

SUMMARY OF REPRESENTATIONS ON MODIFICATIONS AND RESPONSES OF DIRECTOR OF DEVELOPMENT AND CULTURAL SERVICES

MCP Planning (for NHS Estates, English Partnerships, Derby Hospitals NHS Foundation Trust and Derby Mental Health Services NHS Trust)

MODIFICATION R4.1

Policy R4 Land at the former Manor and Kingsway Hospitals

Summary of Representation

Support the allocation of the site, but raise objections to detailed requirements of the modified policy.

Director's Response

The allocation of this site follows the Inspector's recommendations and support for this and for the associated Supplementary Planning Document currently being prepared is welcomed. Detailed objections are considered below.

Recommendation:

No change.

MODIFICATIONS R4.1 and R4.2

Policy R4 Land at the former Manor and Kingsway Hospitals

Object to Criterion 6 of the modified policy and to its associated Reasoned Justification. The requirement for a needs assessment for sports facilities is onerous and goes beyond the recommendations of the Inspector. Playing field facilities on the Manor Kingsway site have been unused for a significant period of time and have degraded considerably in terms of quality. There are also no changing or other associated facilities. However, alternative provision has been proposed that includes 4.12 ha of sports pitches as part of open space provision that exceeds the current level. The masterplan proposals will result in an increase in open space of nearly 4 ha as well as qualitative improvements. This increase in open space provision negates the need for an assessment of open space provision. In addition, PPG17 only requires the assessment of open space provision where such facilities are likely to be lost. This guidance is reiterated in Policy L7 of the Local Plan Review. Criterion 6 of the modified policy, together with its associated reasoned justification, should therefore be deleted.

The wording of Criterion 6 is identical to that recommended by the Inspector. The wording in the Reasoned Justification is based on Paragraph 3.5.46 of his report. He refers to Policy L7 of the Local Plan Review, which confirms that planning permission would not be granted for the loss of land previously or currently used for recreational purposes, although there is provision for the replacement of such facilities. He further comments that national guidance offers similar protection and refers to Paragraphs 10 – 14 of PPG17 (Planning for Open Space, Sport and Recreation) in a footnote.

Paragraph 10 of PPG17 states that ‘existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements. Paragraph 15 states that, in the absence of such an assessment, permission should not be granted for such developments except where certain criteria are met, such as the provision of replacement playing fields. Reference to this in the policy is therefore appropriate as the proposed alternative provision can then be considered in light of this.

However, there is another and, in this case, perhaps more practical use of an up-to-date assessment of need. If alternative provision is to be made, it would be useful to match this to the actual needs of the remaining health care uses and the additional open space needs of the development itself, which includes 700 new houses. In other words, an assessment of need will help in drawing up the Supplementary Planning Document and any future planning application. I am sure that an appropriate assessment can be made without much difficulty and will provide a useful input into the planning process.

Recommendation:

No change.

MODIFICATION R4.1

Policy R4 Land at the former Manor and Kingsway Hospitals

Object to the final paragraph of Policy R4, particularly the reference to affordable housing. This is unnecessary, potentially confusing and goes beyond the Inspector’s recommendations. The Inspector recognised that ‘there is no need for a specific policy reference to affordable housing as this is implicit in the provision of key worker accommodation’. He did, however, recommend that the Reasoned Justification should explain this relationship and the possibility of a related planning obligation if this cannot be secured by condition. This is reflected in Modification R4.2 and is fully supported by the landowners. Reference to affordable housing in the policy should therefore be deleted.

The wording of this modified paragraph is identical to the Inspector’s recommendation. I agree that the Inspector considered there to be no need for a specific policy reference to affordable housing, but the paragraph is as he recommended. However, it does not simply refer to the provision of affordable housing, but to ‘affordable housing (key worker units)’. My own interpretation of this is that it is not seeking the provision of affordable housing in the usual sense, but is facilitating a Section 106 agreement that makes provision for the key worker units as the scheme’s contribution to affordable housing. As such, it is consistent with the Inspector’s commentary and with the Reasoned Justification.

Recommendation:

No change.

MODIFICATION R4.2

Policy R4 Land at the former Manor and Kingsway Hospitals

Object to the requirement in the Reasoned Justification for phasing development so that previously developed parts of the site are brought forward before undeveloped areas. This requirement does not follow the Inspector's recommendations and will seriously compromise the comprehensive development of the site as a functioning and sustainable mixed use environment. The phasing proposed in Mod R4.2 will result in the piecemeal development of the site which is contrary to national guidance and the Regional Spatial Strategy.

The Inspector recommended that proposals should 'include phased implementation of the business and residential uses' and also that the Reasoned Justification should set out reasons for phased implementation. He clearly accepted that there is a shortfall of some 533 dwellings in the plan's housing supply and allocates the site in its entirety to meet this. His recommendations hold the comprehensive development of the site as a priority and do not state that one area (previously developed or otherwise) should be brought forward before another.

The residential use has a significantly higher value than the business use and will need to be brought forward early in the development of the site (possibly on greenfield land) in order to fund necessary infrastructure. Reference to phasing brownfield parts of the site ahead of greenfield parts should therefore be deleted. It is however accepted that the proposed SPD will need to address phasing.

There appear to be two elements to this objection. Firstly, to bringing forward brownfield land before greenfield areas and, secondly, to the reference to the 'early release' of employment land.

The Inspector's recommendation regarding the actual policy was for a new criterion stating that "development proposals should include phased implementation of the business and residential uses" (Paragraph 3.5.61). This was accepted. The issue therefore seems to be whether the Reasoned Justification reflects the Inspector's intention. He did not recommend a specific form of words for this, but left it for the Council to frame text to reflect his thinking.

Paragraph 3.5.42 of his report states that 'reference to phasing is also important to ensure that implementation starts on those parts of the site occupied by buildings and to secure the early release of the land proposed for employment use'.

This seems to be a clear indication that the Inspector considers that a comprehensive scheme should include provision for the early development of the brownfield parts of the site and for the early release of land proposed for employment use. This is what the Reasoned Justification states, although it uses the phrase 'brought forward' rather than 'starts'. It does not necessarily mean that development of such areas should be completed before work starts on the greenfield areas.

The aim of the policy is to secure comprehensive development and, as part of this, to ensure that the brownfield elements are properly considered and brought forward. I do not see how developing the greenfield parts of the site first will result in any more comprehensive a form of development. If there is a commercial need to bring forward greenfield land before brownfield areas, then this can be considered through the Supplementary Planning Document. The wording at issue here is part of the Reasoned Justification rather than the policy itself and there is scope for negotiation if good reasons are given. However, it correctly implies that weight should be accorded

to the brownfield parts of the site.

