

FAO Planning Policy
South Derbyshire District Council
Civic Offices
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15th June 2026

Dear Sir / Madam

REGULATION 19 ADDENDUM: PROPOSED MODIFICATIONS TO THE SOUTH DERBYSHIRE LOCAL PLAN PART 1 REVIEW PUBLICATION VERSION

Introduction & Background

1. These representations have been submitted on behalf of Brackley Property Developments (“Brackley”) in response to the Regulation 19 Addendum: Proposed Modifications to the South Derbyshire Local Plan Part 1 Review (2022–2042). They relate to the soundness and legal compliance of the emerging Plan.
2. Brackley is promoting land at Access 50 (formerly Burnaston Cross), Etwall Road, Willington (“the Site”), for the development of up to 100,000 square metres of commercial floorspace within Use Classes B2 (General Industrial) and B8 (Storage and Distribution), together with ancillary office space, landscaping, surface water drainage infrastructure and associated access works. An outline planning application (ref. DMPA/2019/0948) was submitted in 2019 and has subsequently been held in abeyance following engagement with the local planning authority regarding the potential allocation of the Site within the emerging Plan. Notwithstanding these discussions and the Site’s asserted merits, no such allocation has been proposed.
3. The Plan and its supporting evidence base have been reviewed by Marrons on behalf of Brackley, which has responded to the successive rounds of consultation. Having reviewed the changes to the Plan now the subject of further consultation, it remains unsound and legally non-compliant, in particular due to a failure to comply with the requirements of the Strategic Environmental Assessment Regulations, arising from deficiencies within the Sustainability Appraisal process. The Proposed Modifications set out in the Addendum are not considered to address these concerns.
4. Previous representations submitted by Marrons on behalf of Brackley at the first Regulation 19 stage are appended for completeness (**Appendix 1**). Those representations are maintained in full and continue to apply to the Plan in its amended form and should continue to be taken into account.

Transitional Arrangements

5. Paragraph 234 of the Framework indicates that, for the purposes of plan-making, the policies in the 2024 iteration of the Framework apply from 12 March 2025 unless, amongst other matters, a plan had reached Regulation 19 stage on or before that date and included a draft housing requirement of at least 80% of local housing need. It is acknowledged that both of these criteria were satisfied in South Derbyshire at the time of the initial Regulation 19 consultation. Whilst the current consultation is also



being undertaken under Regulation 19, it is material that footnote 82 clarifies that, in the context of paragraph 234, a plan is to be regarded as having “reached Regulation 19” where the requirements of that stage have been complied with.

6. The Planning Practice Guidance provides further clarification in this regard. It states that, where more than one Regulation 19 consultation is undertaken, a plan will normally be taken to have reached Regulation 19 stage at the point of the first such consultation. However, it also recognises that there are limited circumstances in which the relevant date may instead be that of a subsequent consultation, including where the content of the emerging plan has changed significantly from that previously presented.
7. There is no precise definition of what constitutes a “significant” change for these purposes. Nevertheless, the extent and nature of the modifications made in the present case go beyond simple technical changes. The amendments to the Regulation 19 draft consulted upon in March 2025 extend to some 65 pages. Of particular importance is the extension of the plan period to 2042, which necessitates the accommodation of an additional 763 dwellings and results in corresponding revisions to both the housing requirement and the overall housing land supply. In addition, new site allocations have been introduced, including land at Brun Lane, Mackworth, which is now anticipated to deliver within the plan period, whereas this was not previously the position.
8. Matters such as the plan period, the scale of housing need, and the strategy for meeting that need are fundamental components of any local plan. Changes of this nature and scale are therefore plainly significant and go to the substance of the Plan itself.
9. Therefore, we are of the view that the Plan cannot proceed under transitional arrangements and that it should be examined against the National Planning Policy Framework 2024.

Plan period

10. Having regard to the delays experienced to date, it appears unlikely that the Plan will be adopted until late 2027 at the earliest. On that basis, a plan period extending to 31 March 2042 would fall short of the minimum 15-year time horizon required by the Framework.
11. The Framework is clear that strategic policies should look ahead over a minimum period of 15 years from the date of adoption. In this instance, the current end date would provide materially less than that requirement. As such, the Plan does not presently meet the expectation set out in national policy.
12. In order to ensure compliance with national policy and plan soundness, the plan period should be extended accordingly. An extension to at least 2043 would be necessary to meet the minimum requirement, although an end date of 2044 would provide a more robust and flexible timeframe, allowing for potential delays to adoption or further changes arising through the examination process.
13. Therefore, we request that the Plan period is extended to at least 2043 and additional site allocations identified to meet the additional need arising.

Policy REV1 – Review of the Local Plan



14. Policy REV1 has been substantially altered from the previous version. Rather than committing the Council to a review of the Plan immediately upon adoption and setting out clear timescales for that, the policy now requires the Council to prepare and submit a new Local Plan in line with the provisions for plan-making set out in the Levelling Up and Regeneration Act 2023. This change has been brought about to mimic the approach within the recently adopted Amber Valley Local Plan.
15. In previous representations, it was noted that, whilst the commitment to an early review was welcomed, Policy REV1 did not sufficiently define either the scope of that review or the consequences of failing to progress it within an appropriate timeframe. We considered this to be of particular importance given that the Plan constitutes only a partial review, focused on addressing unmet housing needs arising from Derby, rather than providing a comprehensive strategy for the wider District.
16. Whilst it is recognised that the new plan-making system introduced through the Levelling Up and Regeneration Act is intended to promote more effective adherence to plan-making timescales, there remains a lack of clear consequences in circumstances where those timescales are not met. In particular, there is no direct mechanism by which a failure to progress plan-making would trigger policy consequences, such as the application of the presumption in favour of sustainable development.
17. Given the history of delays associated with the preparation of this Plan, and the limited margin by which it is currently anticipated to meet its minimum requirement for employment land development (discussed further below) it remains essential for soundness that a more robust mechanism is in place.
18. We therefore request that Policy REV1 a) set out clear timescales for progressing the review to the Plan (which should be commenced immediately) and b) set out clear consequences for failing to adhere to that timescale which should be the application of the presumption in favour of sustainable development.

