Board. Derbyshire County Council was included in this Board and in the officer working groups.
7. I have considered the assertion by some representors that working relationships between the 3 Councils and County Council broke down following the suspension of the examination for the Amber Valley Local Plan in 2014 to carry out sensitivity testing for housing targets. It seems to me that, although this new work on objectively assessed housing need and its division between the Councils created fresh challenges, there was insufficient evidence that co-operation had broken down.
8. It was suggested that South Derbyshire should have submitted a Joint Local Plan with Amber Valley and Derby City Councils to address concerns about a lack of compliance with the duty to co-operate over the apportionment of housing numbers between the authorities. Section 28 of the 2004 Act states that two or more local planning authorities may agree to prepare one or more joint local development documents (my underlining). I was advised that this approach had been used in Cambridge and South Cambridgeshire, and joint hearing sessions had been held for the examination of Redditch Local Plan and Bromsgrove District Plan. The prospect of joint allocation plans was raised in 2007 by Derby City Council, but not pursued for reasons that are not specified<sup>2</sup>. However, many of the local planning authorities in the Midlands and elsewhere have chosen to produce independent plans which have been found sound, and in my view discretion can be exercised. The decision to submit a Local Plan for one authority, as South Derbyshire did, does not mean failure to meet the duty to co-operate.
9. Following the joint hearing session held in 2014, I and the Inspector examining Amber Valley's Local Plan expressed concern that the apportionment of housing within the Derby HMA between the constituent local authorities was not clearly justified. The Authorities were requested to re-examine the planned apportionments of objectively-assessed housing need and carry out a fresh joint SA. The Authorities expressed their willingness to work together to meet the housing need of the HMA in full; the resulting figures for apportionment supported by SAs were discussed at the joint

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<sup>2</sup> Report to Environmental & Development Services from Director of Community and Planning Services, 20<sup>th</sup> Nov 2014, and Note of Meeting Derby City Council 18<sup>th</sup> Nov 2014 [SD/EX/26a and 26b]

hearing session in October 2015. I discuss their soundness later in this report, and comment on the implications of Amber Valley District Council withdrawing its Local Plan from examination in December 2015. However, these issues do not lead me to conclude that there was a failure of the duty to co-operate by South Derbyshire Council. I note that the recent Court of Appeal judgment, *Samuel Smith Old Brewery (Tadcaster) v Selby DC* [2015], drew attention to the point that the duty applies when a plan is being prepared and submitted for examination; the duty is not engaged after submission when work to modify a plan to meet an Inspector's concerns may be undertaken.

10. The Council's Duty to Co-operate Compliance Statement [E.30] records engagement with all neighbouring local authorities during plan preparation. These include East Staffordshire and North-West Leicestershire to the south, with which South Derbyshire acknowledges there are housing sub-markets, based on Burton-upon-Trent and Ashby-de-la-Zouch. Statements of Common Ground, D.73 and D.77, confirm that these Authorities are satisfied the duty has been met and they do not seek assistance from South Derbyshire in meeting their housing needs. The Compliance Statement, E.30, describes ongoing co-operation with Derbyshire Dales prior to the examination of its Local Plan, which was interrupted when the Inspector found that Derbyshire Dales' submitted Plan would not meet the relevant housing need. I have had regard for the belated request to South Derbyshire in 2014, for its assistance in meeting Derbyshire Dales' need, but data on commuting from the 2011 Census do not indicate a strong functional relationship or high levels of travel to work between these two authorities. I consider that the difficulties faced by Derbyshire Dales do not signal a failure by South Derbyshire to meet the duty to co-operate.
11. The duty to co-operate is not just about engagement over housing numbers. The Compliance Statement explains engagement with all the prescribed bodies and other relevant organisations across a range of topics. The Council's Regulation 22 Statement and appendices [C.7-C.15] give more detail about engagement with these organisations. The Statement of Continuing Joint Working on Key Strategic Issues between HMA Councils and Derbyshire County Council, included as Appendix 1 to the Council's Matter 1 hearing statement, demonstrates co-operation to November 2014 and a willingness to do so in the future. There is evidence of engagement with relevant transport and local authorities over strategic employment and transport issues including Strategic Rail Freight Infrastructure development<sup>3</sup>. I am satisfied that the approach set out in paragraph 181 of the NPPF has been followed, and the duty to co-operate has been met.

## **Assessment of Soundness**

### **Preliminary**

12. South Derbyshire's Local Plan was submitted for examination after the suspension of Amber Valley's Local Plan examination in 2014 and the Inspector's request for the housing requirements to be re-visited. The revised

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<sup>3</sup> SD/EX/39 Strategic Distribution Site Assessment Study for the 3 Cities Sub-Area of the East Midlands, by AECOM - for emda, Derbyshire County Council, Leicester & Leicestershire, Notts County Council, 3 Cities New Growth Point and Highways Agency

figures from sensitivity testing indicated a shortfall of some 400 dwellings across the HMA. In addition, it was unclear as to how the apportionment of housing numbers between the Derby HMA authorities had been reached, and whether or not reasonable alternatives had been considered. The joint hearing session attended by all three Local Authorities for the HMA, held at the South Derbyshire hearings in November 2014, did not confirm that a logical and transparent process for making the apportionment, supported by SA, had been followed. As highlighted above, the local authorities were asked to re-visit the exercise and carry out SA in order to meet the legal requirements and provide reassurance that the apportionment of housing requirements was the most reasonable and was justified.<sup>4</sup>

13. A second joint hearing session was attended by representatives of the 3 local planning authorities and Derbyshire County Council, as well as other parties, in October 2015. This followed publication and consultation on fresh SAs, addressing the apportionment of new housing between the three authorities. The work was based on an agreed figure for objectively assessed need (OAN) in the Derby HMA of 33,388 new dwellings 2011-28, which is discussed later in this report (paragraph 21). The new SA work adopted three stages, beginning with (1) an assessment of Derby City's housing capacity. Section 3.2 of South Derbyshire's Sustainability Appraisal Addendum Report August 2015 [SD/EX/71] explained that the densely populated, compact city would be unable to accommodate all its own housing need. It was determined by Derby City and agreed by Amber Valley and South Derbyshire District Councils that the city's capacity be capped at 11,000 dwellings for the period 2011-28, leaving an additional need to meet the City's requirements of 5,388 dwellings to be accommodated in the two neighbouring Districts.
14. In the second stage, the HMA authorities jointly identified six options for apportioning the unmet need. I consider that they correctly rejected as unreasonable two of these. They were based on 'Business as Usual' which would not deliver the housing numbers, and 'Meeting OAN outside the HMA' which would not be sustainable in my view. The remaining four options were appraised by the authorities independently at stage 3, using the SA frameworks which they had used previously in preparing their Local Plans. Of the four potential options, Option 3 was preferred by all authorities. This would give a higher proportion of growth to South Derbyshire than Amber Valley (a 56/44% split). As explained in the Addendum Report, SD/EX/71, the slightly higher figure for South Derbyshire would reflect the less constrained nature of sites close to Derby City, facilitating growth on sites which are well related to and accessible to communities living in Derby and in the northern part of South Derbyshire.
15. I am satisfied that the selection of Option 3 was based on a thorough appraisal of a range of options against a comprehensive set of environmental factors. Notwithstanding the drawbacks of carrying out the SA at a late stage in plan preparation and when the individual authorities had developed their own independent appraisal frameworks, South Derbyshire has provided adequate justification for the apportionment whereby it would contribute

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<sup>4</sup> Letter from Inspectors for Amber Valley and South Derbyshire District Councils Dec 2014 [SD/EX/44]

3,017 dwellings, and Amber Valley 2,371, towards meeting the needs of Derby City for 5,388 additional dwellings in full.

16. It was alleged that the SA undertaken in July 2014 [E.1-E.3] had used an inconsistent approach in considering the likely effects of possible sites on transport infrastructure. The subsequent decision by the Council to include land west of Mickleover as a strategic site indicates a shift in the Council's position, as discussed in paragraph 66 onwards below.

## **Main Issues**

17. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings, I have identified six main issues upon which the soundness of the Plan depends.

### **Issue 1 – Spatial Strategy and Housing**

***Whether the Portrait of the District, defined key issues and strategic objectives set the scene and provide an appropriate basis for the Spatial Strategy; and whether appropriate provision is made for housing having regard for the NPPF and taking account of the proposed numbers, the planned timing and geographical distribution of new housing, affordable housing, provision for gypsies and travellers, and other groups.***

18. Chapter 2 of the Local Plan sets out a current portrait of the District and Chapter 3 defines key issues to be addressed, a Vision based on sustainable growth, and Strategic Objectives. These were developed during the plan-preparation process and amended to reflect sustainability appraisal and consultation. All form a helpful basis for Chapter 4 which introduces the Spatial Strategy and includes Policy S4. The Council proposes to amend the Key Diagram so that it shows the key elements of the strategy ie. housing and employment allocations, proposed major infrastructure and settlement hierarchy (**MM1**). I support this modification in the interests of positive planning and aiding plan delivery. I also support proposed modifications **MM3 and MM4** to state specifically that the Local Plan Part 1 is a strategic plan. These modifications should facilitate delivery of the strategic policies.
19. Chapter 4 explains that the HMA comprises the local authority areas of Derby City, South Derbyshire and Amber Valley District Councils. Paragraph 47 of the NPPF is clear that Local Plans should meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with other policies in the Framework (my emphasis). The Derby HMA was defined as a functional sub-regional housing market by research undertaken to inform the former East Midlands Regional Plan. The SHMA Update 2013 [E.19/20] includes a fresh assessment of the Derby HMA "*representing the functional relationships between where people live and work and the overlapping areas of search of households looking to move home.*" It reviews relevant research, considers strategic and local housing markets, and defines sub-markets. I am satisfied that the evidence supports a Derby HMA comprising the three local authority areas. However, the submitted Local Plan is not precise about the HMA and its role. In order to make clear that there has been consistency with the NPPF in assessing housing need within the context of the HMA, proposed modifications **MM5 and MM8** should be made.