The references to the Inspector's report quoted by the objector are from his consideration of general housing supply issues. As such, they do not relate directly to the details of how the internal arrangements of the Manor Kingsway site should be drawn up. The first quote (Paragraph 5.1.22) relates to changes to existing phasing policies. The Inspector rejects this on the grounds that phasing major sites to a later part of the plan period would affect delivery. There is no suggestion in the modified Reasoned Justification to Policy R4 that the greenfield components of the Manor Kingsway site should be phased to a later part of the Plan period. The second quote (Paragraph 5.1.23) relates to the possibility of phasing the Manor Kingsway site to a later date than other allocated sites because of its anticipated later availability. He rejects this on the basis that the Manor Kingsway site is partially brownfield. In other words, he is giving weight to the partially brownfield character of the site.

The objector also quotes from the section of the Inspector's report specifically dealing with the Manor Kingsway site (Paragraph 3.5.21). My understanding of this paragraph is that it relates to discussions at the Inquiry as to whether more priority should be given to the development of brownfield land for housing as opposed to employment use. This goes back to the key area of contention at the Inquiry which revolved around whether the site should include a significant component of market housing or be a mainly employment led scheme. This paragraph, in my view, is not really about whether the relative level of priority that should be given to the development of green over brownfield areas. However, the general tone of this paragraph reflects national and regional planning guidance regarding the importance of making maximum use of brownfield land.

The modified wording of the Reasoned Justification relating to phasing employment and residential areas also closely reflects text used by the Inspector. It does not seek the implementation of the employment areas in advance of the residential areas, rather the early release of land for employment use. The precise arrangements for this should be a matter for negotiation through the proposed SPD and/or planning permission. However, the provision of employment use within this site is a key part of its credentials as a mixed use site and will be an important component of any scheme which could be called comprehensive. I would be very disappointed if the landowners sought to push back the release of employment land to the very end of development as I believe this is a very important part of the overall mix.

Recommendation:

No change.

Government Office for the East Midlands

MODIFICATION CC4.1

Policy CC4 Becket Well Policy Area

The second bullet point of this policy refers to the 'objectives of the City Centre strategy', although these objectives do not appear to be included in the plan.

The objectives referred to in this bullet point are to those of Policy CC1 which has the title 'City Centre Strategy'. I accept though that this could be made clearer in Policy CC4 and am recommending a cross reference. Government Office have advised that this would overcome their objection. As a 'factual' correction this change would not need to be advertised as a Further Modification.

Recommendation:

To add "(Policy CC1)" to the end of the second bullet point of Policy CC4.

Miller Homes (East Midlands) Ltd

MODIFICATION H18.1

Policy H18 Hackwood Farm, Mickleover

Object to the deletion of this policy. It should be re-instated. This site was recorded at the Inquiry as the Council's preferred and most sustainable option, which is a view, shared by Miller Homes. The Inspector's recommendation to delete the policy appears to be based on his view that the site performed poorly as a location for new housing development. However, Amber Valley Borough Council have since proposed the allocation of nearby land off Radbourne Lane for 600 new dwellings. There could therefore be significant merit in allocating land at Hackwood Farm in the future to maximize economies of scale and help to create a critical mass in this part of Derby.

Policy H18 sought to protect land at Hackwood Farm from development that might prejudice future residential schemes. However, the Inspector was quite clear in rejecting this policy which he felt was unnecessary and favoured greenfield land. The choice is therefore between allocating the site for housing or not allocating it. The current housing land supply situation indicates that further allocations at this stage are not necessary.

Recommendation:

No change

MODIFICATION Hx2.1

Policy Hx2 Ashbourne Road

Object to the deletion of the allocation of the Ashbourne Road allotments for housing. The Council has misinterpreted the Inspector's recommendations. Whilst he recommended the site's deletion, he gave further consideration to more detailed site specific issues on the assumption that the Council would have carried out a comprehensive assessment of city wide open space requirements. The Council also indicated that it would be prepared to consider more comprehensive redevelopment proposals on neighbouring land. The allotments serve no reasonably beneficial use and are incapable of being returned to this use without substantial work, particularly since they have been used as a site compound for highway works. The site lies within the urban area.

I do not disagree that this site lies within the urban area and offers sustainability advantages. I also accept that there could be an opportunity for a more comprehensive development involving adjacent land. However, the Inspector considered that a case had not been made to release the site from allotment use and his recommendation was clear that the housing allocation should be deleted.

The Council had indicated that it anticipated that a comprehensive assessment of open space would be available before Modifications stage. The Inspector considered other issues related to this matter in case this assessment did demonstrate that the site was no longer needed for allotments or other open space uses. However, work on open space assessment is not complete and has not considered allotments to any great extent so far.

Recommendation:

No change.

William Davis Ltd and Miller Homes (East Midlands Ltd)

MODIFICATION H13.1 and H13.3

Policy H13 Rykneld Road, Littleover

Object to the reference to management of land release to avoid undermining delivery of housing on previously developed sites elsewhere. The Inspector's recommendation merits reassessment for a number of reasons. Since the Inquiry, a significant number of brownfield sites have come forward in advance of this site. These have not had to await the finalisation of the Local Plan, which in effect means development will not start before early 2007 even though the Plan originally phased it to commence in 2005. There can be no certainty that existing windfall sites with planning permission will be fully implemented by the end of the Plan period. This stock is also dominated by permissions for apartments and will not provide the full range of housing needs in sufficient quantity. With limited time remaining to the end of the plan period, it is vital that the CDLP provides a proper framework for the full range of market and affordable housing. It is therefore essential that the release of the Rykneld Road site is progressed as soon as possible.

The Revised Deposit Policy H13 sought to prevent any development occurring on this site before 2005 and to limit the number of dwellings that could be completed in any one year. This was to ensure that sufficient brownfield land would be brought forward during the earlier parts of the plan period. At the Inquiry, it was accepted that a simple cap on completion rates could have unintended consequences in terms of full delivery of the site and of infrastructure provision. Nevertheless, the Inspector was keen to ensure that the Plan retains flexibility to respond to changing circumstances in line with the plan, monitor and manage approach. The modified wording follows text discussed at the Inquiry and is intended to achieve that flexibility without being prescriptive. I consider that the precise management arrangements, if any are needed, are most appropriately considered through the proposed Supplementary Planning Document for the site and/or as part of a condition or obligation attached to a planning permission.

Completions on brownfield sites have been healthy in recent years and more have come forward suggesting that this will continue into the later part of the plan period. However, the proportion of development taking place on such sites is not so significant

as to suggest an over reliance. In considering any management arrangements, I agree that weight needs to be given to deliverability issues. I am sure, though, that a satisfactory way forward can be agreed with the developers of this site.

Recommendation:

No change.

RPS Planning (for Mr CMF Smith)

MODIFICATION ST2.2

Policy ST2 Key Planning Objectives

The objectives sought in this modification are repetitive of the information in Modification ST2.1. They also repeat national planning guidance and so do not need to be included in a Local Plan. They should either be deleted or combined with ST2.1 to form one comprehensive policy.

Modification ST2.1 sets out the Council's policy regarding key planning objectives. The Inspector accepted the principle of these, although the original approach has been streamlined following his advice. Modification ST2.2 does not repeat these objectives, but rather sets out the Reasoned Justification for them. As such, it is a necessary part of the Plan.

Recommendation:

No change.