Strategic Employment Policies

19. In our previous representations submitted at Regulation 19 stage, it was identified that the Plan lacks a cogent strategy for employment land in terms of both overall amount and distribution. Whilst the amendments now introduce reference within the Vision to the importance of the A50 corridor as a key component of South Derbyshire's locational advantage, particularly for warehousing and logistics uses, this does not in itself amount to a clearly defined employment strategy. In particular, the Plan continues to lack a robustly articulated employment land requirement, alongside a corresponding framework for the distribution of that growth.
20. The Proposed Modifications (AM62) update the supporting text to acknowledge that the employment land requirement identified in the Employment Land Review has increased. The requirement to 2042 is now identified as 40.75 hectares, compared to an estimated supply of 46.09 hectares. This has the effect of reducing the previously identified surplus to 2041 from 10.23 hectares to 5.34 hectares. However, as previously set out, there are significant concerns regarding the methodology underpinning the Employment Land Review. In particular, it does not adequately account for past



suppressed demand, the influence of wider sub-regional market dynamics, or the specific requirements of key growth sectors, notably warehousing and logistics. This has been discussed in our previous Regulation 19 representations and for brevity, is not repeated here.

21. Even taking the identified figures at AM62 at face value, the margin between supply and requirement is limited and would be even more limited if the Plan period were extended still further as we have articulated above. As such, the Plan lacks resilience, with only a modest buffer available to accommodate delays in delivery or non-implementation of allocated sites or commitments. In these circumstances, there is a clear risk that the minimum identified employment land requirement would not be met over the plan period, rendering the Plan ineffective and therefore unsound.
22. The ELR concludes that Brackley's land interest has no significant constraints to its market deliverability and is a strong candidate for inclusion in the local plan to meet strategic employment needs, being the only site assessed with an A+ rating. In its specific assessment of the Site, the ELR identifies no major constraints, aside from some trees and existing farm buildings. Regarding its market suitability, the ELR correctly notes that the Site is located immediately south of the A50/A38 corridor, which it has identified as the prime employment corridor within South Derbyshire, particularly for industrial and warehouse development. The ELR also highlights the site's excellent access to the A50/A38 junction via the B5008. Furthermore, as the ELR points out that Brackley, as an experienced developer of commercial property, combined with the pending outline planning application, suggests that the site is well-positioned to be developed swiftly in response to the immediate and acute employment land needs. That is in stark contrast to the employment land currently advanced within the Plan which, as discussed within our previous representations, all face barriers to delivery.

Sustainability Appraisal

23. There remain substantive concerns regarding the robustness and lawfulness of the Sustainability Appraisal (SA) process. The most recent iteration of the SA, dated 5th May 2026 and issued alongside the Regulation 19 Addendum, has been considered in this context.
24. Our earlier representations identified significant deficiencies in the SA, in particular the absence of any meaningful assessment of reasonable alternatives in relation to employment site allocations. The updated SA now includes an assessment of fourteen employment sites, including both preferred and alternative options. However, the overall strategy and site selections remain unchanged from the earlier version of the Plan.
25. It is well-established through case law that the consideration of reasonable alternatives must occur at a stage in the plan-making process where it is capable of influencing the outcome. The purpose of the SA is to inform the development of the Plan from the outset, ensuring that environmental considerations are integrated into decision-making as it evolves. In this instance, the assessment of reasonable alternatives has been undertaken only after the principal strategic choices have been made and the main Regulation 19 consultation has been completed. This is reflected in the SA itself, which acknowledges that alternative employment sites have only been considered at this late stage.



Such an approach reduces the SA to a retrospective exercise, rather than one which genuinely informs the selection of the preferred strategy.

26. Notwithstanding these concerns, the SA presents a summary assessment of alternative employment sites. Access 50 (identified as Site 96) is assessed as having significant negative effects in relation to the historic environment and landscape. However, limited evidence is provided to substantiate these conclusions. The assessment appears to rely on broad and unsubstantiated assertions, rather than being supported by detailed technical analysis.
27. In relation to the historic environment, for example, the assessment suggests that development of the Site has the potential to impact the setting of a listed building, with reference made to Policy BNE2. However, this appears to constitute a “policy-on” assessment, focusing on the operation of development management policies rather than providing an objective evaluation of the likely environmental effects of development. There is no clear evidence presented to demonstrate that development would result in harm of a severity that would justify the conclusions reached.
28. Similarly, the assessment against landscape objectives identifies likely adverse effects but does so in general terms, asserting that development would alter local views without providing supporting analysis or evidence. This lack of detail undermines the robustness of the conclusions drawn.
29. It is also notable that the performance of Site 96 appears broadly comparable to that of certain preferred allocation sites, including the former Drakelow Power Station. In some respects, such as biodiversity, Site 96 performs more favourably against specific objectives. Notwithstanding this, those alternative sites have been progressed for allocation, whereas Access 50 has not. In the absence of a clear and consistent rationale, it is difficult to discern the basis upon which the selected sites have been preferred over reasonable alternatives, and the current iteration of the SA does not advance that analysis.
30. Taken together, these factors raise concerns as to whether the SA has meaningfully influenced the Plan’s employment strategy or whether it has instead been used to justify decisions that had already been reached.
31. For that reason, the Plan is not legally compliant or justified by virtue of not being underpinned by an adequately robust SA process.