20. The National Planning Practice Guidance (PPG) clarifies that establishing future need for housing is not an exact science and no single approach will provide a definitive answer. However, household projections published by the Department for Communities and Local Government (DCLG) should provide the starting-point. The Derby HMA SHMA Update [E.19/20] took account of the 2011 Census and mid-year population estimates and the 2011-based sub-national population and household projections. Three alternative projections for the Derby HMA were produced, one of which was linked to econometric forecasts, and allowance was made for past under-delivery of housing. The methodology, in my opinion, was robust and suitably aligned with that promoted in the PPG.
21. In May 2014, Amber Valley's Local Plan examination was suspended when the Inspector requested additional work including further sensitivity testing of the objectively assessed need figures for housing. The HMA Councils had already commissioned Sensitivity Testing Analysis and the report, C.29 dated March 2014, highlighted sensitivities around predictions of migration and household formation rates. The subsequent work on sensitivity led Amber Valley to put forward revised housing figures. Reflecting Figure 14 of C.29, these used a revised base date of 2011 rather than 2008 and suggested an uplift of about 9% from 30,630 to 33,388 new homes across the HMA, 2011-28<sup>5</sup>. The Amber Valley Inspector expressed support for this new figure. It was also proposed that South Derbyshire should provide for a minimum of 12,341 dwellings, Derby City 11,000 and Amber Valley 9,651. The proposed distribution between the three Councils, however, left 396 dwellings to be allocated in an unspecified place.
22. I have had regard for the alternative projections of housing need put forward by other parties. One party contended that the Councils' SHMA had taken insufficient account of the disruptive effect of the economic recession, using Office for National Statistics (ONS) data on migration for 2007-12 and being overly pessimistic in its predictions of household formation rates. Some judgement has to be exercised as to how rapidly and in what way migration and household formation rates will change in future. There can be no certainty that the Councils have got it right. However, I am satisfied that good practice has been followed and that the additional sensitivity analysis has produced a reasonable result for local planning.
23. Just before the hearings for the South Derbyshire Local Plan examination in November 2014, the Councils commissioned a further review of housing numbers to take account of the 2012-based sub-national population projections (SNPP) produced by the ONS in May 2014. These were the first population projections by ONS to use results from the 2011 Census, and they provide comfort for South Derbyshire and the other Authorities as the differences in population projections from earlier analyses in E.19/E.20 and the Sensitivity Update paper are small. They suggested that population would not increase quite as fast as predicted earlier so that there could be a slightly lower level of housing need than is planned for.
24. The PPG advises that housing need numbers from household projections should be adjusted to reflect appropriate market signals and other market

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<sup>5</sup> South Derbyshire's response to Inspector's Matter 1 – Appendix 1

indicators of the demand/supply balance. Housing market dynamics and performance, including evidence from estate and letting agents, were discussed in the Housing Requirements Study for the HMA in 2012 [E.17 & E.18] and in the 2013 Update [E.19 & E.20].

25. Nevertheless, critics argued that market signals were not adequately assessed. The PPG identifies six relevant market signals. The severity of market pressures and level of past under-delivery of housing, it was claimed by objectors, meant that a significant upward adjustment in housing figures in the order of 10% would be necessary. The submitted evidence from those seeking an uplift in housing numbers, however, indicated that land prices, house prices and rents in the HMA were generally lower than the national average. The 2012-based SNPP Review stated that over the last decade, house price growth relative to incomes in the Derby HMA had been modest relative to other parts of the country.
26. On affordability, comparison of lower quartile house prices and income/earnings showed that housing in South Derbyshire had been consistently more affordable than the national average since 2006. Appendix B of the SHMA Update [E.20] addresses affordability and the PPG, concluding that the need for affordable housing per se does not justify an upward adjustment of housing need figures. Private rented housing plays an increasingly important role in meeting the housing needs of those unable or not wishing to buy a home. In addition, the adjustment in headship rates in the projections allows for a rise in rates for younger households to form in future. These factors should enable overcrowding, concealed households and shared households to be reduced in future. Even if South Derbyshire is less affordable than the County average or Amber Valley and Derby City, I am satisfied that South Derbyshire is not comparable to Eastleigh or other local authorities where an increase in overall housing requirement to meet affordable housing needs was seen to be necessary.
27. The Census revealed very low levels of overcrowding in South Derbyshire compared with the national average for England. There is a relatively high level of overcrowding in Derby (perhaps unsurprising in a major city) but the apportionment of new housing between the 3 Councils within the HMA should enable that problem to be addressed. South Derbyshire is planning to provide more housing than the demographic forecasts for its District in isolation would require. Since the household projections have a 2011 base, I see no need for historical under-delivery to be added to the projections. This approach is supported by the High Court judgment *Zurich Assurance Ltd v Winchester City Council & South Downs NPA*, March 2014.
28. Concern was expressed over consistency with the Local Enterprise Partnership, D2N2, target for some 77,000 homes across Derbyshire/ Nottinghamshire to support the growth of jobs. The SHMA Update, E.19/20, showed a potential increase of 21,957 resident workers 2011-28, but this was seen by some as a significant over-estimate of what would be achieved from the proposed level of housing growth. Alternative modelling suggested that only a 9,357 increase in the labour supply was likely. The 2012-based SNPP Review for the Councils, however, calculated a likely increase in the employed population 2011-28 of 22,751 taking account of age structure and State pension age changes. This is the most recent assessment which takes

account of changing demographic and social factors and I attach it significant weight.

29. I have also considered the evidence that Experian's 2014 econometric job growth forecasts are substantially different from the 2012 ones [E.17 Page 72], to which household projections for the Derby HMA refer [E.20 Pages 158-9]. The 2014 Experian forecasts predict just over double the job growth of the earlier ones (19,870 for 2012-28). However, econometric forecasts are well known to be varied and volatile. A need for caution in the use of econometric forecasts was recognised by the authors of the housing studies, E.17 and E.19/20. Hence, figure 126 of E.20 illustrating the outcome of an "economic-led" estimate of housing requirement 2011-28, which gave the lowest results of the three scenarios, was discounted as it was considered to present an overly pessimistic view (see paragraph 9.54).
30. However, this was not a dismissal of economic factors per se, and E.17 gave due attention to these, in Chapter 3's thoughtful assessment of the structure and potential of the local economy. The Review advised that the link between jobs and residents in employment was not perfect, for example commuting dynamics and the proportion of people with more than one job could affect the ratio. Even if more than 20,000 new jobs are created over the plan period, the demographic projections indicate that the potential labour force could increase proportionately within the HMA. In conclusion, I have seen no compelling evidence from reliable, long term job forecasts to justify a higher figure for housing than is being promoted in the Derby HMA.
31. Returning to the Local Plan as submitted, Policy S4 states that provision will be made for additional dwellings in the plan period 2008-28. Adoption of a plan period from 2011-28, as put forward in the proposed main modifications, would bring the Local Plan into line with emerging plans for Amber Valley and Derby City. Since the 2011 Census provided a new robust source of data for DCLG population and household projections, this change to the plan start-date is entirely justified. Criticism that the time period to 2028 "*does not fulfil the Framework's requirement to have at least a 15-year time horizon*" is in my opinion unfounded as the NPPF is not so strict, stating that Local Plans "*should be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date*". I am satisfied that the Council is not putting forward a shorter time period in order to restrict the appropriate planning and development of future housing. Even if the plan only has a 12 year time-scale from 2016 to 2028 which is below the preferred one, it is not so short as to result in unsoundness.
32. The assessments of housing apportionment in 2015 by the HMA local authorities concluded that the full need for 33,388 new homes could be achieved by Derby City providing 11,000, Amber Valley providing 9,770 and South Derbyshire providing 12,618 additional dwellings<sup>6</sup>. These figures would eliminate the earlier shortfall of 400 dwellings, as referenced in paragraph 21. This leads me to conclude that the Local Plan as submitted is not sound because its figures for housing provision fail to reflect the most recent analyses and are unjustified. Modifications **MM2, MM6 to MM15** inclusive should be made to update the plan period, and set out the most appropriate

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<sup>6</sup> South Derbyshire Housing Position Paper v3 November 2015 [SD/EX/81]

housing numbers for South Derbyshire and the HMA. These modifications are necessary to give an effective plan which is positively prepared and consistent with national planning policy.

33. Amber Valley took the decision in December 2015 to withdraw its Local Plan, and a new draft plan is not expected to be submitted for examination until 2017, with an estimated adoption date of March 2018. It was contended by some that all the HMA authorities should re-visit the apportionment of housing numbers across the HMA, as a consequence. However, a Statement of Continuing Joint Working between Amber Valley BC, Derby CC, Derbyshire CC and South Derbyshire CC was prepared in February 2016. This paper confirms that the housing target for 9,770 dwellings in Amber Valley 2011-28 remains in place, and that the HMA authorities will continue to work co-operatively on any strategic review of housing growth and distribution. It is not reasonable, in my view, to expect South Derbyshire to provide evidence as to how Amber Valley might meet its housing numbers, nor to delay its plan-making because of this decision by its neighbour.
34. The Local Plan should state clearly that the numbers of new homes are the minimum that will be provided. Hence, proposed modification **MM10** confirming that "at least 12,618 dwellings will be built ..." is necessary to ensure that full housing needs are planned for, in line with the NPPF.
35. The Local Plan's strategy is for larger strategic sites to be identified and delivered through the Part 1 Local Plan, and smaller sites to be promoted through the Part 2 Local Plan. Proposed modification **MM23** adds a new paragraph to the Housing Chapter to state that settlement boundaries will be reviewed through Part 2 of the Local Plan. In view of the many housing allocations to be made in Part 1 and Part 2, this is justified and I support the proposed modification to achieve an effective plan.