MODIFICATION ST15.1

Policy ST15 Implementation

Text regarding S106 Obligations is repetitive of national guidance and does not need to be repeated in Local Plans. It should be deleted.

Policy ST15 identifies S106 Obligations as one method of implementing the Plan's policies. Modification ST15.1 relates to the Reasoned Justification for this. The Inspector accepted the principle of including such wording, though he recommended moving it from Policy ST14 and actually expanding it to provide more detail consistent with Circular 1/97 (Planning Obligations).

Recommendation:

No change.

MODIFICATION HGen.5 and HGen.6

Table 5.1 Housing Land Supply Position and Table 5.2 Local Plan Housing Allocations

There is a small discrepancy between these two tables in terms of the expected contribution from allocated sites. The figure in Table 5.1 should be '4,458' to reflect the figure in Table 5.2.

I accept that there is a discrepancy between the two tables. The error lies with Table 5.2 as the sum total of the 'expected contributions 2004 – 2011' column add up to 4,466 rather than 4,458. This is a minor factual point that can be corrected in the final version of the Plan. As such, it does not need to be advertised as a Further Modification. Table 5.1 is correct and does not need amending.

Recommendation:

To amend the sum total of the 'Expected Contribution 2004 – 2011' column of Table 5.2 to 4,466 rather than 4,458.

MODIFICATION HGen.5

Table 5.1 Housing Land Supply Position

Object to the land supply calculation. The 420 dwellings 'other large sites with planning permission at 2004' and the 600 dwellings 'windfall allowance on large sites' represent double counting. The Inspector does not deal with this matter. Paragraph 5.1.6 of his report only goes as far as to agree that the windfall allowance on large sites should be 100 dwellings a year. Whilst he recognized that double counting can exist between planning permission and windfall allowances (Para 5.1.29), this is only in the context of identifying them on the Proposals Map.

It is noted that the 'windfall allowance on large sites '2004 – 2011' has been reduced by 100 dwellings from a potential 700 to 600. However, this does not overcome the significant double counting that results from the additional figure for 'other large sites with planning permission'. It should instead be reduced to 300.

The changes proposed to Tables 5.1 and 5.2 will result in an overall change to the housing supply situation which should be addressed through Further Modifications. Should the Council decide that, following these changes, there is a need to allocate further land, reference must be made to the Inspector's report. This clearly indicated that land at Brook Farm, Chaddesden is suitable to accommodate at least 80 dwellings.

I do not accept that these two sources of supply constitute double counting. One represents windfall sites that have already been granted planning permission and the other is an estimate of likely windfall sites in the future. The Inspector accepted the assumption that 100 dwellings a year will come forward as large site windfalls. In practice, more have come forward and the objector is effectively arguing that the future estimate should be lowered to maintain an average of 100 a year over the Plan period as a whole. I do not accept this approach as it would result in a gross underestimate of the potential for such sites and flies in the face of recent experience, which shows a steady stream of brownfield windfall completions each year. A figure of 600 rather than 700 is given because a "lead in" period of one year is allowed for.

Recommendation:

No change.

MODIFICATION HGen.5**Table 5.1 Housing Land Supply Position**

The 'losses 1991 – 2011' figure in Table 5.1 does not appear to be related to any known figure. The total number of losses in this period should be made clear as a deduction from the 'dwellings completed 1991 – 2004' figure. This would be expressed as a 'net' (gains minus losses) figure. Anticipated losses between 2004 and 2011 should be expressed separately. Recent data provided by the Council indicates that these losses are about 15 to 16 dwellings a year. This suggests that the 'losses 2004 – 2011' figure should be between 105 and 112, rounded to 100. This change must be coupled with confirmation that Table 5.1 refers to 'net completed dwellings' between 1991 and 2004.

The land supply position is set out in a manner that is consistent with the First and Revised Deposit Plans. I accept that the losses column includes both the actual number of losses up to 2004 and an estimate of future losses for the rest of the Plan period. It could be argued that the table would be clearer if these figures were identified separately, but I do not consider this to be essential. In any event, I am confident that the anticipated losses (2004 – 2011) component of this figure is realistic. Annual losses have actually been closer to 13 a year.

Recommendation:

No change.

MODIFICATION R4.1**Policy R4 Land at the former Manor and Kingsway Hospitals**

Qualified support is given to this allocation, but the assumed completion of 700 dwellings within the Plan period is objected to. House building is unlikely to begin until 2008 at the very earliest and so the completion of 700 dwellings within the Plan period is overly optimistic. A more realistic figure of 450 should be used instead, with the remainder being completed after 2011. If the Council decides that, following these changes, there is a need to allocate further land, reference must be made to the Inspector's report. This clearly indicated that land at Brook Farm, Chaddesden is suitable to accommodate at least 80 dwellings.

The figure of 700 dwellings is made up of two components; 200 key worker units and 500 open market dwellings. The Health Authority's plans for providing the key worker units suggest that these will be built within the Plan period. The remaining 500 open market houses figure is not so different from the 450 units promoted by the objector. I consider that it is a reasonable assumption that these can be delivered within the Plan period, especially now that English Partnerships are involved in the development of the site. Even if a shortfall before 2011 were to arise on this site, this would not justify allocation of a further greenfield site in terms of the current overall supply. The recent Annual Monitoring Report for Derby shows a substantial improvement in housing land supply over the past year, due to a very high level of brownfield windfalls, certainly

sufficient to allow for any shortfall at Manor/Kingsway.

Similar objections to the number of dwellings the Plan assumes will be completed on the University Campus site at Mickleover and at the Rykneld Road site at Littleover are also made. However, these assumptions are no different to those set out in the Revised Deposit Plan and as such are not open to objection at this stage because they are not modifications.

Recommendation:

No change.

MODIFICATION HGen.6

Table 5.2 Local Plan Housing Allocations

Following the objection to the assumption that 700 dwellings will be completed on the former Manor Kingsway hospital site by 2011, consequential changes will be needed to Table 5.2. This should be reduced to 450 within the plan period with the remaining 250 identified for completion beyond the Plan period.

See my response to the objection to Modification R4.1 above (former Manor Kingsway hospitals). No changes to Table 5.2 are required.

The objector has also made similar points regarding completion figures for the Mickleover Campus site (H3) and for Rykneld Road (H13). However, as these figures are not modifications, they cannot be objected to at this stage.

Elsewhere, the objector has promoted an allocation on land at Brook Farm, Chaddesden. I have noted this and taken account of it in my response. However, it can only be taken as a suggested course of action should the Council accept their arguments regarding housing supply. Objections seeking the allocation of land are not in themselves valid at this stage. In any event, I do not accept their arguments on the housing supply situation.

Recommendation:

No change.

DPDS Consulting (for Hallam Land Management)

MODIFICATION H3.2

Policy H3 University Campus, Mickleover

It is inaccurate to say that the site relates well to the urban area and provides good access to public services because there still remains a serious doubt over the capacity and safety of the surrounding highway network. Highway Engineers acting for Hallam Land Management undertook an assessment of the now approved access arrangements to the site. This was responded to by Atkins Transport Assessment (ATP) for the developers. This response stated

that they had foreseen a smaller, less intensive scheme coming forward even though their transport assessment was based on the 400 dwellings proposed in the Local Plan. However, recent consultation on the development proposals shows a scheme for 450 dwellings. As a result, unacceptable queues on the surrounding highway network block to an unacceptable degree vehicular access into and out of the site.