East Midlands Freeport

32. Brackley has been positively and proactively engaged over recent months with East Midlands Freeport (EMF). Primary access arrangements for East Midlands Intermodal Park (EMIP) are currently under consideration as part of detailed feasibility work, with options including direct access from the existing interchange, as well as the potential to cross the A38 and/or A50 to ensure the most effective and efficient use of existing infrastructure. East Midlands Freeport is also actively engaging with surrounding landowners, and this evolving work will be subject to comprehensive technical assessment, design development, and consultation with relevant authorities. In parallel, Brackley is mindful of their strategic position in relation to this proposed regionally and nationally important



infrastructure, and of the role the Site can play as a catalyst for early delivery in supporting economic growth and investment both within the region and nationally.

Conclusion

33. For the reasons set out above, it is concluded that the South Derbyshire Local Plan Part 1 Review (2022–2042), as amended through the Regulation 19 Addendum, is not sound and is legally non-compliant.
34. In particular, the Plan fails to provide a robust and justified strategy for employment growth, both in terms of the quantum of provision and its spatial distribution. The evidence underpinning the employment land requirement is subject to significant uncertainty, and the limited margin between identified supply and requirement does not provide sufficient flexibility to ensure that needs will be met over the plan period.
35. More fundamentally, there are serious concerns regarding the Sustainability Appraisal process. The assessment of reasonable alternatives has been undertaken at a stage when it could no longer meaningfully influence the Plan’s strategy. This raises substantive questions as to whether the requirements of the Strategic Environmental Assessment Regulations have been met. Furthermore, the assessment of alternative sites, including Access 50, is not supported by robust or proportionate evidence and does not provide a clear or consistent basis for the selection of preferred allocations.
36. In addition, concerns are raised in respect of the Plan period and its alignment with national policy, as well as the effectiveness of Policy REV1 in securing a timely and meaningful review of the Plan. Taken together, these matters indicate that the Plan has not been positively prepared, justified, or consistent with national policy.
37. Accordingly, it is requested that these representations are taken into account in the examination of the Plan. On behalf of Brackley Property Developments, we formally request the opportunity to participate in the hearings in order to expand upon the matters raised, in particular in relation to the employment strategy, the allocation of employment sites, and the adequacy of the Sustainability Appraisal process.
38. Please contact the undersigned should you have any questions about this letter or its content.

Yours Sincerely

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South Derbyshire Local Plan Part 1 Review (2022 – 2041)



REPRESENTATIONS

REGULATION 19 – PUBLICATION VERSION

APRIL 2025

Project Name: South Derbyshire Local Plan Part 1 Review –
Regulation 19

Client Name: Brackley Property Developments

Prepared By: B Ward MRTPI

Signed: B Ward MRTPI

Date: 22nd April 2025

Reviewer A Gore MRTPI

Signed A Gore MRTPI

Date: 22nd April 2025

Revision: 1

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Appendix 1

Enquiry Schedule – Burnaston Cross

1. Introduction

1.1 Background

1.1.1 These representations have been prepared by Marrons on behalf of Brackley Property Developments (hereafter “Brackley”) to comment on the soundness and legal compliance of the South Derbyshire Local Plan Part 1 Review Regulation 19 (Publication Version) Consultation.

1.2 Access 50 (Formerly Known as Burnaston Cross), Willington

1.2.1 Brackley is promoting Access 50 (the Land formerly known as Burnaston Cross), Etwall Road, Willington (“the Site”) for up to 100,000 sq m of commercial floor space within uses B2 (General Industrial) and B8 (Storage and Distribution) with ancillary offices alongside associated landscaping, surface drainage infrastructure and access works.

1.2.2 An outline planning application was submitted in 2019 under Local Planning Authority reference DMPA/2019/0948, which has been held in abeyance following positive discussions with officers in respect of a potential allocation of the Site in the forthcoming Plan review. Unfortunately, despite the Site’s clear merits, the emerging local plan does not propose an allocation at the Site.

1.2.3 Marrons, on behalf of our client, has reviewed the emerging local plan and its evidence base. We conclude that the Draft Plan is unsound, as well as legally non-compliant given failure to comply with the Strategic Environmental Assessment Regulations by reason of an inadequate Sustainability Appraisal (“SA”) process.

1.3 Structure of Representations

1.3.1 Our representations raise matters in relation to the substantive content of the emerging Local Plan drawing on elements of the evidence base where appropriate and have been broadly structured as follows:

- Scope of the Plan, Vision and Objectives
- Employment Land Requirement
- Spatial Strategy & Site Selection Process
- Land at Access 50 (Land Formerly Known as Burnaston Cross), Etwall Road, Willington

2. Scope, Vision and Objectives

2.1 Plan Period

2.1.1 The Plan sets out a growth strategy for South Derbyshire between 2022 and 2041. The Regulation 18 version of the Plan only sought to address growth needs to 2039. This was not compliant with the NPPF, which requires strategic policies to look a minimum of 15 years beyond adoption, and so it is welcome that the Plan period has been extended to 2041. However, it is highly unlikely that adoption will occur by the end of 2025. The end of 2026 is a more realistic estimate. This requires the Plan period to extend to March 31, 2042 at minimum, and so the Plan still does not look forward over the appropriate time horizon.