#### Timing of housing delivery

36. The NPPF expects local planning authorities to identify and update annually a supply of specific, deliverable sites to provide five years worth of housing. Policy S4 of the Local Plan promises to maintain a five year rolling land supply. The Council's Annual Monitoring Report 2013/14 [E.22] stated that there was a 3.88 year supply, assuming a 20% buffer to reflect past under-delivery, in accordance with the NPPF. However, this calculation did not include allocations in the Local Plan. Revised figures by the Council in December 2014 [SD/EX/33], and based on the Local Plan period requirement of 12,341 new homes 2011-28, assumed that net completions 2015/16 to 2019/20 could add 5,987 new homes. A modest allowance was made for the forthcoming Local Plan Part 2 sites to commence delivery in 2017/18. An allowance for windfalls of 23 per year on average was also made, being significantly below the average of about 40 per year for 2007/8-2013/14.
37. Calculations need not take account of any shortfalls prior to 2011 since that is the starting-point for projections. The Council's calculations assumed the shortfall since then would be addressed in the first 5 years of the plan period. I consider that uncertainty as to whether a local planning authority should make allowance for any shortfall in provision before or after adding the 5% or 20% buffer was resolved by the Secretary of State's appeal decision,

APP/H1840/A/13/2199085 & 2199426. Therefore, the Council's calculation in Table 2 of SD/EX/33, which showed less than 5 year supply at only 4.91 years, is more robust than that in Table 1, which indicated a 5.16 years supply.

38. Subsequent work by the Council, however, taking account of the revised apportionment of housing between the 3 authorities in the HMA and a review of all SHLAA sites including site allocations, demonstrated a 5.1 year supply of deliverable housing sites (Housing Position Paper November 2015 v3) [SD/EX/81]. This Position Paper pointed out that a five year housing land supply could not be demonstrated unless land west of Mickleover were included in the calculations. The recent appeal decisions granting permission for 300 dwellings on this site (APP/F1040/A/14/2228361 & A/15/3005774) and the Council's intent to allocate it as a new site in the Local Plan [SD/EX/72], support its consideration in the five year land supply.
39. The NPPF expects local planning authorities to identify a supply of specific, developable sites or broad locations for year 6 onwards. Expected annual completions are illustrated in the Housing Trajectory in Appendix 3 of the Local Plan [C1] as submitted. The Council published a fresh Infrastructure Delivery for Strategic Sites document in September 2015 [SD/EX/69] which set out the likely timing of delivery for each of the strategic sites, having regard for progress with planning permissions and s106 agreements, and outstanding infrastructure requirements. The trajectory was then updated, as in Appendix 1 to the Housing Position Statement, November 2015.
40. With an allowance for housing completions 2011-15, as well as windfalls and sites in the Part 2 Local Plan, all sites are expected to deliver an oversupply of housing numbers by 2028 (11,400 compared with a need for at least 10,582 dwellings<sup>7</sup>). I am satisfied that this 'oversupply' signals an aspirational but robust and flexible approach to planning for housing delivery throughout the plan period. Flexibility is necessary as past experience suggests that progress, especially on large sites, can sometimes be slow. I have considered the argument that a mechanism allowing the delivery of more homes on smaller greenfield sites in sustainable locations is needed. However, the two part Local Plan envisages a reasonable mix of large allocations and small sites, in my opinion.
41. Proposed modification **MM62** to delete Appendix 3 – Housing Trajectory from the Local Plan, but update it regularly in the Annual Monitoring Report and Assessment of 5 Year Housing Land Supply document, should make the implementation of housing policy more effective. Proposed paragraph D to Policy S4 in **MM12** retains the commitment by the Council to maintain a rolling five year supply. These modifications are necessary for consistency with the NPPF and for effective, positive planning.

#### Geographical distribution

42. The introduction to Chapter 5 and Policy H1 define a settlement hierarchy which recognises the District's proximity to Derby City, and significance of its own urban area of Swadlincote. Topic Paper E.55 explains that options for

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<sup>7</sup> Housing Position Paper Nov 2015 – Table 7 and Supply of Sites paragraph 1.50 [SD/EX/81]

housing growth distribution were consulted on, when revocation of the Regional Plan was mooted, and five options were the subject of sustainability appraisal. Tables 3 and 4 show the highest numbers for new homes on the strategic site allocations on the edge of Derby City, with significant numbers at the former Drakelow Power Station east of Burton-upon-Trent and on four sites in Swadlincote. The policy aim to deliver new housing close to urban areas most accessible to jobs and services, and to limit development in rural areas, is consistent with the principles of sustainable development and the NPPF<sup>8</sup>. The remaining, more modest allocations in villages, with allowances for windfalls and future allocations in the Local Plan Part 2, should help meet local needs and maintain the vitality of rural communities. In broad terms, I consider the strategy for distributing growth across the District to be sound.

43. It was argued that Policy H1 should permit more development "within and adjoining" the urban settlements to ensure that the most sustainable locations for growth were selected and not restricted. Clearly, a number of the strategic sites in South Derbyshire would be adjoining the built-up area of Derby City. The Local Plan identifies 11 sites (12 sites if land west of Mickleover is added) as strategic allocations in and adjoining Derby and Swadlincote. Although some argued that the Local Plan should also identify sites in South Derbyshire adjoining Burton-upon-Trent, others pointed out that much of that land is Green Belt, there is no requirement to assist East Staffordshire in meeting its housing target, and new housing in that locality would relate poorly to the rest of South Derbyshire. The Local Plan identifies one strategic site at Drakelow Park to the east of Burton-upon-Trent, and this is appropriate in my view as it comprises previously developed land.
44. The definition of key service, local service and rural villages was informed by studies described in the Council's Topic Papers, E.55 & E.78. Some 54 settlements were assessed in terms of the number of dwellings and range of facilities and services which they possess. The key settlements all have 1,000-3,000 dwellings except for Aston, Overseal, Linton and Repton which are in the 700-900 range. Criticism was made of the rural settlements' hierarchy and its evidence base, and the approach was described as arbitrary and simplistic. However, it seems inevitable to me that the character of villages will vary on an individual basis and their status will change over time as business enterprises and community facilities prosper or close down. Regarding key service villages, not all have been allocated new housing development in the Local Plan. However, the SHLAA has identified constraints to development in some cases (eg. flood risk in Shardlow). Also, the Council pointed out that some key villages notably Melbourne and Willington have experienced significant growth in the recent past so that new strategic allocations there would not be appropriate at this time.
45. It was alleged that Policy H1 imposes an arbitrary constraint on developments in local service villages of "up to 15 dwellings". Based on the sizes of the villages, I consider that the proposed limitations of 15 dwellings, and 25 dwellings for key service villages, are reasonable to protect rural character. Proposed modification **MM24** to Policy H1 introduces a little more flexibility for schemes in rural villages. It clarifies how additional housing sites to those

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<sup>8</sup> Settlement Hierarchy Core Strategy Topic Paper [E.55 & E.78] draw attention to paragraphs 7, 17, 55, 30, 34, 70, 72, 73 of the NPPF

allocated would be assessed through the development management process, depending on whether they are within or adjacent to settlement boundaries and the settlement's position in the hierarchy. **MM24** would also update the settlement hierarchy, notably to reflect changes to the level of service provision in Stanton and Coton in the Elms, and the outcome of the planning appeal at Linton. I consider that this modification should be made to give effectiveness to Policy H1.

46. Proposed modification **MM12** would amend the wording of Policy S4 so that it sets out the strategy for delivering the up-to-date housing numbers in a clear but flexible fashion in the two part Local Plan. The modified policy would allow for 600 dwellings on non-strategic sites to be defined in the Local Plan Part 2, and Policy H1 would support small developments within key service, local service and rural villages, or on exception sites. I am satisfied that there is flexibility in the numbers and sufficient encouragement of new rural development across the District, in particular in the more sustainable key service villages. I support the modification for effective planning.
47. My note to South Derbyshire Council dated 16<sup>th</sup> December 2014 [SD/EX/46] sought additional evidence that the 17 strategic sites in the Local Plan were all viable and capable of delivery. The Plan Wide Viability Review June 2015 [SD/EX/68] (Table 10.6, Page 98) and Infrastructure Delivery for Strategic Sites [SD/EX/69] provided new evidence, to support their selection which I comment on below. Proposed modifications to Tables 3 and 4, **MM20 & MM22** should be made to secure a justified plan, as they contain the most up-to-date figures for the strategic sites following progress on development management decision-making and the SD/EX/69 re-assessment.

#### Housing Site Policies

48. Policies H2 to H5 set out the requirements for four strategic sites in and adjacent to Swadlincote. Proposed modification **MM26** to Policy H3, land at Church Gresley, would strengthen the requirement for provision of an appropriate replacement football ground and has the support of Sport England. It would add a reference to the Conkers cycling circuit and protect the separate identity of Albert Village. These changes are necessary to achieve a high quality development and address the concerns of North-West Leicestershire Council within which Albert Village is located. Proposed modification **MM63** would change the map of Land North of William Nadin Way, Policy H2, to ensure that golf course land is not shown within the housing site boundary. I support both modifications for effective planning.
49. Policy H4: Land at Broomy Farm, Woodville would require improvements to transport infrastructure to mitigate the impact of the proposed development on the surrounding network. The Infrastructure Delivery for Strategic Sites [SD/EX/69] shows that the Woodville-Swadlincote Regeneration Route may not be completed until 2025, but it envisages that improvements to the Clock roundabout and/or accessing the site from a single point on the A514 could be implemented earlier, if necessary, to handle traffic from the site and enable it to deliver new housing in a timely fashion. In order to reflect the full planning permission for residential development on the Council Depot and ensure that Policy H5 is justified, the number of dwellings should be changed to 158, as proposed in **MM28**.