ATP also commented that they were considering alternative access proposals to overcome clear problems of poor visibility standards following objections made on behalf of Hallam Land Management to the recent planning application for access.

The references to the site being well related to the urban area and having good access to public services are not new and so this is not really a 'duly made' objection. In any event, the points made are more to do with the access issue which I consider below.

Recommendation:

No change.

MODIFICATION H3.3

Policy H3 University Campus, Mickleover

This modification seeks to justify the inclusion of green wedge land within the development site. However, the development of 400 houses on the site will be contrary to Criterion c. of the green wedge policy (E2) which states that proposals should not lead to an excessive increase in numbers of people, traffic or noise'. Furthermore, national planning guidance in PPG3 (Housing) states that 'developing more housing within urban areas should not mean building on urban green spaces'. The loss of green wedge sets a precedent in that it accelerates coalescence. The wedge should be maintained as there are more suitable sites elsewhere.

In my view, this is not a valid objection. This is because it seeks to use a modification to the Reasoned Justification of this policy to restate objections to the principle of including land identified in the Adopted Local Plan as Green Wedge within the development site. The principle of this was established through the Local Plan Inquiry and is not at issue at this stage. Nevertheless, I am reporting it for Member's information and for completeness.

Recommendation:

No change.

MODIFICATION H3.4

Policy H3 University Campus, Mickleover

This modification relates to the access arrangements of the site. Policy H3 states that proposals will 'incorporate satisfactory access arrangements, including new access points and roads where necessary. The Council refused permission for an unsatisfactory access some years ago prior to granting permission for a scheme earlier this year. However, it is clear that concerns previously aired by the Council have not been adequately addressed. In particular, there is no evidence that the developers have produced alternative access arrangements to

overcome the problems surrounding visibility standards. This is made worse in that their suggestion of a smaller, less intensive scheme coming forward has now been replaced by a scheme proposing an increase from the 400 expected in the Local Plan.

The Inspector was concerned that if satisfactory access arrangements were not identified, there would be a question over the deliverability of the site within the plan period. He therefore recommended its deletion unless a satisfactory means of access is identified.

Earlier this year, the Council granted planning permission for a new junction at Uttoxeter Road/Western Road, Mickleover. This junction also provided access to the University Campus site and was designed to cater for a capacity of 400 to 500 dwellings, which is consistent with the minimum of 400 proposed in the Local Plan. In considering detailed objections to this scheme, Officers have accepted that there are visibility problems on the new junction between Chevin Avenue and Western Road. However, this can be overcome by making minor changes to the scheme using land in the development consortium's control. Indeed, the planning application submitted for the proposed development includes a small realignment of the Chevin Avenue/Western Road junction to overcome the visibility problem. This is an acceptable arrangement in highway terms.

Recommendation:

No change.

MODIFICATION H3.5

Policy H3 University Campus, Mickleover

The retention of the existing swimming pool in community use will exacerbate the already unsatisfactory access situation. The transport assessment accompanying the planning application for a new junction earlier this year did not take into consideration the traffic impact that this facility and its community use would have on the surrounding transport network. In the absence of a satisfactory means of access, the site should therefore be deleted in accordance with the Inspector's recommendation.

The retention of the swimming pool is not new and as such is not open to objection at this stage. The modification relates specifically to a change in wording to allow either the existing pool to be retained or a new one provided elsewhere on site. It is therefore doubtful as to whether an objection on the grounds of the specific impact of this on the access issue is legitimate at this stage. Nevertheless, the Transport Assessment for the new junction, approved last year, did take the impact of continued use of this facility into consideration.

Recommendation:

No change.

Dr G.D. Taylor

MODIFICATION H3.5

Policy H3 University Campus, Mickleover

The modified wording is less robust than the original regarding the need to retain the existing swimming pool. Supporting text in Paragraph 5.12 of the Revised Deposit Plan states that “the continued use of the indoor swimming pool will also be required”. However, the Inspector’s recommended modified wording reads “the Council will seek to negotiate the continued community use of the indoor pool or the erection of a replacement facility on the site..” The replacement of ‘required’ with ‘negotiate’ implies that the negotiations may fail. The retention of the pool as a local facility is essential.

This is the usual phraseology when referring to Section 106 Obligations because these are reached by agreement through a process of negotiation. The Inspector considered the term ‘require’ to be unduly prescriptive because of this. In any event, the Policy uses the phrase ‘will seek to negotiate’ and no reference in the supporting Reasoned Justification to ‘require’ would outweigh this. The change to the wording of the supporting text therefore brings it into line with that of the policy.

Recommendation:

No change.

Signet Planning (for British Telecommunications plc and Land Securities Trillium)

MODIFICATION EP4.1 and EP4.2

Policy EP4 West Raynesway

Object to the more restricted range of uses allowed on this employment site than in either the Revised Deposit version of the Local Plan Review or in the adopted Local Plan. The policy should be amended to allow for leisure, hotel and A3/A4 uses as ancillary to the major employment uses.

The Council’s position at the Local Plan Inquiry was changed very late in the day to suggest deletion of these uses from the policy giving the objectors no opportunity to respond. PPS6 (Town Centres) advises that considerations such as physical regeneration, employment, economic growth and social inclusion should be taken into account where uses such as retail, leisure and other town centre uses are located outside town centres. These issues, when applied to this site, should be a significant material consideration favouring a wider range of uses on this site. In particular, it would help to redevelop a brownfield site that could require a certain amount of remediation, it would bring about net additional employment opportunities in the locality, it would lead to economic growth faster than without the wider range of uses and it could lead to more social inclusion.

The Revised Deposit Plan identified a mix of uses on this employment led site to help reinforce its attractiveness and to aid deliverability. This included provision for a hotel and food and drink uses (A3) provided these were located near to the main site entrance. Unlike the Adopted Plan, it did not include leisure uses. Since the Inquiry, the Use Classes Order has been amended and the former A3 use class split into three separate classes; A3 (restaurants and cafes), A4 (drinking establishments such as public houses and wine bars) and A5 (hot food take-a-ways).

At the Inquiry, the objector sought the additional inclusion of retail and leisure uses. The Council had argued that no case for these uses had been justified in terms of demonstrating a need for them or that this was the best site in terms of the sequential test as required by PPG6 (now PPS6). Instead, their inclusion should be considered on an individual basis through a planning application where the PPG6 tests could be properly considered.

However, the objector pointed out that the former A3 use class and hotels were also subject to these tests, so why restrict the leisure and retail uses. In reply, Officers suggested that a more appropriate way of dealing with this anomaly would be for all these uses to be excluded from the policy and tested on an individual basis as and when planning applications were made. The Inspector agreed with this view and, as it reflects national guidance, I see no reason to change the Plan further. A planning application for development on this site, including the omitted uses, is currently being considered and may be determined before the Plan is adopted. This is the most appropriate forum for assessing these uses.