2.2 Scope of the Plan

2.2.1 Paragraph 1.6 of the Plan states that this review is a partial update of the Part 1 Local Plan, intended specifically to address unmet housing needs from Derby. Paragraph 1.12 clarifies that a comprehensive plan and full review will follow adoption of the Part 1 Partial Review. Further, paragraph 1.13 highlights that the primary focus of the emerging Plan will be two key allocations on Derby's urban fringe: Infinity Garden Village and the Land to the South of Mickleover.

2.2.2 Section 15 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to prepare and maintain a Local Development Scheme (LDS). The LDS must, amongst other things, specify the subject matter and geographical area to which each development plan document relates.

2.2.3 The most recent LDS available for South Derbyshire covers the period 2022 to 2025. *Inter alia*, the LDS sets out that the Joint Advisory Board for the Derby Housing Market Area (HMA) agreed a minimum Plan period of 15 years and that most of the policies of the Local Plan Part 2 for South Derbyshire will be reviewed alongside the Part 2 Local Plan and subsumed into a new Local Plan. In addition, it is stated the new Part 1 Plan will provide a long-term vision for the spatial development of South Derbyshire and provide allocations for housing and employment sites "across the District."

2.2.4 As set out above, the form of the Plan currently consulted on clashes with the most recently adopted LDS. It does not review adopted Part 2 Local Plan, which is carried forward in its entirety. Most importantly, the Plan now published for consultation fails to provide a long-term vision for the spatial development of the District as a whole. In short, what has been published in the form of the emerging Plan is a partial review to address unmet needs from Derby only and on the edge of Derby only.

2.2.5 The purpose of the LDS is to create some degree of certainty for the public, stakeholders and the development industry over the timescales and scope of plan preparation. Here the LDS has not

been followed nor has it been updated published as it should have been to reflect a drastically altered scope from the publication of the most recent LDS.

2.2.6 Paragraph 1.13 of the Plan states that its focus will be upon two specific strategic allocations at Derby Urban Fringe illustrates that the substantive content of the Plan has been pre-judged. A robust process to formulate the most appropriate strategy when considered against the reasonable alternatives has not been followed. Rather, the Plan appears to have started at what ought to have been its destination through the allocation of specific sites in a certain location, rather than by following an objective process informed by a robust evidence base to identify the best performing strategy and sites which meet objectively assessed needs for development.

2.2.7 Although the Plan updates the evidence base for employment land needs and introduces new employment land allocations, it provides no explanation of how these allocations were selected or assessed against reasonable alternatives. The SA process has been absent with regard to employment land, as illustrated below. Instead, the Plan's narrowly defined scope—limited to addressing Derby's unmet housing needs through a partial review—is unjustified and has inappropriately influenced decisions on the spatial distribution.

2.2.8 We note that the commentary on the SA process for employment land has been updated following our last representations made at the Regulation 18 stage. We address this matter in further detail below.

2.3 Policy REV1: Review of the Local Development Plan

2.3.1 Policy REV1 sets out that plan-making for a comprehensive South Derbyshire District Local Plan will commence immediately upon adoption of the Part 1 Review Plan. It also states that the comprehensive plan will be submitted for examination within five years of the Part 1 Review Plan's adoption.

2.3.2 The proposed use of an early review mechanism to defer addressing strategic housing and economic needs over the appropriate time is unjustified. There is no reason why strategic development needs for the District and wider HMA cannot be addressed in the current plan review and across the appropriate time horizon required by the NPPF.

2.3.3 In relation to Derby's unmet housing needs (which the Plan does not meet in full) and as explained further below, the Council should note the advice of the Planning Practice Guidance ("PPG") that Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates.

2.3.4 Policy REV1 seeks to commit the Council to an early review of the current Plan, but it does not set out the scope or the nature of the review nor does not set out any consequences for not meeting the timescales for progressing it.

2.3.5 In summary, Draft Policy REV1 is unjustified because it seeks to use an early review to address fundamental deficiencies with the Plan including failure of the Duty to Cooperate and ineffective because it does not set out the scope of a future review, nor any consequences should not be progressed.

2.4 Vision and Strategic Objectives

2.4.1 The Vision at paragraph 3.2 is generic and not locally distinctive. In our view, it does not set out a clear framework for the spatial development of the District over the Plan period. The Vision makes reference to the Climate Emergency declared by the Council. The Vision makes reference to the Climate Emergency declared by the Council, but does not acknowledge the need to address matters such as economic competitiveness, despite the statement in the Sustainability Appraisal that in South Derbyshire:

“has a shortage of B2/B8 premises of all sizes, and of office space. Development is inhibited by rising construction costs and a shortage of readily available employment land.”

2.4.2 The Sustainability Appraisal also references a high dependence on the manufacturing industry. Despite the above, there is no clear commitment to addressing the District’s economic competitiveness and the market failure in providing sufficient levels of commercial floorspace within the Vision. There is no indication within the Plan or its evidence base how it will address the link between homes and jobs to ensure sustainable patterns of growth.

2.4.3 As might be expected from the Plan’s restricted scope, there is little meaningful description within the Vision of the role and function of other settlements or categories of settlements, including the District’s larger and more sustainable villages such as Willington. The generalised aspirations listed for these locations do not set out the role of settlements outside of Derby within the Draft Plan’s growth strategy, or do they refer to locations which the Plan’s own evidence base acknowledges as locations critical to the District’s economic competitiveness, such as the A50 corridor.

3. Employment Land Requirement & Strategy

3.1 Introduction

3.1.1 Policy S5 (Employment Land Strategy) outlines that a variety of sites will be allocated for industrial and business development to support both the Council's economic growth strategies and those of the broader sub-region. Additionally, Policy S1, which addresses the Council's overall growth strategy, emphasises the promotion of sustainable growth to meet objectively assessed needs for both commercial and housing development. Below we consider the overall requirement for employment land and the Draft Plan's strategy for meeting it in further detail.