50. Policy H6: Drakelow Park, the site of the former power station, is estimated to have capacity for 2,239 new homes, although the revised Table 3 in the Local Plan states that only about 1,200 of the homes are expected to be delivered by 2028. There is concern that uncertainty over the new river crossing/Walton bypass and the widening of Walton Road will exacerbate delay to this scheme, even though outline planning permission for up to 2,239 homes and reserved matters' permission for 99 homes have been granted [SD/EX/69]. At the hearings, the possibility of some 400 dwellings being permitted on the site ahead of completion of the Walton bypass was raised. Whilst the uncertainty reinforces the need for ongoing monitoring of sites and the five year housing land supply, Local Plans should be aspirational and encourage the re-use of previously developed land. Policy H6 need not be modified.
51. Policies H7 to H11 promote strategic sites in selected key service villages. Policy H7: Land at Hilton Depot is a predominantly brownfield site, reasonably accessible to the city of Derby and the strategic road network along the A50 and A38. The Council proposes a modification to the policy, **MM30**, as outline planning permission was granted in 2015 for the provision of 485 dwellings including a 1 form primary school. Site remediation works including new road and drainage infrastructure have already commenced. 485 dwellings represents an increase over the 375 dwellings in the submitted Local Plan, which should help boost housing supply. I support the proposed modification which updates the current policy and should make it effective.
52. Proposed modification **MM31** to Policy H8, Former Aston Hall Hospital, would reduce the housing target from around 100 to 74 as full planning permission has recently been granted for this amount. Work is also underway on a Continuing Care Retirement Community, class 2 development. The supporting text explains that Aston Hall Hospital to the north of the site is a Grade 2\* listed building, but English Heritage<sup>9</sup> expressed concern that the policy would not specifically protect and enhance the setting of heritage assets [SD/EX/19]. **MM31** would address this concern giving consistency with the NPPF as well as updating the housing numbers, and it should be made.
53. Policy H9 envisages the provision of around 100 dwellings on land at Longlands, Repton. As Repton is a key service village, it was argued that the site should be extended to include adjoining land which fronts Mount Pleasant Road or east along Milton Road. Infrastructure Delivery for Strategic Sites [SD/EX/69] reports that the allocated site would be developed in three phases, and there is a resolution to grant permission subject to the completion of a s106 obligation. Proposed modification **MM32** would increase the number of dwellings to 124 and represent the current circumstances more accurately. I have had regard for the suggestion that any increase in housing numbers should be postponed until the Local Plan Part 2 is published but, in view of Repton's status as a key service village, I consider that this modification to Policy H9 is reasonable and justified.
54. The Council's earliest Schedule of Proposed Minor Modifications to the plan [C.6, MM53A&54] proposed to change Policy H10 so as to delete land south of Sutton Lane, Etwall from the allocation. That land is a cricket ground and its

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<sup>9</sup> English Heritage now known as Historic England

proposed retention gained much support from local people because it would preserve the heritage of the site and character of the village centre. Some regretted the removal of the requirement for an extension to the cemetery to be provided if the Sutton Lane element were removed. However, proposed modifications **MM33, MM34, MM35 & MM36** in the schedule dated January 2016 should be made to delete references to land south of Sutton Lane as a site for housing. Modifications to the map on Page 62 (**MM64 and MM65**) should also be made to protect the character and appearance of the village, in accordance with effective planning and consistency with national policy.

55. Infrastructure Delivery for Strategic Sites [SD/EX/69] confirms that applications for 100 dwellings and a further 99 dwellings on the Willington Road site have been received. The Parish Council and other local residents pointed out that, with the John Port Academy which is one of the country's largest secondary schools, Etwall's road network is already under pressure. Rat-running and road junctions in need of improvements were identified. Transport Assessment has shown that Willington Road would need to be widened, and significant landscaping work undertaken to deliver the proposed housing. Doubts were raised as to whether the level of service provision, eg. health services, justified Etwall being categorised as a key service village. However, the Topic Paper: Settlement Hierarchy [E.55 & E.78] shows that Etwall is one of the District's largest villages with a comparatively good range of community facilities and services. It is reasonably well located for access to Derby city so that additional housing seems reasonable and I am satisfied that this is justified. I support proposed modification **MM36** to reflect the up-to-date housing numbers and achieve a sound plan.
56. Land north east of Hatton is expected by Policy H11 to deliver around 400 homes. The Council proposed minor additional changes (M50 and M51) to paragraph 5.53 and the policy (H11Bvi) to clarify that access would be provided from Derby Road and/or Station Road, with a new access to the manufacturing and sewage treatment sites. Support for the changes comes from Nestle which operates the manufacturing plant in Hatton and Severn Trent which has responsibility for preventing flood risk. Because of the beneficial effects of removing heavy goods' traffic from the village, these modifications are justified. An amendment to correct the site boundary is put forward in proposed main modification **MM66** which I support to achieve an effective plan.
57. Parties proposed that new or enlarged site allocations should be made in a number of villages including Etwall, Overseal, Melbourne and Repton. I consider that the Local Plan Part 1 includes sufficient, appropriate site allocations in the key service villages. Policy H1 and the Local Plan Part 2 will enable other sustainable, rural sites to be brought forward.
58. Policies H12 to H18 relate to strategic allocations in the north of the District which adjoin the built-up area of Derby city. Table 4 of the Local Plan indicates that more than 6,000 new homes could be accommodated by 2028 on these sites, equivalent to roughly half of all new homes that are likely to be built in the District during the plan period. Prior to 2013/14, the Council acknowledges that essentially no growth occurred around the edge of Derby to meet the former Regional Plan requirements, partly following the withdrawal of the Local Plan in 2005. A conjoined planning inquiry relating to

5 sites was held in 2007-8, and the Secretary of State granted permission in early 2009 for development at Stenson Fields, Highfields Farm and Boulton Moor. The economic downturn which followed halted progress on the sites but 80 dwellings were completed in 2013/14 at Stenson Fields.

59. Given the history of development, or lack of it, on the edge of Derby in recent years, there has to be concern over the deliverability of these sites. In response to my questions [SD/EX/46], the Council submitted fresh evidence in 2015 in its Plan Wide Viability Review and Infrastructure Delivery for Strategic Sites [SD/EX/68 & 69]. These helpfully define the known infrastructure items and costs pertinent to each site and report progress with planning applications, s106 obligations and construction. In December 2015, the Council published up-to-date information on these aspects of the strategic sites together with affordable housing data [SD/EX/96]. Highfields Farm and Boulton Moor are currently under construction (H12 & H13), full planning permission has been granted for Holmleigh Way (H17) and outline permission has been granted for Chellaston Fields, Primula Way and Hackwood Farm (H14, H16 & H18). Table 4 in the submitted plan does not reflect the most up-to-date information and is therefore not justified. Proposed modification **MM22** should be made to ensure that it gives most recent data and is sound.
60. The Council proposed a modification to Policy H14, **MM39**, to state that development would protect and enhance heritage assets. I support this change which English Heritage (now Historic England) sought to achieve compliance with the NPPF [SD/EX/19]. Policies H12, H13, H15 and H18 seek new primary school provision to support new housing development, but new secondary schools for the expected future housing growth on the edge of Derby are not mentioned. This is clearly a matter for South Derbyshire and the City of Derby to address jointly with Derbyshire County Council. The authorities stated that there is some capacity in existing schools including the John Port Academy, and potential new sites are being considered. Public consultation was carried out in 2015 to consider a number of scenarios for expanding school provision, and further consultation is planned for 2016. The County Council advises that its aim is to inform South Derbyshire's Local Plan Part 2 on the subject. Proposed modification **MM21** should be made so that the plan is effective and reflects the latest position on planning for schools.
61. An application is awaited for development on Wragley Way (Policy H15). The Position and Delivery Statement [SD/EX/32] prepared jointly by officers from South Derbyshire and Derby City Councils and Hallam Land Management, with supporting letters from other landowners, indicates ongoing progress on this site. SD/EX/69 confirms that masterplanning has been undertaken for the scheme and SD/EX/81 anticipates the provision of 180 dwellings by the end of the year 2019/2020.
62. The Infrastructure Delivery document advises that the South Derby Integrated Transport Link (SDITL) with an estimated cost of £11-15 million is needed to mitigate the transport impacts of the site as a whole. Phase 1 of the SDITL would connect the Wragley Way site to the new T12 route into Derby City. The housing scheme is very substantial and there is uncertainty as to the timescale for construction of the new road. Policy H15 seeks provision of new primary school accommodation, green infrastructure and a new shopping centre in addition to transport improvements. Also, affordable

housing is much needed. The feasibility of funding and delivering all these items in a comprehensive way is questioned.

63. I note that Table 4, with proposed modification **MM22**, advises that only 1,000 of the 1,950 new homes on the Wragley Way site is expected to be provided within the plan period. Neither the highway authorities nor Highways England have suggested that the planned transport improvements are unreasonable. This is an aspirational but not unrealistic scheme in a location which has good accessibility to the City and major employment sites, in my view. The requirements of paragraphs 154 and 173-177 of the NPPF are not breached and the policy should be retained.
64. Modifications are proposed to many of the site specific housing policies, **MM25-MM32, and MM36-MM38**, to ensure that developer contributions are made towards a new household waste recycling centre in the Swadlincote area. Having regard for the Statement of Common Ground signed by Derbyshire County Council and the District Council [SD/EX/48], I consider that these modifications are necessary to secure appropriate waste disposal and recycling arrangements consistent with good design and sustainable planning for new strategic housing sites.<sup>10</sup> The modifications are needed for effective planning.
65. I have had regard for all the representations which proposed that additional sites for housing should be allocated in the Local Plan Part 1. I note in particular the case for including land at Lowes Farm. Notwithstanding its identification at an early stage as a potential reserve site, I consider that its omission (and the omission of other proposed sites) do not make the Local Plan unsound. I discuss the case for including a site on land west of Mickleover below.

#### Land west of Mickleover

66. The Council resolved, in September 2015, to allocate land to the west of Mickleover as a strategic site for around 1,650 dwellings. Proposed modifications **MM40 and MM41** would add a new Policy H19 and change the numbering of subsequent housing policies. The proposed allocation has been subject to sustainability appraisal and public consultation, and I am satisfied that the addition of this strategic site would not alter the overall strategy of the Local Plan.
67. The Council argued that the new allocation would help boost the provision of a five year housing land supply, and improve the Plan's capability to meet its new housing development targets over the longer term. The site adjoins the built up area of Derby so could provide a sustainable urban extension, and was included in the Draft Local Plan Part 1 as a potential reserve site. Planning permission was granted on appeal for 300 dwellings on part of this site in 2015<sup>11</sup>, and an application was subsequently made for 252 dwellings on another part. However, some parties contended that another strategic site on the edge of Derby was not the most reasonable alternative to increase housing numbers. They argued that South Derbyshire's housing need

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<sup>10</sup> Paragraph 110 of this report – regarding Policy BNE1 is also relevant.

<sup>11</sup> Appeal decisions APP/F1040/A/14/2228361 & 3005774 – Land at New House Farm, Etwall Road, Mickleover, Derby 18<sup>th</sup> August 2015

extended across the whole District not simply the area close to Derby City, and past experience had shown that simply allocating more sites in this locality did not lead to timely delivery.