Recommendation:

No change.

GVA Grimley LLP (for Henderson Global Investors Ltd)

MODIFICATION S1.1

Policy S1 Shopping Hierarchy

Support the acknowledgement of the complementary role that the six out-of-centre retail locations identified in Policy S9 (including the Kingsway Retail Park) fulfil with respect to the retail hierarchy.

Support welcomed.

Recommendation:

No change.

MCP Planning (for South Derbyshire Acute Hospitals NHS Trust)

MODIFICATION R1.6

Policy R1 Regeneration Priorities

Support the identification of the DRI site as a key regeneration opportunity.

Support welcomed. The DRI site and Castle Ward area were added to this policy to reflect their identification as major opportunities for regeneration in the Derby Cityscape Masterplan and their inclusion within the area of the City Centre Eastern Fringes Action Plan which will in due course supersede relevant parts of the Local Plan Review for this part of the city.

Recommendation:

No change.

MODIFICATION S2.4, R2.2 and R2.3

Policy S2 Retail Location Criteria

The Council has failed significantly to accept the Inspector's recommendations that the convenience shopping spectrum should be totally reviewed. There is no indication of how the reconsideration of the retail strategy has been carried out and no justification for the arbitrary identification of the Friar Gate Goods Yard and Heatherton Neighbourhood Centre. The Plan should start with a considered re-evaluation of its position and clearly explain how and why these two sites are suitable and brought forward to produce 2,800 sq m of convenience floorspace. There is no reasoned argument or justification of the capacity of either of these sites.

While it is acknowledged that the Inspector came to the view that the whole of the convenience retail sector of the Plan needed to be urgently reviewed, which would give the Council some scope to decide how the shortfall in convenience retail space should be addressed, the bulk of the convenience goods floorspace requirement could be met at the DRI site. This was clearly the Inspector's view and the DRI site meets the usual acceptability criteria for a food retail site.

There is an obligation for the Council to indicate why they have failed to respond to the Inspector's recommendation that the convenience sector of provision in the Local Plan should be reviewed. Simply making two arbitrary land allocations without justification is not a review. Such a review, if done thoroughly, should have actively considered the DRI site. Modification S2.4 fails to do this.

At the Inquiry, the objector sought to promote a retail allocation of some 2,800 m² within the site of the Derbyshire Royal Infirmary. The Inspector accepted that there was a need for this, but did not recommend an allocation at the DRI. Instead, he took the view that if the Council had recognised such a need in the early stages of plan preparation, it would have been able to take a view on how to meet it through the Plan. He therefore recommended that the Council should "give urgent reconsideration to its strategy on how to meet future need for convenience retail development".

After considering the Inspector's report and recommendations, there were a number of

issues that I felt needed to be clarified. For instance, the Inspector had elsewhere recommended that the Plan should make provision for retail floorspace at two other locations; the ground floor of the bonded warehouse at the Friar Gate Goods Yard and at the Heatherton Neighbourhood Centre. It was not clear from his initial report how material these recommendations would be in reconsidering the retail strategy. Neither was it entirely clear whether he felt that the 2,800 m² of additional convenience floorspace should be met in a single location or whether it could be provided at more than one location. If more than one location is appropriate, clarity was sought as to whether any locations around the city could be considered or if priority should be given to city centre locations. Officers therefore wrote to the Planning Inspectorate (PINS) on 25 January 2005 seeking clarification on these and other matters.

PINS replied on 2 February 2005, enclosing an addendum report prepared by the Local Plan Inspector. The main points emerging from this are:

- It is for the Council to take a view on how best to meet the need for the additional 2,800 m² of convenience floorspace;
- The site or sites identified to meet the additional floorspace do not need to serve a city-wide catchment;
- The review of the strategy should have no pre-conditions as to locations and formats to meet the need. It would be legitimate for the review to consider a range of possible locations and retail formats.
- If his recommendations on Policy R2 (Friar Gate Goods Yard) and H13 (Heatherton) are accepted, he considers that a substantial part of the identified need will be capable of being met.

In drawing up the Cabinet report considering the Inspector's recommendations and proposed modifications to the plan, an assessment of how to meet his recommendation on this matter was prepared. This was appended to the Cabinet report as Appendix 4 and is also included in this current report as Appendix 3. The objector does not refer to this assessment or to the Inspector's addendum report.

The objection states that if the review of retail strategy had been done thoroughly, it would have actively considered the DRI site. However, given the contents of the Inspector's addendum to his report, I think that it is appropriate for the starting point of the review to be with his recommendations regarding the Friar Gate and Heatherton sites. This is not to say that these were simply chosen because they were recommended by the Inspector. Section 5 of the Council's re-assessment considers the merits of these two sites. Its conclusion is that both offer clear sustainability advantages within the context of associated major housing allocations. The Inquiry process had seen arguments develop regarding the advantages of good quality shopping provision within or close to new housing areas as a means of encouraging people to walk rather than drive to facilities. The DRI site is not associated with any significant housing allocation in the Local Plan Review. Having said this, I recognise that a convenience store on the DRI site would benefit existing residential properties in the locality, as will such stores on the two chosen sites. However, I consider that the two sites chosen to make up the 2,800 m² convenience floorspace shortfall offer greater sustainability advantages compared to the DRI site and that choosing them was the correct decision.

Paragraph 4.2 of the assessment considered the objector's argument that the whole 2,800 m² should be provided in a single location. The Council's view was that this was

not essential. The Inspector has clarified that it is for the Council to take a view on how best to meet the floorspace need and that it would be legitimate to consider a range of possible locations and formats. Paragraph 2.28 of PPS6 states that, in selecting sites, local authorities should:

- **Assess the need for development** – a shortfall of 2,800 m² was identified through the Inquiry.
- **Identify the appropriate scale of development** – the Council considers that since the floorspace figure is relatively small and can be sub-divided into even smaller parcels, a City Centre location is not necessary and that locations associated with planned major growth are, in fact, more appropriate.
- **Apply the sequential approach** – the Heatherton location would be within and/or adjacent to the Neighbourhood Centre depending on how precisely its expansion was implemented. The Inspector acknowledged that the Friar Gate site is located away from established retail locations, but considered that retail use to serve the immediate locality would be acceptable (Paragraph 3.3.7 of his report). As such, a convenience store in this location could act in a very similar manner to a Neighbourhood Centre for the new community and the nearby area. For reasons mentioned above, it is not considered that priority should be given to the City Centre or edge-of-city centre locations. Paragraph 2.58 of PPS6, for instance, stresses the importance of planning for local shops and services.
- **Assess the impact of development on existing centres** – the small scale of the proposed retail use is unlikely to adversely impact existing centres. The Inspector did not recommend that any assessment of impact should be undertaken prior to making provision at the two chosen locations.
- **Ensure that locations are accessible and well served by a choice of means of transport.** Both sites are well served by public transport and are additionally intended to encourage people to walk rather than drive to meet local shopping needs.

