

Please Reply to: Derby
Our Ref: NDA/CSL/C9842
Your Ref: The Poyser Family (No 1043)
Date: 26 October 2016



Derby City Council
Spatial and Transport Planning
The Council House
Corporation Street
Derby
DE1 2FS

Via email derby.ldf@derby.gov.uk

Dear Sir / Madam

Examination of the Derby City Local Plan Part 1 – Core Strategy: Proposed Main Modifications Consultation

I write in response to your invitation to comment on proposed main modifications to the Local Plan Part 1 – Core Strategy. It is understood that these proposed main modifications have arisen following the examination hearing sessions, for which DPDS participated in on behalf of clients: The Poyser Family (respondent no 1043).

As you are aware, my clients control an area of land which falls within the proposed allocation “AC20 – Rykneld Road”. My clients have sought revisions to the wording of Core Strategy policy AC20 with the effect being the deletion of the employment elements (proposed through criterion d) of the policy and rigidly prescribed vehicular access arrangements (criterion g).

Thank you for the opportunity to comment on the proposed modifications proposed by the Council to ensure that the Core Strategy can be found “sound” by the Inspector.

In this instance, it is noted that a modification is proposed to the supporting text to Policy AC20, this is MM62 which relates to page 122 of the draft plan and paragraph 6.20.2. The modification as proposed is set out below:

~~“The Council has produced a Supplementary Planning Document (SPD) for this site which sets out a detailed vision for the area. Following adoption of the SPD, Planning Control Committee resolved to grant an outline planning application for this site in 2013.”~~

Upon undertaking an initial reading of the proposed modification, my clients considered that it represented a positive step to depart from a rigid position on the location of land uses within the site (as was proposed within the SPD). However it was noted that reference to the SPD remains within the wider text (at paragraph 6.20.4).

Cont/d

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Therefore to further understand this proposed main modification, clarification was sought from officers of the Council through a meeting and emailed question. A response was provided by email and an extract is provided below:

“In terms of MM62, the intention is to remove reference to the SPD from the supporting text of AC20. The rationale for removing the text is purely to remove any potential for misinterpretation of the relationship between the CDLPR policy, AC20 and the SPD. From recollection, I think that concerns were raised at the examination hearings suggesting that the relationship between AC20 and the SPD was not clear in the supporting text. Rather than providing detailed explanation of the relationship, the decision was taken to simply remove reference to the SPD – hopefully avoiding protracted discussion about how any explanatory text should be worded. The intention behind the modification was in no way intended to suggest a move away from the SPD.

As it stands the Council’s approach remains unchanged. The SPD remains in place and it is the Council’s intention to see development delivered in a comprehensive manner as envisaged in the SPD.”

This position is wholly inadequate. The onus falls with the Council to properly justify and explain its planning policy together with any other adopted policy documents that will confirm its fundamental position to the development of land. In the case of the Rykneld Road allocation, the SPD provides “a detailed vision for the area” and also provides a masterplan which sets out where uses will be provided within the site. It is clear from the above correspondence that the Council’s base position is that **“The SPD remains in place and it is the Council’s intention to see development delivered in a comprehensive manner as envisaged in the SPD”**.

If this indeed remains the Council’s intention then the relationship between the SPD and the policy must be properly clarified, to substantiate its continuing role. It therefore cannot be a logical position for the Council to delete such references in the hope that the issue will disappear, particularly as it remains that no planning permission has been issued (for the detailed vision within the SPD) since consideration of the matter some 3 years ago by the Councils Planning Committee.

Given that the Core Strategy will be expected to provide land use planning policies over the long term, it is vital that parties involved in the development of land allocations are clear as to the Council’s position and intentions with regard to how the land will be developed. Unfortunately, the proposed modification and subsequent attempt to clarify matters does more to hinder than it does to assist.

It is noted particularly that (apart from paragraph 6.20.4) there is no other reference to the Rykneld Road SPD and its status anywhere else in the Core Strategy Document which could explain the position adequately and what appears to remain the Council’s intentions for this site.

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My clients submit that it would be wise in these circumstances for the Council to confirm that references to the Rykneld Road SPD are deleted (paragraphs 6.20.3 and 6.30.4) and also confirm that it should have no status in the context of policy AC20 and the Core Strategy.

The reasons for doing so have already been provided to the Inspector, however it seems logical to summarise them again for the benefit of the Council. The SPD in question was prepared under to the context of a previous local plan and national planning policies which have long been superseded. It also remains apparent that the Council has failed to consider this situation in the context of Paragraph 153 of the NPPF where it refers to Supplementary Planning Documents, it states that:

“Each local planning authority should produce a Local Plan for its area. This can be reviewed in whole or in part to respond flexibly to changing circumstances. Any additional development plan documents should only be used where clearly justified. Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development”

In order to apply this policy, Local Planning Authorities must therefore consider whether or not the use of SPD's prepared under previous policies are justified, and it remains the case that this has not been done.

