



Derby City Council

Sent by email

Your ref

Our ref CS/EX

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Date 20 May 2016

Dear Mr Moore,

Examination of Derby Local Plan Part 1: Core Strategy

Thank you for your letter of 12th May concerning the Court of Appeal's judgement of 11 May 2016 in Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016]

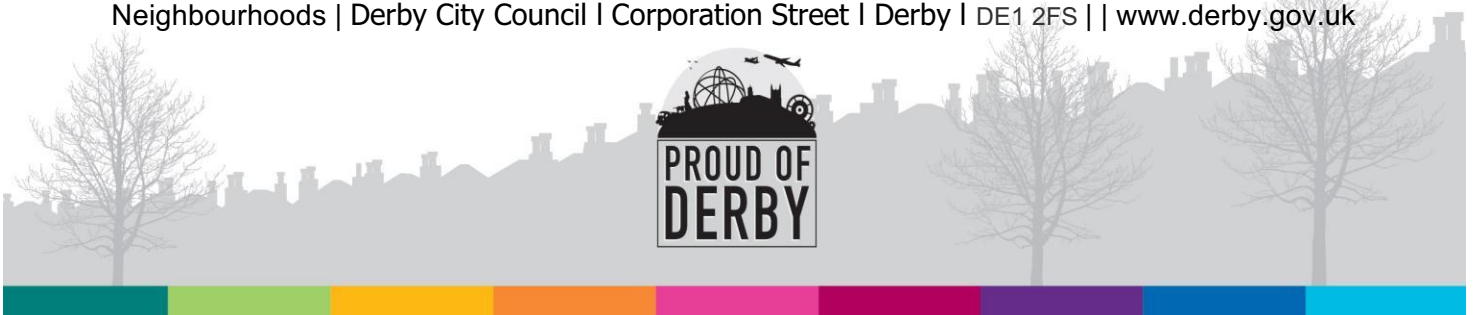
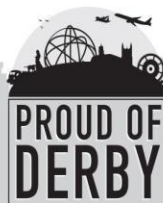
EWCA Civ 441. This judgement has had the effect of reversing a previous appeal against the Secretary of State's Written Ministerial Statement of 29 November 2014 regarding the specific circumstances where contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self-build development. In terms of the implications of this judgement for our Local Plan, our views are as follows.

Policy CP7 (Affordable Housing and Specialist Housing) as proposed for Modification identified a threshold of 15 dwellings below which the Council will not seek affordable housing. The justification for this is set out in the Housing Position paper. As such we would not seek affordable housing (or any other) contributions from sites of less than 10 dwellings anyway. There are therefore no assumptions built into the plan regarding the provision of affordable housing contributions from such sites. For this reason, we do not consider that the judgement will have any effect on the provision of affordable housing, viability or the provision of essential infrastructure.

Neither do we interpret the judgement as suggesting that we should reduce our locally derived threshold from 15 to 10.

The Council also considers that the re-imposition of Vacant Building Credits will also have little impact on the amount of affordable housing secured, viability or provision of essential

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infrastructure. Many of the buildings/sites likely to benefit from this are also likely to be subject to viability assessments which would be likely to reduce the contributions they would make. Many vacant properties converting to residential use are, in any event, likely to be in office use and the change would therefore have the benefit of permitted development rights or prior notification.

The Council therefore considers that the impact of this judgement on affordable housing delivery in Derby would not be significant.

However, we do consider that a small change to Policy CP7 (Affordable Housing and Specialist Housing) as modified would help to flag up the vacant building credits issue. It is proposed that sub-paragraph 2 of criterion b) is amended to read:

“Site size, suitability, economics of provision and taking into account any ‘Vacant Building Credits’. Where a developer.....”

This proposed amendment is included in the Main Mods schedule sent to you separately. We consider that additional detail on how vacant building credits should be calculated and addressed should be dealt with in a review of the Supplementary Planning Document.

Yours sincerely



Andrew Waterhouse
Spatial Planning Group Leader