In the case of the former Friar Gate Goods Yard, it is important to bear in mind that discussions have been taking place over several years about the form of development at this site. The residential led mixed use scheme identified in the Local Plan emerged in the light of these discussions. Representations on the First Deposit Plan seeking retail use as part of the overall mix were made in July 2001. In responding at the time, I accepted that some small scale retail may be appropriate to meet needs generated by the development, but that significant retail use was not appropriate. In particular, I referred to the Donaldsons retail study that indicated that further retail allocations for convenience floorspace were not necessary. However, this study was challenged at the Inquiry and a City wide shortfall of 2,800 m² was subsequently identified by the Inspector.

In December 2002, Clowes Developments submitted seven applications for the site. These included an outline application for a residential led scheme and a detailed application for restoration of the bonded warehouse which included approximately 2290 m² of retail use on the ground floor. The other five were various listed building consents and detailed applications for specific features within the site. A supporting report was submitted with these applications arguing the case for the retail element of the proposals. This is included in this Cabinet report as Appendix 4 and can be seen on CMIS. At the Local Plan Inquiry, agents acting for Clowes Developments argued that Policy R2 should make more explicit provision for retail use. Again, Officers accepted a case for this to serve the needs of the development. However, the Inspector found this to be too restrictive and recommended retail use to 'meet the needs of the locality'. The Council accepted this recommendation.

More recent information reinforces the position as established in September. Firstly it is now clear that both Debenhams and Marks and Spencer intend to move out of the three stores they currently occupy in the City Centre and move to new locations within the new Westfield development. This will leave three large units vacant in the short term which could accommodate additional convenience floorspace should a user require an urgent City Centre location. Secondly, more recent discussions with the Hospital Trust on the Eastern Fringes Action Plan have indicated that there is significant doubt over whether that part of the DRI site promoted for retail use at the CDLP Inquiry (ie the part of the site fronting Bradshaw Way) could be available for redevelopment during the Plan period, although other parts of the site are likely to be available in 2008/09.

The Eastern Fringes Action Plan now provides a separate and more appropriate opportunity for the Trust to engage with a detailed planning process so that the future use of surplus DRI land can be resolved. The Action Plan is scheduled to be adopted by April 2008 and will then supercede the CDLP Review for that part of Derby. It should also be borne in mind that work in the form of early consultation will soon start on the Core Strategy for the City as a whole. As part of this, we intend to commission consultants to undertake a more comprehensive review of retail strategy looking forward to 2026. This will be articulated through the Core Strategy and other planning documents as necessary.

The Friar Gate Goods Yard appears in the Deposit and Revised Deposit Local Plan Review as a major regeneration site for mixed use. There is no mention in the document of retailing as being necessary to secure regeneration. The Plan should, therefore, justify why the original uses for this site are not liable to secure regeneration.

In evidence to the Inquiry, the landowner's agent referred to the importance of retail use to helping secure the viability and deliverability of the scheme as a whole. However, the modification does not identify retail use on this site simply on the basis of viability issues of the site as a whole. In Paragraph 3.3.7 of his report, the Inspector comments that retail use should be admitted as a possible means of securing the restoration and future maintenance of the listed bonded warehouse. This led to his recommendation 3.3.26 (ii) regarding the approval of retail use, related in scale and nature to the needs of the locality, as a means of securing the preservation of the listed building. This is more related to the issue of finding a suitable use or uses for the warehouse that respects its conservation importance. Elsewhere he notes that this is a 'monumental' building which calls for sensitive design and use of its internal space. His recommendation 3.3.26 (iii), which is reproduced in Modification R2.3, explains this further and I do not see a need to add to this.

Having said this, the Council's reassessment of its retail strategy for meeting the identified shortfall in convenience retail floorspace does not rely on the listed building issue as it also justifies the site on the sustainability arguments discussed above. I accept that these arguments have not been included within the Reasoned Justification to the modified policy and that the Reasoned Justification would have been better had it done so. However, I do not consider that adding such text as a Further Modification at this stage would be justified in terms of the delay to the adoption of the Plan that would result. The policy provides for retail development on the ground floor of the bonded warehouse and the current planning application includes provision for this.

The Plan should justify in detail why convenience retailing is desirable on the site, taking into account national policy guidance, and when the site could be developed for food retailing to meet what the Inspector said was an urgent problem to be addressed.

The assessment undertaken as part of the consideration of the Inspector's recommendations (Appendix 3 of this report) sets out the reasons why convenience retailing is desirable on this site. I have already accepted that the Reasoned Justification would be more robust if it set out the sustainability arguments, though lack of reference to these does not detract from these benefits. I see no reason why development should not take place in the next few years. A planning application has been submitted for the redevelopment of the site, including provision for retail on the ground floor of the bonded warehouse. I anticipate that this application will be determined in the early to middle part of the year and see no reason why development should not start soon after. The redevelopment of this site, including the element of retail, is also part of the vision set out in the Derby Cityscape Masterplan. By contrast, my most recent discussions with the Health Trust suggests that the earliest any part of the DRI will be available is 2008 and that there is significant doubt over the availability of the particular element promoted at the Inquiry.

The Modifications only make reference to convenience retail use on the ground floor of the bonded warehouse as an aspiration, but without any detailed commercial or other justification. Modification R2.3 seems to be equivocal as to the likelihood of retailing being the most desirable way of securing the reuse of the bonded warehouse, because it clearly anticipates retail as only one way of securing its reuse. These Modifications, therefore, have not been proposed in a thorough going manner as to be acceptable as a robust change to the Plan. The allocation of the Friar Gate Goods Yard is both speculative and purely aspirational. No study has been undertaken, according to the published documentation in the Modifications document, to demonstrate that the listed building within this site offers a reliable retail prospect. Given the amount of retailing space intended, and the fact that this absorbs most of the convenience retail floorspace shortfall, the complete absence of any thoroughly worked through justification for a major retail allocation within this site is both highly regrettable and open to challenge on the Trust's behalf.

The modified policy makes provision for convenience retail development within the bonded warehouse. I consider this to be tantamount to an allocation and so presumably did the Inspector. It is certainly more than an aspiration. I do not see that the policy should give a detailed commercial justification. The bonded warehouse is a Grade 2 Listed Building and its restoration is an important public objective. Retail use would seem to offer one of the best, if not the best, commercial benefit to secure this objective. As I say above, though, this is not in itself the reason why the allocation has been made. The landowner supports retail use. Derby Cityscape, whose Masterplan identifies the groundfloor of the warehouse for retail, is the City's regeneration body with a remit to facilitate the regeneration of sites such as this. Whilst I am confident that a viable scheme can be drawn up, the sort of information sought by the objector is likely to be commercially sensitive, confidential and unduly detailed for inclusion in a Local Plan. The objector has submitted no information to suggest that the scheme is not viable.