3.2 Employment Land Needs

3.2.1 The Plan indicates that the Derby and South Derbyshire Employment Land Review ("ELR") has determined a need for 35.86 hectares of employment land in South Derbyshire, with an effective supply of 46.09 hectares, resulting in an over-supply of 10.23 hectares. However, paragraph 3.95 cites several factors—such as meeting the needs of specific economic sectors, ensuring flexibility, and addressing sub-regional demands—that support the provision of additional employment land. While this recognition is positive, the evidence base lacks any analysis connecting the level of employment growth planned for to objectively assessed needs. The result is an approach that is unjustified by the evidence.

3.2.2 The ELR has utilised a historic land take-up scenario based on completions between 1991/1992 and 2021/2022, estimating that South Derbyshire has seen 139.98ha gross take-up over that period or an average of 4.52 hectares per year. Adjusted for losses, this lowers to 1.63ha per year, which is then projected forward across the plan period to 2039. A 5 year buffer is then added for flexibility.

3.2.3 Past-take up models are based upon historic trends but fail to account for the future consequences of economic volatility or long-term structural changes within the economy which have happened recently. They will not, for example, take account of the consequences of recent and unprecedented shifts in the economy or unforeseen events like Brexit or the pandemic, which have considerable effects on employment demand, particularly in logistics and office space. Amongst other things, relying solely on past-take up ignores the potential for rapid change and can result in under-provision for growing sectors and over-provision for shrinking industries. Critically, such an approach also does not recognise the consequences of long-term suppression of demand because of limited economic land availability over an extended period of time. The ELR contains clear indicators of suppressed demand in South Derbyshire. For example, the ELR states:

“While there is demand for more industrial and warehouse development, particularly on strategic road corridors like the A50, development is inhibited by rising construction costs and a shortage of readily available employment land.”

- 3.2.4 Furthermore, market research undertaken within the ELR indicates that there is substantial demand for suitably-located employment land to serve for Mid Box and Big Box logistics in good locations with good access to the Strategic Road Network (SRN). It also reports upon indicators of an extremely tight market such as significantly rising rents and the utilisation of poor quality premises. Therefore, a methodology which quantifies needs in terms of what the market has delivered in the past based upon the clear evidence of insufficient land availability to meet demand will have significant limitations. There is also the matter of wider, sub-regional need which the ELR does not appear to consider in any detail other than to note the competition for wider sub-regional demand in other local authority areas. That is in spite of the clear strategic significance of the wider A50 corridor and the role that plan-making could play capitalising upon South Derbyshire’s competitive position, which has not been considered in any substantive way.
- 3.2.5 The employment land needs modelling within the ELR should build upon historic-take up and demand, adjusting these trends to account for historic supply shortages and the resultant loss in occupier take up. The rationale for taking account for suppressed demand is that when sufficient supply is not available, demand cannot be accommodated. The ELR should also consider future sectoral growth (such as e-commerce, R&D, advanced manufacturing and logistics, innovation and technology), which are likely to drive further, specific land demands.
- 3.2.6 A further limitation of the ELR’s approach is despite the reference within Draft Policy S5 to the Economic Strategies of SDDC and those of the East Midlands Combined Authority, there is no consideration in how these strategies have informed the quantity of employment land required or planned for.
- 3.2.7 Notwithstanding the above, there is an implicit recognition within the Draft Plan and the ELR that further growth is needed beyond that anticipated by the historic take-up model utilised within the ELR. Hence, Chapter 9 of the ELR considers “further growth opportunities” to meet needs in addition to the “realistic” supply of employment land it identifies. It then goes onto consider 43 relevant sites identified within the SHELAA. Whilst that approach is welcome given the limitations of the ELR’s modelling, it overlooks the critical point that a justified employment land requirement must be based upon robust evidence rather than vague and generalised reasons. Therefore, it is unclear what the Draft Plan’s employment land requirement is, which is reflected in the fact that neither Draft Policy S1 nor S5 set out an employment land requirement and merely refer to making provision for new employment land.
- 3.2.8 Overall, the employment land requirements for the Plan are unclear and are not based on full and robust evidence. This renders the Draft Plan unsound, for lack of effectiveness and justification.

3.3 The Soundness of Strategic Employment Policies

- 3.3.1 The omission of a justified employment land requirement makes it impossible to evaluate the Plan's effectiveness in meeting growth needs, highlighting the need for revisions to establish a clear framework for employment growth over the plan period. Furthermore, despite the Plan's evident preference for integrating employment provision within larger strategic allocations on the Derby fringe, it lacks a clear statement confirming this as the strategy and fails to justify why this approach is appropriate in light of reasonable alternatives.
- 3.3.2 At Regulation 18 Stage, the District Council published the Interim Sustainability Appraisal Report ("ISA") by SLR. The ISA identifies four strategic sites on the edge of Derby as "reasonable alternatives" – Infinity Garden Village (Site 1), Thulston Fields, (Site 2) Land South of Mickleover (Site 3) and South of Littleover (Site 4). Sites 1 and 3 were selected for allocation and identified in Policies STRA1 and STRA3, respectively. The Former Drakelow Power Station is also mentioned (Policy STRA3), albeit not tested along with the four options above nor in relation to any other site promoted for employment development. It was evident, therefore, that the Council had closed its mind to reasonable alternatives which do not involve the above specific strategic site options on the edge of Derby.
- 3.3.3 Beyond the four identified strategic site options, the ISA and associated SA documents provided almost no discussion of other reasonable alternatives for the scale or distribution of employment growth within South Derbyshire. It was not considered in the HMA-wide SA or the AECOM Growth Options Study (2021), which only related to housing. While there is some reference to broader HMA studies regarding growth options the ISA did not build on this work to explore and evaluate reasonable alternatives for meeting growth needs within the District beyond these four specific sites. Instead, the ISA relied on the HMA-wide work to justify concentrating growth on the Derby fringe as the most sustainable option, but did not assess options for commercial development in any substantive way.
- 3.3.4 With the current consultation the Council has published an updated SA document, namely the South Derbyshire Local Plan Sustainability Appraisal – Regulation 19 Sustainability Appraisal Report (dated 10th March 2025). Page iii states that consultation comments in respect of the Regulation 18 ISA were reviewed and several changes made as a result, including consideration of alternative employment site options which were entirely absent from the previous SA reports.
- 3.3.5 Reasonable employment site options are subsequently discussed at Section 6.4 of the Regulation 19 SA report at page 53 onwards. However, it is evident from reading this section of the SA report that no consideration has been made of reasonable alternative sites whatsoever. Instead, it is stated that the SA will be updated whilst the Regulation 19 consultation is taking place and will be reported in the next version of the SA report, which will be consulted upon alongside main modification to the Local Plan. This is following the acknowledgement within the

