

## 1. CHAPTER 1 - LOCAL PLAN STRATEGY

### 1.1 POLICY: LS - LOCAL PLAN STRATEGY

#### Objections

FirstDepositRepNo	RevisedDepositRepNo	Title	Forename	Surname	Organisation
F1434-O		Mrs	J.	Travis	
F2907-O		Mrs	J. N.	Burrows	
F3027-O		Mr	B	Wood	Ripley Town Council
F3046-O		Miss	S K	Russell	
F3069-O					Aldergate Properties
	R1780-O				Derbyshire County Council

#### Issues

There is a need for a reference to support for the arts;

Need for 3 statements of strategy;

Consideration should be given to a specific policy in relation to sustainable waste management

#### Inspector's Reasoning and Conclusions

1.1.1 Issues raised by objections F1434, F2907 and F3046 concern provision for bridleways and horse riding facilities which are addressed in connection with the Transportation and Leisure and Community Facilities chapters [paras 5.4.4, 5.5.1 and 7.14.1].

1.1.2 The objection from Ripley Town Council raises concerns that support for the arts should be demonstrated to generate activity in a fast growing sector of the economy. Although the Council has not made a specific response to this objection, there is reference to an Arts Strategy for Amber Valley on p3 of the RDP, and Policy LC7 indicates support for the provision of arts and cultural facilities, whilst LC8 indicates an intention, where appropriate, to negotiate the provision of public art [but see also my conclusions at paras 1.9.4 and 7.8.1-7.8.3]. These do not specifically address the concern with generating economic activity in association with the arts, but in my view any further requirement would go beyond the scope of local plan policy.

1.1.3 The Council has not responded to the objection by Aldergate Properties, which is critical of the general strategy of the Plan, as expressed in this chapter. In particular policies LS1-LS8 duplicate many of the chapter specific policies and are thus unnecessary and confusing. Generally, I have not found this to be the case and am content with the Council's general approach, outlining its Local Plan Strategy as a series of textural headings related to its agreed Strategic Priorities on which it will focus service delivery. Although I have found some

duplication between these strategic policies and other chapter specific ones – most notably between Policy LS8 and similar policies elsewhere in the Plan, and which I have considered on the basis of each occurrence - and with the criteria in Policy H13 which is of a more minor nature, in general terms I have not found this confusing.

1.1.4 The County Council's objection was made at FDP stage but was not set out in the published schedule of responses, as noted in **CD.AV9** (p4). Accordingly, the objection was maintained at RDP stage and addressed through a PIC (**CD.AV8**; p4). The substance of the County's objection is that applicants for all major development proposals should be required to provide information on the waste production implications. This is supported by the proposal for a similar policy by the Inspector at the Notts Waste Local Plan, but considered more appropriate in district local plans. The response has been to include an additional criterion to Policy LS5, concerning sustainable development. This goes some way to providing a satisfactory answer to the objection, but the change does not indicate an intention to require applicants to provide information concerning waste production implications. In my view this is a matter which could be readily addressed by an addition to the proposed new criterion.

1.1.5 Looking more generally at the Local Plan Strategy, and taking account of my findings in respect of the individual policies in Chapter 1, it seems to me that these fall into two separate categories: those general statements of intent which express the Council's general approach and overarching objectives, and those general policies which provide a framework for considering development proposals. In my view it would be helpful if the first chapter were to be reformulated to reflect this by setting out, firstly the Council's general objectives, and then a concise set of general policies for development comprising LS1, 5, 6, 7 and 8, though not necessarily in that order.

1.1.6 A general issue raised in objections is the lack of paragraph numbers in the justification for policies and I have found this a problem insofar as it is necessary to refer to particular paragraphs when using the Local Plan. I also believe it would be useful to put titles to the policies themselves for easy reference. For example Policy LS7 is concerned with provision for disabled and those of restricted mobility, whilst EN2 provides for development in Green Belts. I consider it would be helpful if these policies were to be stated as:

"Policy LS7: Access for the Disabled" and

"Policy EN2: Development within the Green Belt".