68. It seems to me that the location is a good one for access to employment and other facilities in Derby City as well as the north-western part of South Derbyshire, for example the Toyota site close to the A38/A50 junction. With planning permission already granted for some 300 dwellings, I have seen no evidence that delivery of housing should be slow. The requirements for new transport and other infrastructure are not as substantial as for some other strategic sites. Given the potential difficulties of forecasting with precision the delivery dates for large sites at Drakelow Park, Boulton Moor and Wragley Way, I consider that the decision to make this new site allocation west of Mickleover is justified and consistent with positive planning to boost housing supply.
69. The Inspector for the appeal at New House Farm identified two main issues for decision-making; the effect of the proposal on highway safety, and the effect on the character and appearance of the area. On the second issue, he concluded that the proposal would change the landscape and extend the edge of the settlement onto pasture land, but would not have a seriously harmful effect on the character and appearance of the area. A development for 1,650 dwellings would have a larger impact than 300 dwellings but, following a site visit, I consider that with good masterplanning and sensitive landscaping, especially on the northern and western edges of the development, it would be possible to soften the urban edge and mitigate the loss of the countryside. Equally, the setting of heritage assets notably Radbourne Hall (Grade 1 listed building) and the amenity of existing residents in Mickleover should be safeguarded through good masterplanning and site management, in accordance with relevant criteria as proposed in new Policy H19.
70. The appeal Inspector concluded that neither a 'traffic lights scheme' nor 'roundabout' scheme for access to the A516 Mickleover bypass would be significantly detrimental to highway safety. Provision of 1,650 dwellings on the site would have more substantial effects on traffic and transport than the appeal proposal. Derby City Council raised concerns over the traffic impact on the local and strategic road networks, as the site had not been included in the most recent transport modelling work. At the strategic level, the Statement of Common Ground between South Derbyshire District, Derbyshire County Council and developers points out that the site has access to part of the highway network that is operating well within capacity, and is likely to benefit in the future from planned improvements to junctions on the A38.<sup>12</sup>
71. Highways England did not object to the approved scheme for 300 dwellings nor the application under consideration for 252 dwellings. Even though the A38 works may not be finished until 2021/22, the Council advised that interim capacity enhancement on 2 of the junctions has been completed.<sup>13</sup> I accept that a specific phasing policy is unnecessary. The development management process should be capable of preventing any harmful impact from the development of this site on the A38.

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<sup>12</sup> Statement of Common Ground between CEG, Richborough Estates, South Derbyshire District Council and Derbyshire County Council, Dec 2015, paragraph 2.18 [SD/EX/94]

<sup>13</sup> SDDC evidence to Local Plan hearings December 2015

72. Transport modelling by SYSTRA, formerly MVA, in 2015 using the Greater Derby Transport Model assessed the impact of proposed developments within the Derby HMA Core Strategy, but did not include the site on land west of Mickleover. However, modelling in 2012 had included the site, and it showed that all the potential strategic sites would increase traffic by around 3% above a 2026 reference case. As the site's contribution was calculated at about 0.4% of the 3%, the Statement of Common Ground [SD/EX/94] concluded that inclusion of the Mickleover site would not have a severe impact on the highway network. I have seen no evidence to contradict this position.
73. Regarding impact on the local transport network, vehicular access onto Ladybank Road was raised as a concern by Derby City Council. Ladybank Road serves an established residential area where a substantial increase in through traffic could be detrimental in terms of road safety, noise and pollution from passing traffic. The Statement of Common Ground states that the A516 roundabout, as recently permitted to provide access to 300 dwellings, would have capacity to serve more than 2,000 dwellings. The major part of the new development to the south would be served by the roundabout. Vehicular access to the northern portion of the site would run from Ladybank Road but it would not then connect to the remainder of the site. Access from the north to the larger, southern portion would be prevented for general traffic apart from emergency vehicles or buses<sup>14</sup>.
74. It is also proposed to provide walking and cycling connections between the site and Mickleover so that the existing district centre could be accessed on foot, and interaction between the existing and new residential areas promoted. A primary school, local centre with shops and a community centre are proposed on the site, which should help to reduce local vehicle movements. Existing bus services along the A516, Etwall Road and Ladybank Road provide access to Derby city centre and local schools. Measures to improve public transport services have been discussed with a local bus operator, and there are a number of options available.
75. Derby City Council did not object to the site's allocation but raised concern that the site's development could exacerbate existing problems with poor air quality in the City. There is a perceived risk that the national air quality objective for nitrogen dioxide will not be met by 2020. An initial assessment by the site's proponents indicates that at worst the impact on air quality from the development is likely to be slight, and not give any significant increase in air pollution within the Derby AQMA [SD/EX/94, Appendix 1]. I consider that thorough Transport Assessment and traffic management will be needed to address the concerns raised by the City Council. The use of more sustainable transport modes should be positively promoted through a Travel Plan. Proposed modification **MM41** would require these transport measures, in accordance with the NPPF aims for sustainable transport.
76. **MM41** identifying land west of Mickleover as a strategic site for around 1,650 dwellings seeks to achieve an urban extension with supporting infrastructure and services including green infrastructure and drainage that does not exacerbate flood risk downstream. Although some local residents have

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<sup>14</sup> Land West of Mickleover: Sustainable Urban Extension Vision Statement Nov 2015, CEG & Richborough Estates – Page 17, Illustrative Masterplan for the 1,650 Unit Scheme

concerns that the development will increase pressure on community facilities including general practitioners and schools, proposed new Policy H19 B sets out a detailed list of infrastructure and supporting facilities which will be required to support the development. I conclude that the modification should be made to boost the supply of housing in accordance with national policy, and to achieve positive plan preparation and effectiveness.

#### Housing balance, affordable housing and provision for gypsies and travellers

77. Paragraph 5.80 of the Local Plan indicates a high level of need for affordable housing across the Derby HMA, amounting to 51% of homes built in South Derbyshire for the period 2012-17, based on figures from the Derby HMA Strategic Housing Market Assessment Update, July 2013 [E.19 & E.20]. E.20 cautions that South Derbyshire's calculated need for 1,723 affordable homes 2012-17 is only a 'snapshot' assessment and the Council confirms that it will need to be reviewed around 2017 (response to Inspector's questions – Matter 2). Projections of affordable housing need for the period 2012- 2028 are included in Appendix B of the SHMA Update. Figure 160 shows that 63% of likely housing delivery across the Derby HMA would need to be affordable housing, ranging from 49% in South Derbyshire to 74% in Derby City.
78. Appendix B of E.20 advises that private rented lettings at current levels of provision could reduce the affordable housing requirement to around 19% of housing across the Derby HMA and 24% for South Derbyshire. However, the private rented sector is not included in the NPPF definition of affordable housing. I have considered whether an uplift in the overall housing requirement should be sought so that a greater number of affordable dwellings might be achieved.
79. In this context, paragraph 173 of the NPPF requires careful attention to be given to viability and costs in plan-making so that plans are deliverable, and viability is not threatened by excessive obligations and policy burdens. Although a number of evidence documents available when the Local Plan was submitted related to viability, none directly addressed the question as to what should be the target for affordable housing in South Derbyshire, having regard for (i) the level of need and (ii) viability<sup>15</sup>.
80. The Plan-Wide Viability Review in June 2015 [SD/EX/68], however, provides up-to-date information as to the cumulative impact of all the plan's policies on viability. It considered residential property markets, land prices, development costs, developers' returns, and all Local Plan policies which might affect viability. The proposed strategic sites and their known infrastructure costs were considered, before varied developer contributions and affordable housing percentages were modelled. The study also considered a mix of types of affordable housing (intermediate housing, affordable rent and social rent). The consultants concluded that "*the cumulative impact of the policies, including the 30% affordable housing, and developer contributions, does not put residential development at serious risk*".
81. The Council also provided up-to-date evidence on the strategic sites in terms of infrastructure costs, affordable housing and tenure splits in December 2015

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<sup>15</sup> The Derby HMA Strategic Viability Assessment [C.27]; Derby HMA CIL Viability Assessment [E.79]; Derby HMA CIL Land and Property Viability Appraisal [E.80]

[SD/EX/96]. This table shows that 30% affordable housing has been secured through planning permissions on a number of sites with higher percentages on two of them. I consider that the new evidence in 2015 provides robust justification for Policy H20 to seek "up to 30%" of new housing development as affordable, especially as the supporting text to the policy makes clear that 30% is the starting-point for negotiations. The policy wording allows for some flexibility for the 30% target if non-viability can be demonstrated in a particular case.

82. My attention was drawn to new models of affordable housing, including those which enable tenants to use savings from affordable rents to buy the properties after a time period eg. 5 years. Such products would be in conflict with the restrictions envisaged in Policy H20 for rural exception sites where housing is expected to remain as affordable housing in perpetuity. Even if the Minister has signalled support for changes to the definition of affordable housing, the NPPF currently refers in a positive manner to rural exception sites. Policy H20 with proposed modification MM42 is compliant with paragraph 54 of the national policy document. The Local Plan should not second-guess future changes in Government policy. However, the Council proposed adding a footnote to Policy H20C against the word 'perpetuity' to state that this will apply "subject to the affordable product being considered". I consider that this amendment to **MM42** should be made to ensure that Policy H20 will allow flexibility for different models of affordable housing, in accordance with evolving Government policy and sound planning.
83. The Council advised that it is commencing its own council build project with sites that will deliver 100% affordable housing, and has granted permission for a number of rural exception sites, indicating that a variety of approaches to meet affordable housing need are already being pursued in the District. I am satisfied that the 30% target supported by these other measures should achieve the optimum level of affordable housing, having regard for viability. An uplift in the overall housing requirement to increase the contribution to affordable housing is not necessary.
84. I raised concern that there is potential conflict between Policy H20 seeking to secure up to 30% affordable housing and the supporting text in paragraphs 5.78-5.81, which suggest that the target will not be sought over the next 5 years and perhaps 25% would be more realistic. The Council proposed a minor modification (M68) to delete paragraph 5.81 which I support. In my view, this modification is needed for soundness to ensure that Policy H20 means what it says. I therefore conclude that paragraph 5.81 and most of paragraph 5.78 be deleted to achieve effective planning for affordable housing (**MM70**). To aid the delivery of affordable housing appropriately where it is justified by the SHMA or other up-to-date evidence of need, ie. to achieve effective planning, **MM42** as put forward by the Council, should be made.
85. I have had regard for the argument that a threshold of 15 dwellings could be circumvented by some developers who will propose lower figures based on low densities. Paragraphs 5.82 and 5.83 of the Local Plan should help in securing the supply of affordable homes on smaller sites. Elsewhere, it will be for the Council to deal with the issue through development management. The threshold of 15 dwellings is consistent with national policy and guidance.