SA report itself failing to consider reasonable alternatives to the employment land strategy represents “a gap” within the SA process.

3.3.6 The Regulation 19 SA report therefore acknowledges the employment land strategy has not been informed by a complete and fully consulted upon SA. The SA’s consideration of reasonable alternatives have not been and will not be subject to public scrutiny and the content of the Plan in this regard has been predetermined. Reasonable alternatives should be considered and assessed before the Plan is fixed, not as an afterthought and consultation must occur at a point when change is still genuinely possible. Publishing an updated new SA alongside main modifications does not remedy this situation as the original choices were made without a full assessment.

3.3.7 The SA report has acknowledged that reasonable alternatives were not assessed in the submission SA. Delaying the assessment until after the Regulation 19 consultation has already closed is a clear breach given that the public and stakeholders cannot see or comment on how these alternatives compare or why they were ruled out.

3.3.8 The Plan is therefore legally non-compliant with the SEA Regulations.

3.4 The Site Selection Process

3.4.1 Given the shortcomings in the SA process outlined above, it follows that employment sites have not been selected through a robust and objective framework that compares them with alternative options. However, Chapter 9 of the ELR conducts a comparative assessment of 43 relevant employment sites, based on the Council’s Strategic Housing and Employment Land Availability Assessment (SHELAA). These sites are then ranked according to a set of criteria, with grades ranging from A+ (indicating a site as a "strong candidate for inclusion in the Local Plan to meet strategic needs") to E (indicating a site should "not be allocated").

3.4.2 The 70 hectares of employment land proposed as part of Infinity Garden Village (IGV), located between Sinfin and Chellaston and included in Draft Policy STRA1 (which also encompasses 2,000 new homes, a potential retirement village, and social/green infrastructure), is appraised in the Employment Land Review (ELR) under reference 090/137. The employment component of STRA1 has been assigned a ranking of "A-", meaning that while there are some constraints that raise concerns about deliverability, a path forward remains possible if certain issues are addressed. Specifically, the land at IGV lacks direct access and depends on other land being developed. Therefore, there are clear concerns regarding its deliverability, and it is likely to come forward only toward the end of the plan period, if at all. In relation to the new junction off the A50 upon which delivery of IGV depends, despite the presence of Government funding in the amount of £49.6m granted in October 2021, it is not yet known what impact subsequent dramatic build cost inflation will have on the viability of this project.

3.4.3 The Plan proposes approximately 5-10 hectares of employment land at Land South of Mickleover as part of Draft Policy STRA2, alongside 2,500 new homes, a retirement village, and related social infrastructure. The Employment Land Review (ELR) assesses this site under reference 136 and ranks it as "C" in terms of performance, indicating that it should be considered for allocation to meet local needs. However, the ELR advises that confirmation is needed as to whether the wider development package is both acceptable and deliverable. The ELR expresses significant concerns regarding the deliverability of the employment land at Land South of Mickleover, as it is part of a much larger housing-led development that would require substantial investment. Additionally, the ELR highlights that no information has been provided about where the employment land would be located within the overall site or whether it can be adequately connected to the SRN.

3.4.4 Approximately 68ha of employment land is proposed for allocation under Policy STR3 at land at the Former Drakelow Power Station. The ELR considers this site under reference 211 and ranks it "B-," indicating that the site has some, possibly significant constraints and that these raise questions over deliverability and that it should only be considered as a considerable to meet local employment-based needs. The site-specific assessment within the ELR observes the following:

- Contamination from previous power station uses poses an issue;
- Ecological constraints within the site and nearby;
- Access is a constraint, namely the current Bailey Bridge over the River Trent;
- Availability of power possible constraint as no connections to current infrastructure;
- The site is isolated from the A38 requiring access improvements; and
- Even with improved access the scheme may be too distant from the A38 corridor to be attractive to occupiers.

3.4.5 On the Council's own evidence, all three sites allocated to bring forward employment within the current plan period face fundamental barriers to delivery. The ELR also sets out in its assessments of Drakelow Power Station and the Land South of Mickleover that these sites are only suitable to meet localised employment needs, so it is not clear why they have been chosen for an allocation, when the Draft Plan states that part of the rationale for bringing forward additional employment land above objectively assessed needs is to provide for wider regional and sub-regional business accommodation requirements.