## **RECOMMENDATIONS**

**That the Plan be modified by adding text to the criterion proposed by the PICs, to read:**

**"e) managing waste generated from the construction and occupation of, and operations resulting from new development. (all applicants for major new developments will be required to supply full information regarding the waste production implications of the proposals)";**

**that, additionally the Council gives further consideration to the structure of Chapter 1, reflecting my conclusions at paragraph 1.1.5.;**

**and that it also gives consideration to providing paragraph numbering throughout the Local Plan, and specific Policy headings to identify the purpose of each policy.**

## 1.2 POLICY: LS1

### Objections

FirstDepositRepNo	Title	Forename	Surname	Organisation
F0445-O	Mr	Keith	Beswick	Derbyshire Constabulary
F3003-O	Mr	R	Hepwood	Miller Homes East Midlands
F3011-O	Mr	P	Cronk	House Builders Federation
F3028-O	Mr	Carl	Wright	Heanor & Loscoe Town Council (Clerk)
F3274-O	Mr	R	Barber	Westbury Homes (Holdings) Ltd

### Issues

Community safety is not a land-use issue

Should be expressed as an aim or objective rather than policy

Unreasonable to apply policy to all development proposals

Need to define 'where appropriate'

Policy needs to be more bold e.g. by referring to positive actions/projects to prevent crime

Policy is too vague and would therefore be difficult to enforce

### Inspector's Reasoning and Conclusions

1.2.1 The Derbyshire constabulary is concerned that there is no specific guidance to which developers might refer in the initial stages of a proposed development, suggesting the use of supplementary guidance as an appropriate means.

1.2.2 Miller Homes, Westbury Homes and the HBF consider the Policy too vague and unenforceable. It would be more appropriately expressed as an objective. This is a concern recognised in the recent joint ODPM and Home Office publication "*Safer Places*", 2004 (Annex 4) which asks if a policy is needed, and whether it genuinely responds to a specific issue and context rather than just restating general policy. It also asks if implementation would be helped by additional SPG. Circular 5/94 *Planning Out Crime* also advises pre-application discussion, and refers to the use of conditions to secure crime prevention objectives (para 11).

1.2.3 From the above, it appears to me that the Policy would benefit from a more positive wording, and I have suggested a form of wording in my recommendation. This should be supported in the text by specific reference to the available Government guidance.

1.2.4 The Council has responded positively to the request by the HBF to remove the words '*where appropriate*'. No further action is necessary.

1.2.5 Chapter 8, Monitoring and Implementation makes reference to '*Secured by Design*', but gives no source.

### RECOMMENDATIONS

**That the Plan be modified by amending Policy LS1 as follows:**

**“All development proposals must reflect the principles of community safety and address the fear of crime by including measures to ensure the prevention and reduction of crime, nuisance and disorder. For major development proposals, the Council will negotiate with the developer to ensure the incorporation of crime prevention measures and, where appropriate, provide specific guidance through the preparation of a development brief. Planning conditions, in accordance with the advice in Circular 1/85, may be used to secure crime prevention objectives.”;**

**and by including appropriate references in the supporting text.**

### 1.3 POLICY: LS2

#### Objections

FirstDepositRepNo	Title	Forename	Surname	Organisation
F3003-O	Mr	R	Hepwood	Miller Homes East Midlands
F3011-O	Mr	P	Cronk	House Builders Federation
F3028-O	Mr	Carl	Wright	Heanor & Loscoe Town Council (Clerk)
F3041-O	Mr	C	Packman	Government Office for the East Midlands
F3274-O	Mr	R	Barber	Westbury Homes (Holdings) Ltd

#### Issues

Health and safety is not a land-use issue

Should be expressed as an aim or objective rather than policy

Unreasonable to apply policy to all development proposals

Need to define 'where appropriate'

Policy is too vague and would therefore be difficult to enforce

Policy needs to be clarify what is meant by 'health, leisure & cultural facilities'

#### Inspector's Reasoning and Conclusions

1.3.1 In general terms, objectors are concerned that the Policy is too vague and expressed in general terms. The HBF, for instance, suggests that it may be appropriate as a corporate strategy but the land-use connection is somewhat tenuous. PPG12 (para 3.14) lends support to this view, suggesting that "*policies in development plans should concentrate on those matters which are likely to provide the basis for considering planning applications or for determining conditions to be attached to planning permissions*". In these terms, it is difficult to identify what specific improvements the Council will be seeking under criteria a) and b), or which development proposals it will affect. For example, would each application for a single house be required to consider the problems of deprivation and poverty? Clearly not.