86. Policy H19: Housing Balance promotes a mix of housing that is suitable and adaptable for different groups of people including people wishing to build their own homes and elderly people. The Council drew my attention to the proposed care villages at Aston Hall Hospital and Drakelow Park, as well as the recently completed Oakland's Village in Swadlincote.
87. Policy H21 provides for gypsy and traveller sites, and commits to allocating sites through a Site Allocations Development Plan Document. The Council advised that, when the Local Plan was submitted in 2014, work was underway on a Gypsy and Traveller Accommodation Assessment (GTAA) commissioned by all Derbyshire local authorities and East Staffordshire Borough Council. The earlier GTAA in 2007 had estimated requirements up to 2012 of 58 pitches for Derbyshire, of which 19 should be provided in South Derbyshire. After 2012, the GTAA indicated that, if the population of gypsies and travellers continued to grow as projected, at 3% per annum, an additional 15 pitches would be required in the County to meet newly formed households. South Derbyshire, on a proportional basis, could be expected to provide about one third of this figure ie. 5 new pitches every five years. As the District provided 28 new pitches between 2007 and 2014, it is not falling behind in its provision of new pitches.
88. Ideally, the Local Plan Part 1 should state the number of new pitches which are required for gypsies and travellers over the plan period. However, the final version of the Derbyshire and East Staffordshire GTAA was not published until the end of June 2015. This high level document gives figures of additional need in South Derbyshire for 14 sites 2014-19 and 38 sites 2014-34. However, it also states that need does not have to be met where it arises and proposes HMA-type, collaborative structures to meet accommodation needs jointly across a number of local authority areas. Derbyshire County Council commented that, until the GTAA was finalised and agreed as being robust by partners, it would be unreasonable for the South Derbyshire Local Plan to specify future pitch requirements. In the circumstances, I do not find Policy H21 unsound.
89. Overall, I am satisfied that the Local Plan is seeking to meet a range of different needs and widen the choice of high quality homes in accordance with the NPPF. I conclude that, provided the above main modifications are made, the Portrait of the District, defined key issues and strategic objectives set the scene and provide an appropriate basis for the Spatial Strategy. In addition, appropriate provision is made for housing having regard for the NPPF and taking account of the proposed numbers, the planned timing and geographical distribution of new housing, affordable housing, provision for gypsies and travellers, and other groups.

## **Issue 2 – Employment and the Economy**

***Whether the Local Plan will contribute to building a strong, responsive and competitive economy to create jobs and prosperity, as well as enabling regeneration and improvements to skill levels. Whether the Local Plan is consistent with promoting a vital and competitive town centre in Swadlincote.***

90. Significant weight should be placed on the need to support economic growth through the planning system. Local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.<sup>16</sup> The introduction to Policy S5 sets out the Council's economic vision which includes achieving equality by helping people to realise their potential. It continues with references to increasing skill levels and improving accessibility to opportunities for employment and training. This aspect of the vision is important for a healthy economy and consistent with the NPPF.
91. Policy S5 sets out a target for the development of 53has net additional land for industrial and business purposes, and Table 2 shows this as the requirement for the Remainder of South Derbyshire beyond Derby Urban Area. The target is derived from detailed studies begun in 2008 and updated in 2013 taking account of economic, demographic and land use factors, as well as the aspirations of the Local Enterprise Partnership<sup>17</sup>. In order to secure a balance of jobs and housing across the HMA, the gross land requirement of 276has was proposed to be split in proportion with new dwellings across the three local authority areas.<sup>18</sup> This approach provided the justification for 53has in South Derbyshire outside Derby Urban Area.
92. However, some parties argued that a higher figure should be sought. With good transport connectivity to the M1, A50 and A38, a strong manufacturing base and good employment land availability, South Derbyshire has the potential to provide more land than demographic factors might suggest, it was claimed. The Employment Land Review: Forecasts Update [E.24] supported land requirements for South Derbyshire (District Council area) in the range of 69has - 91has for 2008-28. It is difficult to predict how much land will be required over the plan period, but essential that there is no unreasonable policy constraint on economic expansion. Therefore, Policy S5 should make clear that "a minimum" of 53has is being sought by the Council (**MM16**). Proposed modifications **MM17, MM18, MM44 & MM45** would update Table 2 in Chapter 4 and text in Chapter 6, to give a 2011 base consistent with the revised Introduction to the Local Plan (see MM2), taking account of the development of employment land occurring between 2008 and 2011. These modifications should be made to the plan for effective planning.
93. Policies E1 to E6 in Chapter 6 identify a number of strategic employment land allocations in and around Swadlincote, at Dove Valley Business Park, Hilton Business Park, at Sinfin Moor and the former Drakelow Power Station. The Plan offers a range of sites for prospective investors in sustainable locations, allows for other development elsewhere (Policy E2), and envisages provision of start-up and grow-on business accommodation as well as more substantial sites. Sites notably at Drakelow and Woodville, where there were mineral workings in the past, show that attention has been given to the need for regeneration. The policies indicate where significant infrastructure improvements will be required, notably for the Woodville-Swadlincote Regeneration Route. I consider the approach to encouraging growth and

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<sup>16</sup> NPPF, paragraphs 18 to 22 set out the expectations of Local Plans for economic growth and regeneration

<sup>17</sup> The D2N2 Local Enterprise Partnership Strategic Economic Plan [E.72]

<sup>18</sup> Derby HMA Employment Land Review 2008 [E.25]; Derby HMA Employment Land Review: Forecasts Update, 2013 [E.24] and SD Employment Position Paper, 2014 [E.54].

allocating sites across the District to be justified and in line with national policy.

94. Policy E4 protects land for employment use at Sinfin Moor as an extension to the proposed Infinity Park. In addition to increasing the available supply of employment land in a desirable location close to other business uses and the proposed housing development at Wragley Way, the extension could help deliver part of the SDITL. It was pointed out that the strategic allocations in Policy E1 of the Local Plan would provide only 66has, at the bottom end of the range for land requirement estimated in the Forecasts Update, E.24. The extension site at Sinfin Moor would provide an additional 30has of new employment land. Policies E1 and E4 should be modified to reflect the most recent evidence and increase land supply in the interests of positive planning as proposed in **MM43, MM48, MM49, MM67, MM68 & MM69**.
95. It was also contended that Phase 2 of Dove Valley Business Park could boost the supply of employment land. This site has good access to the A50 corridor, where there is a high demand for employment land, and is within an existing employment cluster. Evidence indicates that there is demand for large sites which could not be accommodated at Phase 1 Dove Valley Park or on the strategic sites included in Policy E1. A transport assessment and travel plan indicated that improvements to the A50 Sudbury roundabout would be necessary if Phase 2 were developed. However, s106 obligations could enable these works and other mitigation measures. The Council proposed modifications to Policies E1 and E5 (**MM43, MM50 & MM51**) to enable development on land north of Dove Valley Business Park for large scale industrial and business units only. These should be made to ensure that the plan will be effective.
96. North West Leicestershire District Council expressed concern about the boundary of the Woodville Regeneration Area which did not follow local authority boundaries correctly. South Derbyshire Council put forward a minor modification to the boundary on the map for the E1c site (M111) to correct it.
97. Policy E2 allows for other industrial and business development in addition to that on allocated sites, and paragraphs 6.17 & 6.18 provide some support for rural diversification. However, it was perceived to fall short of the NPPF's paragraph 28, in particular because it would not encourage rural business in well-designed new buildings. This could inhibit the establishment of new micro-businesses with a link to rural living. South Derbyshire has extensive tracts of rural land with dispersed rural communities and I consider that the Local Plan should include a specific rural development Policy E7, as the Council proposed in **MM52**. I also agree with the Council's proposed modifications of Policy E2 and its supporting text, **MM46 & MM47**, to make clear that industrial and business development would be permitted on the edge of Derby City or Burton-upon-Trent, should be in scale with existing development and should not have a harmful impact on the landscape or other environmental assets. The new policy and amendment of Policy E2 would secure positive planning and consistency with the NPPF.
98. Policy INF10 permits tourism development for which there are opportunities for growth in the District, particularly related to the National Forest. Modifications are put forward to the policy and its supporting text by the

Council to enable tourism facilities including visitor attractions to be provided in appropriate locations beyond the urban area and key service villages, with sustainable transport access. Modifications **MM60 & MM61** have been put forward by the Council which should go some way to secure an effective plan and consistency with the NPPF. However, I agree with critics of the proposed re-wording of Policy INF10(C) iii) that this requires clarification. For soundness, C iii) should read "*sustainable and well-designed new buildings, where identified needs are not met by existing facilities, subject to all other relevant policies in the Local Plan.*" To make the plan sound, modifications **MM60 & MM61** with this amendment to Policy INF10 should be made.

99. It was suggested that additional employment land should be allocated along the A50 corridor, near to the junction with the A38. This would be near to the existing Toyota plant, but the capacity of the road junction raises concern. In view of the availability of other sites further east along the A50, I see no need for additional greenfield land to be allocated for employment use here.
100. Policy S7 supports and enhances Swadlincote town centre, clarifying that a town centre boundary will be established in the Part 2 Local Plan. I am satisfied that appropriate provision for retail uses to serve urban extensions to Derby can be planned through the Part 2 Local Plan and masterplanning.
101. Subject to the above-mentioned main modifications, the Local Plan should contribute to building a strong, responsive and competitive economy to create jobs and prosperity, as well as enabling regeneration and improvements to skill levels. The Local Plan is consistent with promoting a vital and competitive town centre in Swadlincote.

