



City of Derby Local Plan Review – Consideration of representations made on the Proposed Modifications and Adoption of Plan

SUPPORTING INFORMATION

- 1.1 A Public Inquiry into objections to the draft CDLP Review was held in 2003-04 and the Inspector's report received in January 2005. This was considered by Cabinet at its 6 September meeting last year and a number of proposed modifications placed on deposit for a six week period from the end of September to 11 November. This report now considers objections and supporting representations made to these modifications and seeks authority to adopt the Plan.
- 1.2 There has been a relatively small number of representations, reflecting the late stage in the Plan preparation process. Of these, I am pleased to report that there are slightly more supporting representations (nearly 40) than objections (around 35). Having said that, some of the objections raise issues that require careful consideration.
- 1.3 I am recommending a number of minor changes to the Plan, but do not consider that any of these will need advertising as Further Modifications. Consequently, authority is being sought to undertake the necessary statutory procedures to adopt the Plan and to produce the final printed version. Once adopted, it will formally replace the existing CDLP as the statutory Development Plan component of the City's Local Development Framework. I envisage it then being gradually replaced by new style Development Plan Documents over the next few years, starting with the City Centre Eastern Fringes Area Action Plan currently being prepared.
- 1.4 A summary of the representations and my response to them is set out in Appendix 2, which can be seen on CMIS. The main issues arising are outlined below. The most complex of these relates to objections submitted on behalf of the South Derbyshire Acute Hospitals NHS Trust relating to the possible retail use of part of the DRI site and this issue is discussed first.

Retail Use of DRI Site

- 1.5 The original objection submitted on behalf of the Trust argued that part of the DRI should be allocated for convenience retail development. At the Inquiry, the Inspector accepted a need for a further 2,800 m² of such floorspace in the City, but stopped short of recommending an allocation at the DRI. Instead, he recommended the Council to urgently review its strategy for meeting the future need for convenience retail development.

- 1.6 In drawing up the 6 September Cabinet report, a reassessment of this aspect of retail strategy was undertaken in the light of the Inspector's recommendations. This was appended to that Cabinet report as Appendix 4 and is included again with the current report as Appendix 3 and can be seen on CMIS.
- 1.7 The objector does not refer to this assessment or to the addendum report prepared by the Inspector. He does argue, though, that the Council has failed to properly address the Inspector's recommendation in carrying out an assessment. As he does not offer any comments on the assessment that was carried out, it is difficult to respond to his arguments. I have, however, sought to comment on the basis of the assessment that was carried out. Counsel opinion was sought on the scope of this assessment before it was drawn up.
- 1.8 The objector also makes objections to the two proposed retail allocations at the Friar Gate Goods Yard site and the Heatherton Neighbourhood Centre, which the modified Plan identifies to meet the convenience retail floorspace shortfall. Amongst other things, it is argued that there is no justification given for making a retail allocation at the Friar Gate site. In response, I refer to the assessment considered by Cabinet at its 6 September meeting. However, a report was also submitted by developers to justify retail use in the bonded warehouse as part of a planning application made in 2002. This is reproduced as Appendix 4 and in my view provides further support for the assessment's conclusions. The objector also raises objections to two policies dealing with local shopping centres and argues that provision should only be made for 'small supermarkets' rather than 'appropriately sized supermarkets'. I am not recommending any changes on the basis of these objections, although I do accept that on reflection the supporting text for the Friar Gate Policy could have been worded better, in particular by spelling out the sustainability advantages of the proposed retail use to the proposed residential development and to the wider locality. I do not accept the point about referring to 'small supermarkets' rather than 'appropriately sized ones' because the size of suitable supermarkets will differ between different Centres, some of which could potentially accommodate larger stores.
- 1.9 The objector appears to be suggesting that these parts of the Plan are open to challenge, particularly the proposals at the former Friar Gate Goods Yard. I would be very disappointed if a partner organization actually did challenge the Plan. Recent discussions with the Trust on the Action Plan cast doubt on the availability of the specific part of the DRI site advocated for retail at the Inquiry, although other parts of the site could be available by 2008. In any event there are other avenues open to them to pursue the aspiration of retail development, including the Eastern Fringes Action Plan. The Action Plan is most likely to have partially replaced the Local Plan by 2008. Finally I also plan to commission consultants to undertake a comprehensive city wide retail study to help inform the new LDF documents, including the Core Strategy.
- 1.10 I have taken the opportunity to seek further Counsel advice on the original approach in considering the Inspector's recommendation and in dealing with the current objections.