1.3.2 This is not to say that tacking deprivation, poverty and social exclusion is not an important issue; rather it is difficult to see how a prospective developer can, from this policy statement, identify what might be required of a specific development proposal to meet the requirement. Similarly, there is no indication of what form the improvements to the provision of health, leisure and

cultural facilities might take, nor to which proposals the criterion would be applied. The means of implementation of the policy is not specified – for example, would it be applied by planning condition, or through a S106 agreement? The Planning Officers Society publication *"Better Local Plans"*, 1997, advises (p7) that such policies, whilst maybe dealing with matters of local importance, have no apparent land-use implications or means of implementation and are therefore not suitable for a local plan.

1.3.3 In its present form I consider the Policy has no place in a local plan, and should be replaced by a statement of intent, or by a more specific policy indicating firstly, what would be sought in addressing the problem; secondly to what types of development proposal it would apply, and thirdly by what means would the policy be implemented. In this context it is significant that, in Chapter 8, the only key performance indicators are measures of the provision of affordable dwellings, and of public open space. These are matters covered by policies H11 and those in Chapter 7, Leisure and Community Facilities, particularly LC1. This supports my view that Policy LS2 is superfluous.

## RECOMMENDATIONS

**That the Plan be modified by the deletion of Policy LS2 and its replacement by a statement defining the Council's aims regarding the enhancement of the quality of life, and that the Council gives further consideration to the wording of this section of the Plan to give specific guidance to prospective developers.**

## 1.4 POLICY: LS3

### Objections

FirstDepositRepNo	Title	Forename	Surname	Organisation
F1262-O	Mrs	L F	Cooper	
F3003-O	Mr	R	Hepwood	Miller Homes East Midlands
F3006-O				Patrick McGinnis & Sons
F3011-O	Mr	P	Cronk	House Builders Federation
F3024-O	Mrs	S	Stowell	Sport England
F3274-O	Mr	R	Barber	Westbury Homes (Holdings) Ltd

### Issues

Regeneration is not a land-use issue

Should be expressed as an aim or objective rather than policy

Unreasonable to apply policy to all development proposals

Need to define 'where appropriate'

Policy is too vague and would therefore be difficult to enforce

Policy needs to be clarify what is meant by 'regeneration'

The role of sport in regeneration should be reflected in the policy

Not all development proposals are capable of creating employment

### Inspector's Reasoning and Conclusions

1.4.1 The tenor of objections is similar to those relating to Policy LS2, suggesting that it is too vague, and that it is unclear how it will operate in particular circumstances. The RDP has been changed to remove the *requirement* for proposals to contribute to regeneration, and replace it with the Council's intention to *take account of the potential* for development to make such a contribution. It is difficult to see the benefit of stating this as policy since it seems hardly likely that proposals for employment generating uses would not provide new job opportunities. It also appears to me unlikely that the Council would, under this Policy, refuse permission for a development that did provide job opportunities even if these were not new ones. Additionally, the Policy includes all employment generating uses, and identifies both urban and rural areas – effectively an “*anything, anywhere*” policy.

1.4.2 In the terms I have described there appears to me little point to a policy that does not identify what a developer has to provide in order to obtain planning permission. In its present form it should be re-stated as a general aim or objective of the Plan as a whole, leaving policy for the control of employment generating uses to be stated in Chapter 2, Economic Development and Regeneration.