3.4.6 The Plan allocates land for the development of a Strategic Rail Freight Interchange at Egginton Common (also known as East Midlands Intermodal Park). The role of this site in the overall employment land strategy is unclear and the Draft Plan expects this proposal to be progressed as a Nationally Significant Infrastructure Project (NSIP) under the Development Consent Order (DCO) regime. Nonetheless, it is clear that development of this site is an extremely long-term aspiration despite the fact that the concept has been under discussion since at least April 2014. The fact that so much time has passed despite strong market demand in this location with no form of application being made could be reasonably taken as indicating difficulties in bringing the project forward.

3.4.7 Given the urgent and immediate nature of employment land needs in South Derbyshire as evidenced by the ELR, the Council should prioritise immediately deliverable sites rather than selecting ones which face substantial barriers to deliverable. Land at Access 50 is clearly the most deliverable and most market desirable site within South Derbyshire's commercial land portfolio, as indicated by the Council's own evidence base. Land at Access 50 is the only site to have been assigned an A+ rating within the ELR, and as such it should be selected for an allocation.

4. Land At Access 50

4.1 Introduction

4.1.1 As set out above, the Marrons is promoting Land at Access 50 on behalf of Brackley Property Investments for approximately 100,000 sq m of commercial floorspace.

4.2 ELR Findings

4.2.1 The ELR concludes that the site has no significant constraints and is a strong candidate for inclusion in the local plan to meet strategic employment needs. In its specific assessment of the site, the ELR identifies no major constraints, aside from some trees and existing farm buildings. Regarding its market suitability, the ELR correctly notes that the site is located immediately south of the A50/A38 corridor, which it has identified as the prime employment corridor within South Derbyshire, particularly for industrial and warehouse development. The numerous enquiries received by marketing agents to date, a recent selection of which have been included in **Appendix 1**, support these observations. The ELR also highlights the site's excellent access to the A50/A38 junction via the B5008. Furthermore, as the ELR points out that Brackley, as an experienced developer of commercial property, combined with the pending outline planning application, suggests that the site is well-positioned to be developed swiftly in response to the immediate and acute employment land needs. That is in stark contrast to the employment land currently advanced within the Draft Plan which, as discussed above, all face major barriers to delivery.

4.3 Planning Merits

4.3.1 As part of the preparation for the pending outline planning application for the site, a series of technical studies were conducted. The Site is located in a highly sustainable area, with nearby residential areas and local amenities that support sustainable transport options. Additionally, the existing bus service between Derby and Burton upon Trent could be re-routed to serve the site, providing links to the established bus and rail services in Repton and Willington.

4.3.2 Assessments of traffic generation indicate that the proposed site junction onto the B5008 will accommodate traffic flows arising from the proposed development plus existing traffic in a satisfactory measure. The Site's position and connectivity to the SRN means that HGV traffic associated with the proposals will not need to pass through Willington. Road traffic emissions will be predicted to be below the relevant air quality objectives at all receptor locations that were considered within the application's evidence base. The proposed development will also bring forward highways improvements. The A38/A50 signalisation scheme has been agreed by both Traffic England & the local highway authority. This signalisation scheme will effectively mitigate the traffic impact of the development & also provide wider benefits to the operational performance of the junction, compared to the expected scenario without the addition of any

development traffic. The signalisation scheme will also benefit the B5008 Etwall Road, reducing queueing in peak times. This will encourage use of the strategic road network & support the other measures proposed to discourage any increase in traffic using the route through Willington, including routing agreements, sustainable transport improvements and promotion. Furthermore, this scheme will be delivered early in phase 1 of the development, providing immediate benefits

- 4.3.3 Provision of a new bus service from Swadlincote to serve the site, providing links to other bus & rail services into Derby. In addition, the existing bus service will also be extended to serve the site.
- 4.3.4 The Site is located entirely within Flood Zone 1, meaning low risk from rivers and seas. Flood risk from other sources have also been assessed within the submitted Flood Risk Assessment (FRA) as low. A robust surface water drainage strategy has been prepared to ensure that the Site will not increase flood risk elsewhere.
- 4.3.5 In ecology terms, the Site is dominated by intensively managed semi-improved and species-poor grassland of low ecological value. Mitigation measures will be implemented for those protected / notable species identified on site.
- 4.3.6 As indicated within the outline proposals, the Site creates the opportunity to bring forward significant landscape areas around the perimeter of the Site and green corridors to the southern and eastern perimeters, encompassing approximately 25% of the total site area. The landscape assessment work undertaken as part of the application demonstrates that upon completion of the proposed development the landscape effects will be negligible.
- 4.3.7 Given the above, the Site should be considered favourably for an allocation given its unique ability to meet strategic employment growth needs in a sustainable location with demonstrable market demand for that use.

5. Conclusion & Change(s) Sought

5.0.1 The ELR has carried out a review of employment land needs within Derby and South Derbyshire and concluded that needs will be met by the “realistic” supply of committed sites. The review of employment land needs has been carried out on a past take-up scenario with no consideration of demand suppression or wider sub-regional employment land demand. However, the ELR itself and the Plan appears to recognise that more employment land is needed than suggested by the ELR, which we agree with, but no effort has been made to quantify that need or address it within the Plan. The Plan’s approach in this regard is therefore unsound.

5.0.2 The Plan contains no clear strategy for meeting employment growth needs. The strategic policies do not articulate an employment land requirement nor they identify an overarching approach to spatial distribution. The underlying Sustainability Appraisal work does not consider the approach to meet employment growth needs either in quantitative, distributional or site-specific terms and the policies relating to employment growth within the Plan are both unsound.

5.0.3 Finally, those sites that have been selected to host employment growth within the current plan period have key deliverability constraints and perform poorly when compared with our client’s site at Etwall Road, Willington. This is the only site to have been given an A+ rating within the ELR but this is not reflected in the content of the Plan with the result that it is unjustified. Given the deficiencies in the SA process described above, the sites selected for employment land allocations are not soundly based and should be re-considered.