### **Issue 3 – The Green Belt**

***Whether the Local Plan is consistent with the fundamental aim and purposes of Green Belts as set out in the NPPF, and whether the proposals for alterations to Green Belt boundaries are underpinned by an adequate review process and justified by exceptional circumstances.***

102. National policy for protecting Green Belt land is set out in section 9 of the NPPF. The use of language in the Local Plan should be consistent with the NPPF in order to ensure effectiveness. Hence, the proposed modification **MM19** to Policy S8 is necessary for soundness.
103. Policy S8 proposes an addition to the Green Belt of 12.5has of land east of the A6 and south-west of Thulston, and deletion of 11.5has north of Shardlow Road and west of the A6 Alvaston bypass. An assessment of the Nottingham-Derby Green Belt in terms of the five purposes of Green Belts was undertaken by the Derby HMA authorities and Erewash Borough Council in 2012 [E.10&11]. It built on earlier work in 2006/7 to review the Green Belt and inform the growth strategy for the Three Cities Sub-Area set out in the East Midlands Regional Plan. It noted that, south-east of Derby, construction of the A50 and A6 strategic highways have meant significant change introducing new physical features into the landscape. Although the Local Plan Review 2002-5 did not proceed to adoption, the Inspector at the Inquiry concluded that change to the Green Belt boundaries was justified in this locality.

104. I accept that the area of land bounded by the London Road and A6 bypass is substantially enclosed, well related to the built-up area and makes a negligible contribution to the openness of the Green Belt. Paragraph 85 of the NPPF advises against including land which it is unnecessary to keep permanently open, when defining boundaries. By contrast, the land south-west of Thulston meets the purposes of Green Belts, notably protecting the countryside from encroachment. There is currently uncertainty over the provision of new secondary school places in Derby and South Derbyshire, but insufficient evidence that a new school would have to be accommodated on this site. The Local Plan includes a number of strategic allocations for housing development close to Derby City, and there is no need to promote additional housing development on this land in the Green Belt.
105. I am satisfied that exceptional circumstances for the proposed changes in Policy S8 have been demonstrated by the Council, and the revised boundaries should be capable of enduring beyond the plan period. Bearing in mind also that the changes would give a net addition of Green Belt land, I conclude that they are sound. With modification to its wording as described above, Policy S8 is consistent with national policy regarding the Green Belt.

#### **Issue 4 – The Environment**

***Whether the Local Plan will protect and enhance the natural, built and historic environment appropriately, helping to improve biodiversity and green infrastructure, minimising waste and pollution, securing high quality design, safeguarding heritage assets, and mitigating and adapting to a low carbon economy.***

106. Policies S1 and S2 are over-arching and appropriately set the scene for more detailed and local policies on sustainable growth and development elsewhere in the Local Plan. The policies emphasise the presumption in favour of sustainable development which the NPPF requires. Proposed modification **MM10** to Policy S1(v) to emphasise the need to protect, conserve and enhance heritage, landscape and rural character is supported by Historic England and the National Trust. To ensure consistency with the NPPF, it should be made. I see no need for change to the Strategic Objectives to add a local definition of sustainable development. However, the Council put forward main modifications to the introduction to Chapter 7: Sustainable Development to refer to the Brundtland definition of sustainable development and remove the now out-dated references to targets for zero carbon homes. **MM53 and MM54** should be made for consistency with national planning policy.
107. Sections 7 and 10 of the NPPF require good design of the built environment and policy to meet the challenge of climate change, including securing radical reductions in greenhouse gas emissions. Policy S3, encourages developers to meet targets for zero carbon development and supports the use of “allowable solutions” where it is not achievable. In view of the Government’s Housing Standards’ Review and subsequent national policy changes, I consider that modifications to the policy and supporting text are necessary to make them effective. Although the Council has put forward proposed modifications as ‘minor’, I consider that M11, M13, M14 & M15 insofar as they apply to Policy S3 and paragraphs 4.15 to 4.22 are main modifications. These should all be

made for soundness, as in **MM71** which is a consequential modification to MM53 and MM54. Paragraphs 99 onwards in the NPPF address the need to avoid and manage flood risk. The Council advises that Policies SD2 & SD3 have been drawn up alongside the County Council, and amended and refined to reflect comments from the Environment Agency and local flood authorities. Policy SD3 supports Water Authorities in reducing the demand for water placing a threshold for water consumption of no more than 110 litres per day. In view of Severn Trent Water's Water Resources Management Plan's conclusion that this is needed to ensure water availability over the plan period, I consider that it is justified.

108. The Council advised that its allocated housing sites have been subject to sequential testing based on the Council's Strategic Flood Risk Assessment<sup>19</sup>. This points out that Drakelow Park (H6), Hilton Depot (H7) and Holmleigh Way (H17) are partly at flood risk, but sites have been subject to sequential testing and no built development is proposed in areas within flood zones 2 or 3. Flood alleviation measures are expected to remove proposed housing sites at Primula Way (H16) and North East of Hatton (H11) from flood risk.
109. Incidents of flooding in Etwall were described, including flooding in fields identified as SHLAA sites, by a local resident. There is concern about the robustness of flood risk assessment locally because the Water Authority also has interests in possible development in the wider area. However, I have seen no firm evidence that flood risk has not been adequately assessed in respect of the land at Etwall, which is allocated for housing in Policy H10.
110. Policy BNE1 expects all new development to be well designed, which is consistent with section 7 of the NPPF. The penultimate sentence states that major development should "perform highly" against the Council's Design Supplementary Planning Document (SPD). This is unclear and I consider that proposed modification **MM55** is necessary to secure an effective policy. I agree with the Council that Policy BNE1 would not be the appropriate place to address broadband delivery and that Policy INF1, though not referring to broadband services specifically, nevertheless addresses the broader issue expecting necessary infrastructure to be provided for new development.
111. Policy BNE1 k) sets out a clear approach towards minimising and re-cycling waste. Derbyshire County Council pointed out that the Newhall Bretby Household Waste Recycling Centre (HWRC) is over capacity and cannot be expanded. Derbyshire is currently served by 10 HWRCs and the emerging Derbyshire and Derby City Joint Municipal Waste Management Strategy Review is searching for new provision. However, the precise location is not yet defined. Proposed main modifications **MM25-MM32** and **MM36-MM38** to the strategic housing policies state that developer contributions will be sought for a new HWRC in the Swadlincote area, and I accept that this Local Plan cannot take the matter further.
112. Policies BNL3 & BNL4 (to be changed to BNE3 & 4) and Policies INF7 & INF8 provide a basis for protecting and enhancing the natural environment of South Derbyshire, which includes National Forest and the River Mease Special Area of Conservation. However, the natural environment is under pressure as

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<sup>19</sup> Sustainability Appraisal Technical Appendix, Appendix 8 [E.3]

explained in paragraphs 8.45 onwards of the Local Plan. Proposed modification **MM56** sets out the intentions of the policy and how it will be applied more precisely, with a useful categorisation of sites and features of ecological and geological importance. The modification should make policy for biodiversity more pro-active and effective, and it has my support.

113. I consider that paragraph B of Policy BNL4 provides sufficient guidance for developers as to what is likely to be acceptable regarding key valued landscape components, and how any harm might be avoided or mitigated. The County Council drew attention to the South Derbyshire Greenway Strategy, and sought reference to it with a map in the Local Plan. I was, however, advised that the strategy and extent of greenways is liable to change. It may therefore be more appropriate to refer to this detailed information at the Local Plan Part 2 stage, with a cross-reference there to any related SPD.
114. Concern was raised that the Local Plan, notably Policy INF7, would not provide sufficient protection for the Trent Valley south of Burton-upon-Trent within and outside South Derbyshire's boundaries where extensive new housing development, as well as other development plus sand and gravel workings, could substantially change the character of the area and adversely affect the National Forest. The Council contended that interested parties should define their own priorities and strategy, and work through the Local Nature Partnership with the relevant local authorities to secure delivery. Proposed modification **MM58** to Policy INF7, which refers to the Lowland Derbyshire and Nottinghamshire Local Nature Partnership, would acknowledge a role for it beyond the Trent Valley. Proposed modification **MM59** to Policy INF8 would commit to helping deliver the recently published National Forest Strategy. Both modifications should be made to secure a sound plan in respect of green infrastructure especially for land within the National Forest.
115. I conclude, subject to the above modifications, that the Local Plan will protect and enhance the natural, built and historic environment appropriately, helping to improve biodiversity and green infrastructure, minimising waste and pollution, securing high quality design, safeguarding heritage assets, and mitigating and adapting to a low carbon economy.

## **Issue 5 – Infrastructure including Transport**

***Whether all the infrastructure including transport works necessary for delivery of the sustainable growth strategy have been identified, along with mitigation measures to address any potential adverse impacts. Whether the Plan's policies will promote more sustainable transport, reducing the need to travel and offering more modal choice.***

116. Policy S6 sets out an overarching strategy for Sustainable Access which is supported by Policy INF2, Sustainable Transport, giving development management criteria. The approach is consistent with section 4 of the NPPF. Chapter 9 of the Local Plan reports that local concerns have been highlighted in consultation exercises around the effects new development will have on "an already stretched road network".
117. The Derby HMA Authorities including Derbyshire County Council commissioned transport modelling work to assess the transport impacts of potential strategic

development sites, and consulted relevant stakeholders including the Highways Agency (now Highways England).<sup>20</sup> A multimodal model was used with a future reference case and a future with strategic sites in place. Mitigation measures reflecting all travel modes were considered. The approach is described as fully compliant with WebTAG guidance and based on the most recent DfT growth assumptions for employment and population across relevant local authority areas. The Highway Authorities concluded from this work that the combined effect of South Derbyshire's strategic sites would not result in insurmountable difficulties for the capacity and functioning of the transport network.