### RECOMMENDATIONS

**That the Plan be modified by the deletion of Policy LS3 and its replacement by a statement defining the Council's aims regarding the regeneration of the local economy, and that the Council gives further consideration to the wording of this section of the Plan to give specific guidance to prospective developers.**

## 1.5 POLICY: LS4

### Objections

FirstDepositRepNo	RevisedDepositRepNo	Title	Forename	Surname	Organisation
F1262-O		Mrs	L F	Cooper	
F3003-O		Mr	R	Hepwood	Miller Homes East Midlands
F3011-O		Mr	P	Cronk	House Builders Federation
F3022-O		Miss	A	Plackett	English Heritage- East Midlands Region
F3041-O		Mr	C	Packman	Government Office for the East Midlands
F3274-O		Mr	R	Barber	Westbury Homes (Holdings) Ltd
F3408-O			Sven	Rufus	Nottinghamshire Wildlife Trust
	R1751-O	Ms	J	Wheeldon	English Nature - Peak District & Derbyshire Team - East Midlands

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FirstDepositRepNo	RevisedDepositRepNo	Title	Forename	Surname	Organisation
					Region
	R1752-O		Karen	Devonport	Countryside Agency - East Midlands Region
	R1814-O	Mr	G J	Clarke	Bolsover District Council

### Issues

'Environment' is not a land-use issue

Should be expressed as an aim or objective rather than policy

Unreasonable to apply policy to all development proposals

Define 'where appropriate'

Policy is too vague and would be difficult to enforce

Clarify what is meant by 'environment'

Duplicates policy LS5

Requirement to 'enhance' the environment is unreasonable

Reference should be made to the 'historic environment'

Exclusion of development control consultation zone around Exchem works in South Normanton.

### Inspector's Reasoning and Conclusions

1.5.1 The main concerns with Policy LS4 are that it is, in part duplicated by LS5, criterion c) and partly by policies in the Environment Chapter; that it is too vague and would be unenforceable. In my view these criticisms are as true of this Policy as they were of policies LS2 and LS3. It indicates an aspiration that will require specific actions in respect of each development proposal to achieve results. There is no indication within the Policy of what form those actions should take, nor the means of ensuring that they are taken. Policy LS5, criterion c), requires all development proposals to protect and enhance the quality of the environment, whilst there are also relevant policies in Chapter 6, for example, EN7 requires development to take account of landscape character types, whilst EN8 seeks to prevent damage to trees, woodlands, hedges, dry stone walls and other landscape features. Other policies within that Chapter seek to protect the historic built fabric of the environment. It is difficult to see the purpose of Policy LS4, other than to draw attention to the Council's intentions in these matters. This should be achieved through an overview of the Council's aims, drawing attention to the specific policies if this is felt necessary.

1.5.2 The Countryside Agency, in its additional written representation, considers the amended text in the RDP alters the tenor of the policy in such a way as to remove the aspirational element. It suggests (para 5) additional wording to ensure that "*..proposals contribute to the protection, and where possible, enhancement of the environment*". This view tends to reinforce my finding, that Policy LS4 reads as a statement of intent, or aim, rather than as a policy to guide development proposals.

1.5.3 The issue raised by Bolsover DC at both FDP and RDP stage relates to the HSE development control consultation zones around the Exchem Works at South Normanton. This would appear to have been the subject of correspondence during 2002, although this has not been drawn to my attention, and the issue does

not appear to have been addressed in the response to representations (**CD.AV7**). It is dealt with at RDP stage (**CD.AV9**, p2), where the Council indicates that there is no requirement for the zone to be identified on the Proposals Map. However, PPG12, paras 6.22-23, draws attention to Council Directive 96/82/EC (the Seveso II Directive) requiring Member States to take account of the objectives relating to the prevention of major accidents involving hazardous substances in their land-use policies. The obligations have been implemented through the Control of Major Accident Hazards Regulations 1999. The advice in PPG12, therefore, is that LPAs should include policies relating to the location of establishments where hazardous substances are used or stored, and to the development of land within the vicinity of such establishments. Policy LS4 is not the place for such a policy, but it would be appropriate to include a new policy in Chapter 6, Environment, addressing the issue, and to show the consultation zone on the Proposals Map so far as it affects land in Amber Valley. I have suggested an appropriate wording in my recommendation which the Council may wish to consider.