The Inspector initially recommended retail on this site on the basis that this use could help secure the reuse and preservation of the listed building. His recommended text is therefore accurate to suggest that it is one way of securing this because there may be other ways. However, it is likely that retail use would be the favoured way, especially since many other uses such as residential would result in conservation difficulties because they involve sub-division. It also makes sense not to include retail within the general list of suitable uses on the site so that a more specific form of words dealing with just the bonded warehouse can be framed.

I therefore do not accept the point that the modifications are insufficiently thorough to constitute a robust change to the Plan. Neither do I take the view that any of the

objections raised would warrant a second Inquiry being held.

Recommendation:

No change.

MODIFICATION S3.1

Policy S3 District and Neighbourhood Centres

The notion of enhancing local food shopping provision is not challenged in principle. However, the policy wording refers to *appropriate sized supermarkets* in local and district centres. This is not expressed with sufficient clarity. The focus should be on small scale local provision and this should be referenced in the policy. It is suggested that the words 'small scale supermarkets' be used instead. To do otherwise would be to implicitly allow developers to promote large scale foodstores in local centres which we feel is not what the policy intends.

Firstly it is important to note that the phrase 'appropriately sized supermarkets' was specifically recommended by the Inspector. Whilst the Council was not bound to accept this recommendation, as it would be under the new system, there is an expectation that such recommendations will be accepted unless the Council has very good reasons not to. This objection therefore needs to be considered in this light.

I consider the main issue here to be the suitability of different sized supermarkets within defined District and Neighbourhood Centres and the degree of prescription that should be set out in the policy. The objector argues that policy should refer to 'small' supermarkets to avoid the possibility of developers promoting large scale food stores in local centres which he feels is not what the policy intends.

Policy S3 now covers both District and Neighbourhood Centres. A general description of their respective characteristics is given in Paragraph 7.5 of the Local Plan Review. Broadly speaking, District Centres are larger, serve a wider catchment and offer a wider range of services. The Inspector recognised that there are differences between these two types of Centre in Paragraph 7.4.3 of his report. He also noted that there are differences from one Neighbourhood Centre to another or from one District Centre to another. Some Neighbourhood Centres, for instance, are almost as large as the smaller District Centres. This is partly why the two types of Centre are now considered within the same policy.

For this reason, Policy S3 must offer policy advice for centres with a wide range of characteristics in terms of scale, nature and function. A size and scale of supermarket that may be appropriate within one centre may be wholly unacceptable in another. Some centres can, and do, accommodate supermarkets at the larger end of the size spectrum for such a use (2,500 m²) whilst others cannot. It would be inappropriate to seek to limit all such supermarkets to being small, however this term might be defined. Instead, the phrase 'appropriately sized' allows each case to be considered on its merits. As such, it more properly mirrors the actual policy wording which does not seek to restrict proposals to being small scale, but rather to being compatible with the scale, nature and function of the centre in question.

Recommendation:

No change.

MODIFICATION S5.1

Policy S5 Proposed Neighbourhood Centres

The reference to extending the Heatherton Neighbourhood Centre to provide additional convenience floorspace is not expressed clearly. Modification S2.4 appears, on the face of it, to give preference to large scale convenience provision in the Neighbourhood Centre, but this is not cross-referred to Modification S5.1. It is assumed that this is a matter of textural alteration.

Of more significance, there should be interconnection between Policy S3 (District and Neighbourhood Centres) and Policy S5 (Proposed Neighbourhood Centres). It would be logical to ensure that the amount of convenience floorspace proposed for the Heatherton Neighbourhood Centre is categorised under our recommended size criteria for District and Neighbourhood Centres – ie. small-scale supermarkets being the preferred arrangement. Policy S5 and its modification should be subservient to Policy S3 and its modification.

I do not accept that the wording of this modification is unclear. It refers to permission being granted for an extension to Heatherton Neighbourhood Centre to facilitate additional floorspace identified by Policy H13 or justified by Policy S2. Policy H13, as modified, states that development proposals should provide for 'the expansion of Heatherton Neighbourhood Centre..' and its Reasoned Justification states that this should include approximately 1000 m² of additional convenience shopping floorspace. It also states that more floorspace may be acceptable if it can be justified in terms of Policy S2. This policy requires such proposals to be compatible with the scale, nature and function of the Centre. However, the Centre's function does need to take account of the fact that Heatherton is a major growth area.

Recommendation:

No change.

Indigo Planning Limited (for Westfield Shoppingtowns Ltd)

MODIFICATION S2.4

Policy S2 Retail Location Criteria

The additional floorspace identified in Policy S2 should be located in the City Centre rather than at Friar Gate Goods Yard and at Heatherton. The allocation of additional floorspace within the city should be consistent with the aims of PPS6.

See my response to objections from MCP above. No specific City Centre site is being promoted. However it is highly likely that existing premises within the City Centre shopping area will become vacant in the next two years as a result of relocations to the to the Eagle Centre extension currently under construction. These may provide opportunities for City Centre convenience floorspace. Other proposals for convenience

use that come forward in the City Centre can be treated on their merits under Policy S2.

Recommendation:

No change.

Indigo Planning Limited (for Sainsbury's Supermarkets Ltd)

MODIFICATION S9.1

Policy S9 Out-of-Centre Retail Parks and other Locations

The wording of this modified text implies that there is no quantitative need for retail floorspace and it should be deleted.

The text in question relates to part of the Reasoned Justification, which refers to the Donaldsons' shopping study undertaken in 2000. The Plan's retail strategy was, in part, based on this study, which found that there was little need for new out-of-centre floorspace beyond that already built or identified in the Plan. For this reason, the Plan did not propose any new out-of-centre locations or extensions to existing locations. Instead, it allowed for limited extensions within existing out-of-centre locations. The text of the Reasoned Justification provides the reason for this.

It is recognised that a retail study is based on a particular point in time and can very quickly become out of date. The Plan overcomes this through Policy S2, which provides for new sites to be brought forward if a need and other tests can be demonstrated. Indeed, the Council has accepted the need for additional floorspace in respect of two out-of-centre locations using this policy.

Although I have responded to this objection, the wording of the Revised Deposit Plan and the Modification are similar and it may be that the objector's precise area of concern is not actually subject to a Modification.

Recommendation:

No change.

English Nature

MODIFICATION ST10.1 and ST10.2

Policy ST10 Protection of the Environment

Support modifications.

Support welcomed.

Recommendation:

No change.

MODIFICATION E9.1

Policy E9 Protection of Habitats

Support modification.

Support welcomed.

Recommendation:

No change.

MODIFICATION E10.1

Policy E10 Enhancing the Natural Environment

Support modification.

Support welcomed.

Recommendation:

No change.

MODIFICATION Ex2.1, Ex2.2, Ex2.3, Ex2.4 and Ex2.5

Policy Ex2 Sites of Importance for Nature Conservation

Support modifications.

Support welcomed.

Recommendation:

No change.

MODIFICATION Ex3.1, Ex3.2 and Ex3.3

Policy Ex3 Biodiversity

Support modifications.

Support welcomed.

Recommendation:

No change.

MODIFICATION Exb.1 and Exb.3

**Appendix B Sites of Importance for Nature Conservation
Ex3 Biodiversity**

Support modifications.