Other Issues

- 1.11 There continue to be objections to the allocation of part of the University Campus at Mickleover, mainly on the grounds that a satisfactory form of access has still not been identified. However, I consider that a satisfactory access arrangement does now exist. An application for planning permission for the whole site has now been received and likely to be considered by Planning Control Committee later this month or next month.
- 1.12 Brook Farm, Chaddesden. This site lies within green wedge and an allocation for housing was sought on part of it at the Inquiry. The Inspector recognised that it did offer some sustainability advantages, but did not recommend it for allocation. The objector is now arguing that the housing supply situation is less robust than the Plan suggests and is promoting the site as an additional allocation. However, I do not accept their arguments on the housing land supply and do not consider that any further greenfield allocations are necessary at this stage.
- 1.13 A request has been made to re-instate Policy H18 which sought to protect land at Hackwood Farm, Mickleover from development that might prejudice its future development for housing. However, the Inspector was very clear in his recommendation to delete this policy and I see no justification for re-instatement.
- 1.14 A request has been made to re-instate the housing allocation at Ashbourne Road Allotments. The Inspector found that a proper assessment of the need for these allotments had not been carried out and consequently a case for their loss had not been demonstrated. I accept the objector's point that the site offers sustainability benefits, but I see no justification for re-instating the allocation of this greenfield site given the Inspector's recommendation.
- 1.15 Objection has been raised to the more restricted range of goods identified in Policy EP4 which identifies land to the west of Raynesway for employment led development. The modified policy no longer includes the former A3 (food and drink uses) or hotels in the list of specified appropriate uses. The Inspector recommended that such uses should not be allocated, as they should be subject to the various tests required by PPS 6 (Town Centres). I am not recommending that these uses are added back in to the policy, but point out that they may well be appropriate for the site if the relevant tests are satisfied. An application for planning permission has been submitted which will allow these issues to be examined.
- 1.16 A number of points are raised regarding the Heatherton and Manor Kingsway Hospital sites on detailed aspects of the respective policies. I am not recommending any changes to the Plan, but hope that these issues can be satisfactorily resolved through the more detailed planning process.
- 1.17 The supporting representations have mainly been received from English Nature, the Environment Agency and Derbyshire Wildlife Trust and relate to environmental policies. A small number of these include suggestions for change, which I am accepting in a small number of cases.

- 1.18 If Cabinet and Council agrees the recommendations to this report, the next step is to publish a notice of adoption. There is then a six week period in which it can be challenged in the High Court, but any challenge would need to be on procedural matters rather than policy. If the Plan is not challenged, the final version of the document and Proposals Map can be printed. As usual, there will need to be a number of minor editorial changes to the text, mainly to up-date it or to correct factual errors.
- 1.19 Once adopted, the Plan will formally replace the existing CDLP as part of the Development Plan for Derby. It will then be progressively replaced by new style documents as part of the Local Development Framework, probably beginning with the City Centre Eastern Fringes Action Plan.

OTHER OPTIONS CONSIDERED

- 2.1 The main responses document considers whether there is a case to make further modifications or not to the Plan. I have also considered whether there is a need to revisit the assessment of convenience floorspace or whether there is a case to hold a second Inquiry into objections. In both cases, I consider that there is no need to do so.

<p>For more information contact:</p>	<p>Andrew Waterhouse: Tel. 01332 255023 email: andrew.waterhouse@derby.gov.uk</p>
<p>Background papers: List of appendices:</p>	<p>Appendix 1 Implications Appendix 2 Summary of Representations and Response of Corporate Director, Regeneration and Community Appendix 3 Assessment of how to meet additional convenience retail floorspace recommended by Inspector</p>

IMPLICATIONS

Financial

- 1.1 Anticipated expenditure on the CDLP Review has been allowed for in current budgets.

Legal

- 2.1 The CDLP Review is a statutory requirement on the Council. Whilst a new Local Development Framework system came into effect in 2004, the Local Plan Review will proceed to adoption under the old regulations. Once adopted, it will become part of the Council's LDF and be gradually replaced under the new arrangements.

Personnel

- 3.1 The CDLP Review is a key item in the Plans and Policies Business Plan.

Equalities impact

- 4.1 The CDLP Review gives high priority to equality and social inclusion issues with land use implications, such as affordable housing and access for disabled people.

Corporate objectives and priorities for change

- 5.1 The proposal comes under the Council's objectives for providing healthy, safe and independent communities, a diverse, attractive and healthy environment, a prosperous, vibrant and successful economy and a shared commitment to regenerating our communities.