1.5.4 The representation by Nottinghamshire Wildlife Trust is, in fact, one of support for the Policy.

### RECOMMENDATIONS

**That the Plan be modified by the deletion of Policy LS4 and its replacement by a statement defining the Council's aims regarding the protection and enhancement of the environment, and that the Council gives further consideration to the wording of this section of the Plan to give specific guidance to prospective developers;**

**and by including new policies in Chapter 6, Environment, dealing with the location of establishments storing and handling hazardous materials, and with the development of land within the vicinity of such establishments, as shown in the recommendations at section 6.1 of this report.**

### 1.6 POLICY: LS5

#### Objections

FirstDeposit RepNo	RevisedDeposit RepNo	Prelnquiry Change RepNo	Title	Forename	Surname	Organisation
F0331-O						Derbyshire County Council
F0415-O			Miss	G.	Foster	
F0690-O			Mrs	S	Lane	British Horse Society
F1262-O			Mrs	L F	Cooper	
F1434-O			Mrs	J.	Travis	
F2524-O			Mrs	G	Bestwick	
F2583-O			Mr &	A	Nichols	

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FirstDeposit RepNo	RevisedDeposit RepNo	PreInquiry Change RepNo	Title	Forename	Surname	Organisation
			Mrs			
F3000-O			Mr	D	Marsh	Environment Agency
F3011-O			Mr	P	Cronk	House Builders Federation
F3041-O			Mr	C	Packman	Government Office for the East Midlands
F3046-O			Miss	S K	Russell	Amber Valley Riders
F3062-O						Bloor Homes (Measham) Ltd
F3064-O						Cofton Land & Property Ltd
F3071-O			Mr	J	Fletcher	Langridge Homes Ltd
F3272-O				Karen	Devonport	Countryside Agency East Midlands Region
F3274-O			Mr	R	Barber	Westbury Homes (Holdings) Ltd
F3283-O			Dr	Roger	Catchpole	English Nature
	R1757-O		Ms	D	Skrytek	Derby Friends of the Earth
	R1780-O		Mr	N	Harrison	Derbyshire County Council
		P0027-O	Mr	P	Cronk	House Builders Federation

**Issues**

Specific reference should be made in the policy to limiting replacement of dwellings in the countryside to cases where the existing dwelling is worthy of retention

The policy should emphasise that sustainable development principles override any preference for development on 'brownfield' rather than 'greenfield' sites

The policy is too restrictive and should be worded more positively with regard to development in rural locations

That part of the policy referring to housing development in the countryside conflicts with Government guidance in PPG7

The supporting text to the policy should explain how the policy criteria should be applied

Detailed comments on wording of policy/text

Detailed comments on proposed pre-inquiry changes to wording of policy

**Inspector's Reasoning and Conclusions**

1.6.1 There are a number of detailed objections to this Policy, many relating to the FDP. One change was made at RDP stage: that being removal of the final paragraph following the objection from the GO-EM. FoE has objected to that change on the grounds that it removes protection from the open countryside not protected by Green Belt or other designations. However, such protection is provided through other policies, such as H6 and EN1, and removal of the paragraph does not, in my view, weaken the Plan in this respect.

1.6.2 The County Council considers a sustainable policy should exclude replacement dwellings, following demolition, in the countryside. Although the Government advises that building in the open countryside should be strictly controlled (PPG7, para 2.8 and draft PPS7, para 1(iv)), there is no specific advice on replacement dwellings. Nor does the DDJSP (General Development Strategy Policies 1 and 4) specifically exclude such proposals from consideration. I do not know of any specific justification for a ban on such proposals, and none is given in evidence. I am aware of councils that have policies controlling the size and footprint of replacement dwellings, and this is something the Council may wish to consider. However the general strategy chapter is not an appropriate location for such a policy.