Support welcomed.

Recommendation:

No change.

Environment Agency

MODIFICATION STx2.1

Policy STx2 Flood Protection

Support modification.

Support welcomed.

Recommendation:

No change.

MODIFICATION EP1.2

Policy EP1 Land to the South of Wilmore Road, Sinfin

For the avoidance of doubt, the text would be enhanced by clearly stating the need for flood risk assessment along the following lines:

“Developers will be required to identify arrangements to attenuate surface water discharge and avoid flood risk *through flood risk assessment.*”

The wording here reflects the Inspector’s recommendation. In my view, the existing wording implies that a flood risk assessment would be necessary and does not need to be expanded. In any event, the Reasoned Justification to Policy STx2 (Flood Protection) states that applications affecting areas of flood plain should be accompanied by an assessment.

Recommendation:

No change.

MODIFICATION E9.1

Policy E9 Protection of Habitats

Support modification.

Support welcomed.

Recommendation:

No change.

MODIFICATION Ex2.1, Ex2.2, Ex2.3, Ex2.4, Ex2.5, Ex2.6 and Ex2.7

Policy Ex2 Sites of Importance for Nature Conservation

Support modifications.

Support welcomed.

Recommendation:

No change.

MODIFICATION Ex3.1, Ex3.2, Ex3.3

Policy Ex3 Biodiversity

Support modifications.

Support welcomed.

Recommendation:

No change.

Derbyshire Wildlife Trust

MODIFICATION EGen4, E9.1, E10.1, Ex2.6, Ex2.7, Ex3.1, Ex3.2 and ExB.1

Support Modifications

Support welcomed.

Recommendation:

No change.

MODIFICATION Ex2.2

Policy Ex2 Sites of Importance for Nature Conservation

Support the modification, but would like to point out that not all 'Local Nature Reserves' are necessarily designated as Wildlife Sites.

Technically, this is not a 'duly made' objection because the Revised Deposit version of the Plan included a similar wording regarding Local Nature Reserves. However, in preparing the Plan, all existing LNR's were identified and offered protection as 'Wildlife Sites' or 'Nature Conservation Sites' as the Revised Deposit Plan refers to them. Any new ones added to the Wildlife Site Register would also be offered protection.

Recommendation:

No change.

MODIFICATION Ex2.3

Policy Ex2 Sites of Importance for Nature Conservation

Support the modification, but would like to clarify that the 'Wildlife Site Register' does not belong to Derbyshire Wildlife Trust. Therefore, this would be better referred to as the 'Derbyshire Wildlife Sites Register' as opposed to the 'DWT Register'.

I have no objection to this change. As a factual change, I do not consider that it needs to be advertised as a Further Modification. Indeed, the paragraph does refer to this as the Derbyshire Wildlife Sites Register elsewhere. To avoid an over long sentence, though, I am recommending that it is abbreviated to DWSR.

Recommendation:

To amend the abbreviation 'DWT' to 'DWSR' and to include this abbreviation in brackets after reference to 'Derbyshire Wildlife Sites Register' for clarity.

Mono Consultants Ltd (for Mobile Operators Association)

MODIFICATION E31.1

Policy E31 Telecommunications

Support the modified Criteria a. and b. Object to Criterion c. because, whilst electromagnetic interference can be a material planning consideration, there are no clear guidelines stating what level can be considered 'significant'. As such, it should be considered under the Wireless

Telegraphy Act 1949, not by the local planning authority.

Support for modified Criteria a. and b. is welcomed. However, Criterion c. is not subject to a modification and so cannot be objected to at this stage. It was Criterion dx1 in the Revised Deposit Plan and objections to it were considered at the Inquiry.

Recommendation:

No change.

MODIFICATION E31.2

Policy E31 Telecommunications

Support the modification as visual impact should be the main focus of the Council in determining telecoms applications.

Support welcomed. The Inspector recommended this wording to provide greater clarity as to how 'visual impact' will be considered. However, this is only one part of the overall Reasoned Justification, most of which remains unchanged and which also relates to other criteria of the policy.

Recommendation:

No change.

TRANSPORT 2000

MODIFICATION T2.3

Policy T2 – City Council Schemes

The last sentence referring to the Alvaston By-pass extension being one of a pool of schemes to be considered in the Local Transport Plan (2006 – 2011) should be deleted. This scheme is not mentioned in the provisional LTP and has not been mentioned during consultation on the LTP.

I accept that this statement has been overtaken by the passage of time. Whilst the road line remains protected, it is no longer to be a major LTP scheme bid during the 2006 – 2011 period. Whilst other sources of funding may be identified or a bid for Government funding made through a future LTP, I accept that this sentence is no longer accurate and should be deleted. As it is a factual change, I do not consider that it needs advertising as a further modification.

Recommendation:

To delete the last sentence of the modified Paragraph 11.12.

MODIFICATION T6.1

Policy t6 – Provision for Pedestrians

Support the addition of ‘convenient’ to this policy.

Support welcomed.

Recommendation:

No change.

MODIFICATION CC4.1

Policy CC4 – Becket Well Policy Area

Support this modification which now refers only to ‘adequate car parking’ rather than proposing a 500 space car park. This will allow us to object to what is finally proposed for detailed planning permission.

Support welcomed.

Recommendation:

No change.

MODIFICATION CC4.3

Policy CC4 – Becket Well Policy Area

It is acknowledged that a more flexible approach to the Becket Well area is needed. However, by not accepting the Inspector’s recommended new paragraph dealing with the 500 space car park, an agreed reference to access has also been deleted. This is objected to and the paragraph should include a statement along the lines of:

“It will be important to make sure that any car parking provided as part of the development does not result in significant road safety or traffic management implications in accordance with the criteria of Policy T1”.

The paragraph was recommended by the Inspector to provide more detailed information and guidance on the then proposal for 500 car parking spaces as part of the Becket Well proposals. However, the precise nature of the re-development of this area is now less certain than it was at the time of the Inquiry. Policy CC4 adopts a more flexible approach and no longer includes specific provision for the car park. Instead, it states that proposals should provide adequate car parking and servicing facilities. It was for these reasons that the Inspector’s recommended additional paragraph was not taken forward. The objector supports this general approach.

Part of this paragraph referred to ensuring that the car park did not result in significant road safety or traffic management implications in accordance with Policy T1. This text arose from negotiations with the objector at the Inquiry. As a rule, good practice

guidance is to avoid this sort of cross-reference as they only add unnecessary length to the Plan without actually altering policy. However, given the scale of the proposed car park, an exceptional case for such a reference was accepted at the time of the Inquiry. However, as the 500 space car park is no longer proposed, I do not think that this justification remains. In any event, the objector's suggested wording refers to any car parking provided as part of the development. I do not consider that this warrants a cross-reference as it could apply to almost any proposal where the Plan's general criteria policies will apply. The criteria of Policy T1 will apply just as much whether a cross –reference is made or not and given the revised nature of the Policy, I think it more appropriate to allow specific proposals to be considered on their merits in terms of all relevant policies.

Recommendation:

No change.