5.0.4 To reiterate, the site is the only one to achieve an A+ rating in the ELR. It lacks constraints, can come forward in the short-term, and uniquely position in the market. The scheme is also capable of delivering a variety of economic and technical benefits - highways, biodiversity, sustainability.

5.0.5 In light of our comments above, we make the following recommendations:

- That the ELR considers wider sub-regional need and suppressed demand rather than simply relying on past trends to model future requirements;
- That this work is used to inform a robust employment land requirement over an appropriate plan period to at least 2042, which should be set out within policy;
- That the Plan clarifies a clear, deliverable appropriate strategy for meeting employment growth needs which are justified against reasonable alternatives through a robust SA process;
- That further work is undertaken in respect of site-selection to ensure that it is informed by deliverability considerations and market demand, recognising the considerable need for commercial land within South Derbyshire along the A50 corridor; and

- That the Land at Axis 50, Etwall Road, Willington is allocated for commercial development on the basis of its clear sustainability credentials, lack of constraints and unique market positioning



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**Regulation 19 Addendum: Proposed Modifications to the South Derbyshire
Local Plan Part 1 Review 2022-2041**

THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING)

(ENGLAND) REGULATIONS 2012

Regulation 19 Addendum

REPRESENTATION FORM

The easiest way to **submit your comments is online** at <https://bit.ly/Part-1-Local-Plan-Review> or by scanning the QR code. We would encourage you to use the online form wherever possible. Where online is not possible, you can complete this form and return it to us using the postal address on the final page.



Submission form

This form has two parts

Part A – Personal Details: need only to be completed once.

We will not be able to accept responses where personal details are not provided.

Part B – Your representation(s): **Please fill in a separate sheet for each representation you wish to make relating to each individual policy.**

You will be asked to give details on whether you think the plan is legally compliant and why you consider the proposed modifications to the policies of the Local Plan to be sound or unsound, please be as precise as possible.

You will also be asked to set out the modification(s) you consider necessary to make the Local Plan legally compliant and the policies sound in respect of any matters you have identified. You will need to say why each modification will make the Local Plan legally compliant or policy sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Privacy Notice

Representations (including your name) will be made publicly available following the close of the consultation however personal details (personal address, signature and contact details) will NOT be made publicly available but will be kept in a secure database and used to notify you of the Plan's progress.

Who has access to your information?

Personal details will be protected although it may be necessary to disclose these to a Planning Inspector appointed by the Secretary of State at a later date. For further information, please visit our Privacy section of our website at www.southderbyshire.gov.uk/privacy where you can see a full copy of our privacy notice.

For further information, please visit our Privacy section of our website at www.southderbyshire.gov.uk/privacy where you can see a full copy of our privacy notice. Alternatively, you can request a hard copy by emailing local.plan@southderbyshire.gov.uk

Part A: Personal Details*

We will not be able to accept responses where personal details are not provided.

1. Please provide your contact details.

Respondent details	Agent details (where applicable)
Name*: Ben Ward	Name*: Stephen Pedrick-Moyle BSc MRICS
Organisation: Marrons	Organisation: Brackley Property Developments
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

*indicates required field

Future notification

The District Council will retain your contact details to inform you of future consultations on the Local Plan. If you do not wish for your contact details to be added to the consultation database, please email local.plan@southderbyshire.gov.uk

Part B: Please use a separate sheet for each representation you wish to make

3. To which part of the Local Plan does this representation relate?

Please provide the reference of the policy, paragraph, policies map, evidence etc that your comment relates to. Please use a separate Part B form for each Proposed Modification that you wish to comment on.

Comment being made against:	Please tick only one – See supporting letter		
PM1		PM23	
PM2		PM24	
PM3		PM25	
PM4		PM26	
PM5		PM27	
PM6		PM28	
PM7		PM29	
PM8		PM30	
PM9		PM31	
PM10		PM32	
PM11		PM33	
PM12		PM34	
PM13		PM35	
PM14		PM36	
PM15		PM37	
PM16		PM38	
PM17		PM39	
PM18		PM40	
PM19		PM41	
PM20		PM42	
PM21		Other (Please specify)	
PM22			

4. Do you consider the Local Plan is:		
	Please tick the relevant box	
	Yes	No
1) Legally compliant		X
2) Sound		X
(If you check 'No', please also confirm below which of the 'tests' it fails to meet)		
a) Positively prepared		X
b) Justified		X
c) Effective		X

d) Consistent with national policy		X
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5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate.

Please be as precise as possible (e.g., if objecting on the basis of legal compliance, please quote the specific law that the Local Plan does not comply with). If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

See supporting letter

(Continue on a separate sheet /expand box if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

See supporting letter

(Continue on a separate sheet /expand box if necessary)

Please note: In your representation, you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues identified during the examination.

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

Please check the relevant box

No, I do not wish to participate in hearing sessions

Yes, I wish to participate in hearing sessions

X

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

In light of the scale and significance of the plan's soundness issues, it is essential our client parties is afforded the opportunity make oral submissions at the examination hearings. The matters raised are central to the determination of whether the Plan can be found sound, and they will require detailed scrutiny through hearing sessions. It is therefore both appropriate and necessary that our client is invited to participate in those sessions in order to ensure that these concerns are properly tested and considered by the Inspector(s).

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Please return your completed representation form(s) by post to: Planning Policy Team, Council Offices, Civic Way, Swadlincote, DE11 0AH

Forms must be received by **5pm on Tuesday 16th June 2026.**