1.6.3 Some objectors have suggested that a policy setting down criteria for sustainable development should be pre-eminent and even given primacy in directing the strategy objectives of the Plan. On the face of it, there is some merit in this suggestion. It appears a little odd that the key Policy setting down the Council's approach to a primary Government vision for planning follows policies dealing with concerns such as community health and safety. This contrasts with the DDJSP and the RPG both placing emphasis on sustainability, the former through General Development Strategy Policy 1, the latter with policies 1 and 2. In my view it would be appropriate for the Local Plan to follow these leads with the statement of objectives, and a policy for sustainable development as the first policy in Chapter 1.

1.6.4 The HBF is concerned that criterion (b) gives the wrong emphasis in that not all previously developed, or 'brownfield' sites will be well related to existing patterns of development – a point made in PPG3 (para 32). HBF suggests clarification is required. The Council has not proposed an amendment in response to this objection, but has added text giving preference to employment and tourism rather than housing (**CD.AV8**, p4). The additional text suggests that employment and tourism should be given precedence over housing use irrespective of location. This cannot be the Council's intent and leads me to believe that the purpose and intent of Policy LS5 has been lost. The justification suggests the purpose of the Policy is to achieve a sustainable pattern of development – in other words to provide locational criteria for development proposals, which themselves reflect sustainable development principles. As presently formulated, criterion (c) and the new criterion (e) are not appropriate to a locational policy and would be better dealt with elsewhere in the Plan, whilst the amended criterion (b) does not provide a clear statement of intent. My view is supported by HBF which has indicated that it sees no justification for the PICS relating to criteria (b) and (e).

## **RECOMMENDATIONS**

**That the Plan be modified by replacing Policy LS5 with a revised Policy stating locational criteria for development proposals, reflecting sustainability principles; and by re-positioning the Policy as Policy LS1. The Council may wish to give consideration to a suggested Policy as follows, supported by appropriate justification:**

**"Proposals for development should be located taking account of the following sustainability criteria by:**

- a) being well-related to existing patterns of development;**

- b) re-using previously developed land and buildings in preference to greenfield sites, except where circumstances such as location or accessibility preclude their use;
- c) minimising the need to travel between home, work and other activities and providing opportunities for journeys other than by car;
- d) ensuring the capacity of existing infrastructure to absorb further development."

## 1.7 POLICY: LS6

### Objections

FirstDepositRepNo	Title	Forename	Surname	Organisation
F1262-O	Mrs	L F	Cooper	
F3011-O	Mr	P	Cronk	House Builders Federation
F3022-O	Miss	A	Plackett	English Heritage- East Midlands Region
F3272-O		Karen	Devonport	Countryside Agency East Midlands Region
F3274-O	Mr	R	Barber	Westbury Homes (Holdings) Ltd
F3408-O		Sven	Rufus	Nottinghamshire Wildlife Trust

### Issues

The policy duplicates policies H12 (Housing) and ER11 (Economic Development)

The policy could stifle innovative design

Clearer guidance should be set out as to what quality design would entail

Emphasis should be given to the importance of the overall quality of design, including functional space and energy efficiency, as well as visual impact

Policy should emphasise positive contribution that good design can make to the 'public realm'

### Inspector's Reasoning and Conclusions

1.7.1 The representations by the Countryside Agency and the Nottinghamshire Wildlife Trust appear to be of support. Although the Council's statement on publicity and consultation (**CD.AV7**, Appendix H, p7) reports the objections and indicates that the Policy and supporting text will be amended, the only change to the Policy is to replace "surrounding area" with "locality" in the RDP.

1.7.2 In my view the Policy does not duplicate those in the Housing and Economic development chapters, since it is intended as an overall guide to the good design of development. In this, it follows the guidance set out in PPG1 (paras 13-20) which states that these general design principles "...are matters of proper public interest". The guidance also indicates that the matters covered by Policy LS6 are appropriate and it also suggests that good design can help promote sustainable development as well as improving the quality of the existing urban

environment. I do not accept that these broad indicators of good design would stifle innovative design; rather, they give a context within which innovation can, and should be encouraged. Again, the Government's advice in PPG1 is that planning authorities should not attempt to impose a particular architectural taste or style arbitrarily and, in my view, the general terms in which LS6 is drafted should avoid this possibility. The HBF has suggested that following advice in PPG1 the Policy should reflect the role of innovation, which may include new materials, but equally it indicates that poor designs can include those inappropriate to their context. In some areas this will include the appropriateness of materials.