Furthermore, it is also unclear whether the Council has considered this 2008 SPD against the 2012 Local Planning Regulations which are more restrictive about the content and function of SPDs than was the case previously. With specific regard to this, questions from a Local Plan Inspector to Fenland District Council (2013) were provided to assist the Local Plan Inspector with context, the Council has done nothing to respond to this particular point.

It is therefore respectfully suggested that all references to the Rykneld Road SPD are removed from the Core Strategy Document and the Council confirms that it has no status in the context of the future delivery of the AC20 land allocation.

I trust these comments are of assistance, should further clarification be required I would be delighted to assist.

Yours faithfully

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Derby City Council

Schedule of Proposed Main Modifications to the Derby City Local Plan - Part 1 Core Strategy Representations Form

How to Make Representations

The statutory period in which representations can be made on the proposed Main Modifications to the Derby City Local Plan - Part 1 Core Strategy and the Sustainability Appraisal will run for six weeks, ending on **Thursday 27 October 2016 at 5pm**.

To be valid, all representations must be submitted within this period and representations should relate to matters of the legal compliance and/or 'soundness' of the main modifications to the Local Plan. The Council considers the submitted Local Plan with the main modifications to be sound, so representations should specify in what respect(s) the Plan is considered to be unsound and what change(s) would be needed to be made to make it sound.

Please refer to the **Proposed Main Modifications**, the Amendment to the Policies Map, the Derby City Local Plan - Part 1 Core Strategy: Proposed Modifications and the Derby City Council Local Plan Part 1: Sustainability Appraisal Report Addendum (Main Modifications).

Representations should only relate to the proposed main modifications and not other aspects of the plan. These must be put forward without prejudice to the Inspector's final conclusions on the plan.

How we will use the information you give

We must forward all responses we receive through this consultation to the independent Planning Inspector who will consider them as part of the examination. A copy of your comments will be part of the examination library which will be available for the public to use during the examination. Your name will be available for the public to view alongside the comments you have given. A copy of your response will also be published online; this will contain only your name alongside the comments you have given.

Your name, contact details and comments will only be used by the independent Planning Inspector. The independent Planning Inspector may contact you, if further clarification of your response is needed, unless you tell us you do not want this to happen. The independent Planning Inspector will also use this information to contact you if an additional hearing is required.



All information provided will be treated in accordance with the Data Protection Act 1998. The information you provide may be shared with other departments in the Council for the purpose of preventing fraud or the misuse of public funds, or for any legal or statutory requirements such as safeguarding children and adults. It may also be shared with other public bodies (such as the Audit Commission) for a similar purpose.

Part A: Your Contact Details

If you are an agent / responding on behalf of someone else, please give their details first followed by your details.

Q1 Name ...

Q2 Agency or group you represent - if appropriate

Q3 Address

Q4 Postcode

Q5 Phone number

Q6 e-mail address

Agent details

Q7 Name ...

Q8 Agency or group you represent - if appropriate

Q9 Address

Q10 Postcode

Q11 Phone number

Q12 e-mail address

Part B: Making Your Representation

Q13 Please state the Main Modification reference number that your comment relates to

Q14 Do you consider the proposed Main Modification to be...

	Yes	No
Legally compliant?	<input type="checkbox"/>	<input type="checkbox"/>
Positively Prepared?	<input type="checkbox"/>	<input type="checkbox"/>
Justified?	<input type="checkbox"/>	<input type="checkbox"/>
Effective?	<input type="checkbox"/>	<input type="checkbox"/>
Consistent with National Policy?	<input type="checkbox"/>	<input type="checkbox"/>

Q15 Please explain the reasons for your answer. Please be as precise as possible.

Q16 If relevant, please state the changes you consider necessary to make the Main Modification legally compliant and/or sound. Any revised wording of the policy or text would be helpful. Please be as precise as possible.



Amendment to the Policies Map

Q17 As a result of Proposed Main Modification 54 we are also asking for comments on an amendment to the Policies Map relating to Friar Gate Goods Yard. Please provide any comments on the change to the Policies Map below.



Sustainability Appraisal

Q18 The Revised Sustainability Appraisal has been updated to include the appraisal of the Main Modifications. Please provide any comments on the Sustainability Appraisal below.

If you would like to comment on other Main Modifications please print pages 3, 4 and 5 and complete questions 13 - 18. Once completed, please attach to the main survey.

Appearance at the Hearings

Q19 Any issues raised on the Main Modifications will be considered as written representations by the Inspector. Further hearing sessions will only be scheduled in exceptional circumstances. However, please indicate whether you wish to appear at an examination hearing session if necessary.

Yes

No

Thank you for taking the time to fill in this feedback form.

For further information, please contact the Spatial Planning Team at the address below, by email at derby.ldf@derby.gov.uk or by telephoning 01332 640807.

Please return your completed questionnaire by **5pm on Thursday 27 October**, either by email at derby.ldf@derby.gov.uk or posted to:

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