118. I have had regard for the criticism of the modelling work and its conclusions by those promoting development at New House Farm, before inclusion of a new Policy H19: Land west of Mickleover was proposed by the Council. Although the modelling exercise used 85<sup>th</sup> percentile rather than average trip generation rates, this was done consistently across the study area and arguably enabled a worst case scenario to be described. The modelling was also criticised for using an "all or nothing scenario" rather than assessing clusters of strategic sites and spatial options, as had been proposed originally. The Derbyshire County Council Transport Topic Paper, however, emphasised that the process was strategic and unable to "*replicate every movement or nuance of travel behaviour*". I am satisfied that the approach to modelling was robust and the work has demonstrated that the Local Plan's strategy for growth can be delivered so long as transport improvements are made.
119. The New House Farm site, though included as a strategic reserve site in the Draft Local Plan 2013, was not allocated in the submitted Local Plan. The Sustainability Appraisal (SA) report [E.1] implied that this was because transport modelling had shown negative effects on the operation of the surrounding highways network. Proposals to grade separate 3 junctions crossing the A38 in Derby were required and these were expected to be implemented by 2021. However, the more detailed Technical Appendices to the SA [E.3] suggested that it is unclear whether development here in combination with development proposed in Derby City could result in unacceptable impacts on the A38. A subsequent transport assessment accompanying an outline planning application for land at New House Farm demonstrated that the overall site could accommodate some 1,500 dwellings without harm to the local highway network. Thus, excluding the New House Farm principally on highway impact grounds was not fully justified. Proposed modification **MM41** supporting a new strategic site for some 1,650 dwellings on land west of Mickleover overcomes this concern.
120. Notwithstanding the conclusions from transport modelling that there should be no insurmountable difficulties to accommodating planned development, transport infrastructure improvements would be needed to deliver the strategic sites, including new road schemes which are identified in Policy INF4 of the Local Plan. The Swadlincote Regeneration Route is intended to help delivery of regeneration at Woodville and Swadlincote. A Statement of Common Ground was reached between the Council, Derbyshire County

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<sup>20</sup> Derby Urban Area Potential Core Strategy Sites: Traffic Impact Assessment 2012 [E.46, E.47, E.51]; Derby HMA Transport - Position Statement [E.50]; SD/EX/83 to 89 – Transport Modelling Report – Derby HMA Core Strategy – Systra, Oct 2015 – provided more recent data.

Council and St Modwen/Dyson, promoters of the Woodville Regeneration Area [SD/EX/25]. This outlines the benefits of the proposed road and acknowledges that a combination of public funding and developer contributions will be needed to deliver the scheme.

121. The South Derby Integrated Transport Link (SDITL) Phase 1 is needed to mitigate the impact of proposed development on the southern edge of Derby urban area, notably at Wragley Way. Allocation of land at Sinfin Moor as a strategic employment site under Policy E4 would also be served by the Link and its promoters state that allocation of this site would "*enable the owners /developers of the employment site to provide proportionate developer contributions.*"<sup>21</sup> The Wragley Way Position and Delivery Statement incorporates the western part of Phase 1 on its site and envisages contributions to the road. The scheme has been costed at £4.75million - £6 million which is considered to be deliverable. The Swarkestone Causeway Bypass and SDITL Phase 2 are long term projects without funding at this stage. However, paragraphs 9.37 and 9.39 in the Local Plan explain their purpose and provide justification for their inclusion. I am satisfied that the other schemes with developer contributions reflect the modelling evidence, are needed within the plan period and should be deliverable.
122. Highways England advised that, should substantial development at Dove Valley Park come forward through Policy E5, this would be likely to have an impact on junctions A50/A515 and A50/511. Policy INF2 requires a transport assessment and travel plan where new development with significant transport implications is intended. Travel plan measures should be funded by developer contributions appropriate to the impact on the transport network. This should ensure that Policy E5 would not result in harmful congestion at A50 junctions.
123. Egginton Parish Council objected to Policy INF3, Strategic Rail Freight Interchange (SRFI). Even though such a development proposal would be determined nationally through the National Infrastructure Planning system, and not by the local planning authority, nevertheless its likely scale (estimated as taking up some 255 hectares of land at Egginton Common and providing some 7,000 direct jobs) mean that a decision to go ahead with it could have a significant impact on the Local Plan. The NPPF advises that local authorities should work with neighbouring authorities and transport providers for the provision of viable infrastructure necessary to support sustainable development including large scale facilities such as rail freight interchanges, among other things. The Parish Council considers that the Local Plan has not done this; the absence of a strategy represented a serious failure. Policy INF3 merely lists the matters that would need to be addressed as conditions if such a scheme were approved and this, in the Parish Council's view, is insufficient.
124. The Strategic Distribution Site Assessment Study for the Three Cities Sub-Area of the East Midlands in 2010 assessed the merits of a number of potential sites for SRFI development [SD/EX/39]. An emerging SRFI proposal for East Midlands Intermodal Park (at Egginton Common), being one of the shortlisted sites, has been the subject of pre-application discussions between

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<sup>21</sup> Further statement on behalf of Christ Church, Oxford, Pegasus Group (Ref 034). Nov 2014

Goodman Shepherd and the Council. A statement of common ground between those parties was submitted as evidence for the Local Plan examination [SD/EX/20]. One of the other short-listed sites in the East Midlands, at Castle Donington, was granted a Development Consent Order by the Transport Secretary in January 2016. However, the proposed SRFI in South Derbyshire is at a less advanced stage. National policy seeks a network of SRFIs, but it is clear that only a limited number of sites will have sufficient connectivity, scale and character to qualify as suitable. It seems to me inappropriate for South Derbyshire Council to express a preference in the Local Plan for or against the Egginton Common site. It has neither the authority nor evidence to choose between alternative sites across the region.

125. The Council acknowledged that, if a SRFI of the scale envisaged by the Parish Council were brought forward, this could have a major impact on the Local Plan's growth strategy. I accept that, if an additional 7,000 jobs were generated in the Egginton area, this could affect future planning for new housing, transport and other infrastructure, and might necessitate a review of the Local Plan. However, at this stage, there is no certainty that SRFI development will come forward and there is uncertainty as to its exact scale. I am satisfied that Policy INF3 provides useful guidance for any future development to meet national policy for SRFI within the District, and is sound.
126. I conclude that the Local Plan identifies all the main infrastructure including transport works necessary for delivery of the sustainable growth strategy, along with mitigation measures to address any potential adverse impacts. The Plan's policies should promote more sustainable transport, reducing the need to travel and offering more modal choice.

## **Issue 6 – Delivery of the Local Plan**

127. ***Whether the Local Plan policies are deliverable having regard for funding and stakeholder support, and the cumulative effect of infrastructure requirements as well as affordable housing.***
128. The Local Plan includes a significant number of strategic sites for major housing development and employment land provision. Transport and other infrastructure will need to be improved to achieve good quality, sustainable development across the District. The Council's evidence base, with its most recent Plan Wide Viability Review [SD/EX/68] and Infrastructure Delivery for Strategic Sites [SD/EX/69], provides reassurance that the Local Plan is aspirational but realistic and that the requirements of paragraphs 173, 174 & 177 of the NPPF are met.
129. Paragraphs 175 & 176 of the NPPF set out the role of the Community Infrastructure Levy (CIL), planning conditions and planning obligations in supporting new development and making it acceptable in planning terms. Policy INF1: Infrastructure and Developer Contributions in the Local Plan sets out the Council's expectations for infrastructure to support new development, referencing planning obligations and CIL. Proposed modification **MM57** commits the Council to revising its Planning Obligation SPD and operating a CIL charging schedule when adopted. This modification would give consistency with positive planning in line with the NPPF and should be made. Providing this modification and those referenced earlier in the report are

made, the Local Plan policies should be deliverable having regard for funding and stakeholder support, and the cumulative effect of infrastructure requirements as well as affordable housing.

## **Assessment of Legal Compliance**

130. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I have considered carefully the claims of some local people that the public consultation process was inadequate. I understand that the large volumes of paperwork and internet access to unfamiliar websites can present a challenge to engage with the planning process. However, it would not be practicable to undertake door-to-door discussions with hand deliveries of material, along the lines of those used for political elections. A significant number of events were held across the District to inform and engage with local communities during Plan preparation. Whilst the SA reports are lengthy and technical, the Council has routinely produced Non-Technical Summary documents to assist the lay reader. The Local Plan should include the best policies and proposals judged on planning merits and these will not necessarily have the support of all or, in some cases, the majority of local people.
131. I have commented on the position of Linton in the settlement hierarchy in paragraph 44 and am satisfied that public consultation on this and all other proposed main modifications enabled all interested persons and parties to comment. The Statement of Community Involvement (SCI) was adopted in 2006 [E.29] and it set out the methods to be used to involve the community in local planning. The Regulation 22 Consultation Statement [C.7] confirms that a broad range of methods to consult and engage stakeholders and the public were used at all stages of plan preparation. Also, given the interest in the Public Examination with nearly 1,500 representations made to the Pre-Submission Local Plan, I conclude that public consultation was carried out in accordance with the SCI and the Regulations and was satisfactory.
132. Concerning SA and the likely effect of possible strategic sites on the highway network, I found that the early conclusion in respect of the New House Farm site was not justified. However, the Council subsequently decided to add the land west of Mickleover as a strategic site. The SA is adequate in other respects. As described in paragraphs 12-15, the Addendum Report August 2015 [SD/EX/71] satisfactorily appraised reasonable options for apportioning the HMA's housing growth between the constituent authorities and provided justification for preferring Option 3. The approach to SA and its conclusions on apportionment were agreed by the three HMA authorities. The Council carried out a SA Modifications Update in January 2016, to ensure that the last round of proposed modifications met the legal requirements.
133. I conclude that the South Derbyshire Local Plan, with main modifications, meets all the legal requirements.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The South Derbyshire Local Plan Part 1 is identified within the approved LDS, November 2014, [SD/EX/26] which sets out an expected adoption date of March 2015. Although this now appears too optimistic, in general terms the Local Plan's content and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in March 2006 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MM).
Sustainability Appraisal (SA)	SA has been carried out which includes meeting the requirements of the Strategic Environmental Assessment Directive. Work after submission on the apportionment of the HMA's housing need between the constituent Councils, and the inclusion of land west of Mickleover as a strategic site, have also been subject to SA.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report (March 2014) [E.9] sets out why AA is not necessary
National Policy	The Local Plan complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the South Derbyshire District and Derbyshire County Councils' SCSs [D.50-54].
Public Sector Equality Duty (PSED)	The Local Plan complies with the Duty.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

**The Pre-Submission Local Plan Part 1 has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.**

The Council has requested that I recommend main modifications to make the Plan sound and legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the South Derbyshire Local Plan Part 1 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Jill Kingaby*

Inspector

**This report is accompanied by the Appendix containing the Main Modifications to the Local Plan**