1.7.3 English Heritage has suggested a third bullet point be added, highlighting the need for good urban design principles to be followed, and for developments to make a positive contribution to the public realm. I support this view, and consider the Policy could be improved by the addition of a third criterion covering the fact that "*..the appearance and treatment of the spaces between and around buildings is often of comparable importance to the design of buildings themselves*" (PPG1, para 14). I have included a suggested form of words with my recommendation. For consistency, the reference to the appendices in the FDP in the final sentence of the supporting text should be deleted.

## RECOMMENDATIONS

**That the Plan be modified by amending Policy LS6 to include a third criterion as follows:**

**" c) taking account of the relationship between the development proposals and neighbouring buildings, and the spaces between and around those buildings";**

**and by deleting the reference to the First Deposit Plan in the final sentence of the supporting text.**

## 1.8 POLICY: LS7

### Objections

FirstDepositRepNo	Title	Forename	Surname	Organisation
F0415-O	Miss	G.	Foster	
F0690-O	Mrs	S	Lane	British Horse Society
F1434-O	Mrs	J.	Travis	
F2583-O	Mr & Mrs	A	Nichols	
F2588-O	Mrs	R	Masters	
F2620-O	Ms	C	Hunt	
F3028-O	Mr	Carl	Wright	Heanor & Loscoe Town Council (Clerk)
F3046-O	Miss	S K	Russell	Amber Valley Riders

## Issues

There is a need for greater clarity in the wording of this policy to make it clear what it is intended to achieve

## Inspector's Reasoning and Conclusions

1.8.1 All of the objections to this Policy, except that of the Heanor & Loscoe Town Council are from individual horse riders or horse riding organisations, essentially calling for better facilities and bridleways, and greater safety for horseriders. These matters have been addressed by the Council through the inclusion of a new Policy LC14, and by amendments to appropriate transport policies. Policy LS7 deals with an unrelated matter of access for disabled people. The Council did indicate that the Policy would be amended (**CD.AV7**, Appendix H, p8) but only the supporting text has been modified in the RDP.

1.8.2 The objection by HLTC questions what is meant by "*where practicable*". Although this is a specific point which I support, it does raise a more general question concerning the purpose of the Policy. As it is phrased, LS7 is little more than a statement of intent and provides little or no guidance concerning what would be required to obtain planning permission. As such it should be included in supporting text, rather than expressed as a Policy. However, PPG1 (paras 33-34) makes it clear that, although matters of access and design for the disabled and those of restricted mobility are covered by Part M of the Building Regulations, they are also material considerations in dealing with planning applications. It states that "*..when a new building is proposed, or when planning permission is required for the alteration or change of use of an existing building, the developer and the local planning authority should consider the needs of people with disabilities at an early stage in the design process*". As a result I consider it reasonable for the Plan to include such a Policy, but I believe that it should be more specific in its requirements of developers. I have included an appropriate form of wording with my recommendations. I also consider that reference should be made to the advice in PPG1 in the reasoned justification (unless this has been replaced by new advice in the meantime through the forthcoming Planning Policy Statement 1).

## RECOMMENDATIONS

**That the Plan be modified by replacing Policy LS7 with the following:**

**"Proposals for new development, including those for the alteration or change of use of an existing building, will only be acceptable if the needs of people with disabilities and those of restricted mobility have been taken into account. The Council may, where appropriate, impose conditions requiring access provision for people with disabilities and, where necessary, will seek to negotiate for adequate provision in terms of site layout, car parking arrangements and public access."**

## 1.9 POLICY: LS8

### Objections

FirstDeposit RepNo	Revised Deposit RepNo	PreInquiry Change RepNo	Title	Forename	Surname	Organisation
F1458-O			Mr	E	Lancashire	
F3000-O			Mr	D	Marsh	Environment Agency
F3001-O						Tesco Stores Ltd
F3003-O			Mr	R	Hepwood	Miller Homes East Midlands
F3028-O			Mr	Carl	Wright	Heanor & Loscoe Town Council (Clerk)
F3037-O						Sainsbury's Supermarkets Ltd
	R1799-O					Sainsbury's Supermarkets Ltd
		P0027-O	Mr	P	Cronk	House Builders Federation

### Issues

The policy should make explicit reference to Circular 1/97: Planning Obligations rather than relying on the supporting text

References to public art should be excluded as this will not be directly related to development

Infrastructure & community benefits should be provided earlier in the development process

Detailed comments on wording of policy/text

Detailed comments on proposed pre-inquiry changes to wording of policy

### Inspector's Reasoning and Conclusions

1.9.1 The majority of objectors are concerned that the Policy does not fulfil the tests for Section 106 Planning Obligations set down in Circular 1/97, para 7. Cllr Lancashire believes the wording is misleading and incorrect. At the inquiry he argued that the mechanism for agreements is there and there is no need to put it in the Plan. He is concerned that it could give the appearance of the Council allowing for the purchase of planning permissions. In response for the Council, Mr Rich pointed to Government advice that requires certainty for users of the planning system, particularly Annex B to the Circular, para B6, advises authorities that where they are likely to seek planning obligations in relation to development, they should make this clear by policies in the Local Plan. I have noted that Sainsbury's have maintained their objection to the RDP, because they consider the Policy is still not compliant with the tests in the Circular, and emphasises the connection between what is sought and the development proposed.

1.9.2 The Council revised the Policy through the PICS (**CD.AV8**, p4) in response to the objection by the Environment Agency, adding reference to

sewerage and recycling facilities to the bullet point list. This has drawn objection from HBF, on the basis that these are the responsibility of others rather than the developer.

1.9.3 It seems to me that a policy, in the form of LS8, gives developers a clear indication of the Council's approach. However, the guidance in Circular 1/97 (para B17) indicates that policies should not be unduly prescriptive but should address land-use planning matters first and foremost. I consider that the wording of the Policy could, with benefit, be amended, in particular by removing the reference to financial contributions to the justification, and giving a more precise indication of the link with the development proposed. I also consider the reference to "*community benefits*" should be replaced with "*community facilities*" which gives a clearer indication of what is expected of developers.

1.9.4 It is my opinion that, in addition to the reference to the tests in Circular 1/97 in the third paragraph, the reasoned justification should make explicit reference to the advice contained in paragraph B9 of the Circular. Whilst I have accepted that the list of bullet points may be augmented as suggested by the Environment Agency, I consider some items should be removed including references to new local shopping, measures contributing towards effective town centre management, public art and the provision of community workers. My own view is that the list should be concise and give examples only of those most likely to arise in the majority of development proposals.

## RECOMMENDATIONS

**That the Council proceeds with the proposed modification at p4 of the proposed Pre-Inquiry Changes (CD.AV8), but that in addition the Policy be amended as follows:**

**"The Borough Council may seek to negotiate Section 106 Agreements with developers to make adequate provision for infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development";**

**and by replacing the final paragraph of the reasoned justification with the following:**

**"The Local Plan can provide a clear policy basis to guide negotiations with developers in seeking to secure provision of infrastructure and community facilities, the need for which arises directly as a consequence of the development proposals. The Borough Council will also need to consider on a site by site basis the precise range of provision to be sought in each case and may, as an alternative to securing specific provisions, seek financial contributions towards those provisions. In doing so, the Council will only seek measures or financial contributions in accordance with guidance in Circular 1/97, including that what is sought should be necessary from a practical point of view to enable the development to go ahead, and is directly related to the proposed development."**

**And that the Council gives further consideration to the list of examples of infrastructure or community facilities which it may wish to secure, including only those most likely to arise in the majority of development proposals.**