

FAO Planning Policy
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE110AH

1st June 2026

Dear Sir / Madam

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

Introduction & Background

1. Marrons is instructed on behalf of Wain Estates (Land) Limited ('Wain Estates') to submit these representations in response to the Regulation 19 Addendum consultation on the South Derbyshire Local Plan Part 1. Wain Estates is promoting land at Burton Road, Swadlincote for residential development.
2. These representations follow the duly made representations submitted on behalf of our client to the original Regulation 19 consultation held between 10th March and 25th April 2025. Those earlier representations are reproduced at **Appendix 1** and are to be read alongside this letter.
3. It is important to note that the changes introduced through the present consultation do not address the fundamental concerns regarding soundness raised on behalf of our client at the previous Regulation 19 stage. Accordingly, those earlier representations, whilst not repeated here for brevity, are relied upon in full, save where supplemented by the additional matters set out below.
4. **Having regard to the matters previously raised, and given the fundamental nature of our client's concerns regarding the Plan's soundness, a request is made to participate in the relevant hearing sessions.**
5. According to the Council, the purpose of the current consultation is to respond to representations made at the Regulation 19 stage, alongside the publication of further supporting evidence. This includes, amongst other documents, a Sustainability Appraisal Report prepared by SLR dated 5th May 2026.
6. It is noted that a period of more than one year has elapsed since the original Regulation 19 consultation, yet the Plan has not progressed to submission for examination. Moreover, the version now published for consultation incorporates changes of a substantive nature when compared with the earlier iteration. Whilst it is acknowledged that the Plan is purportedly being advanced under transitional arrangements, the purpose of such arrangements is to enable plans at an advanced stage of preparation to proceed to examination without undue delay or disruption.
7. In this context, the extent of the delay to date calls into question whether the underlying objectives of the transitional arrangements have been realised in this instance. Further, it is a matter of concern



that, notwithstanding the changes made, the issues previously raised in our representations relating to the soundness of the Plan have not been satisfactorily addressed. In our view, there is significant doubt as to whether it remains appropriate for the Plan to continue to be progressed under transitional arrangements.

Transitional Arrangements

8. 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.
9. 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.
10. 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.
11. 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.
12. 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

13. 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.
14. 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 and is therefore unsound.

15. 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.
16. 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

17. 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.
18. 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.
19. 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.
20. 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 housing requirement as discussed, it remains essential for soundness that a more robust mechanism is in place.
21. 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 that timescale which should be the application of the presumption in favour of sustainable development.

Housing Supply

22. In our previous Regulation 19 representations, it was identified that the Plan did not provide sufficient housing supply to meet its stated minimum requirement, with the housing trajectory indicating a shortfall against that requirement over the Plan period to 2041.



23. On the basis of the updated trajectory, the position has altered such that 15,454 dwellings are now identified against a minimum requirement of 15,263 dwellings. This represents an overall surplus of 191 dwellings across the plan period to 2042, equating to a supply-side margin of approximately 1%.
24. Such margin is extremely limited and would provide little resilience in the face of uncertainty. This is of particular concern given the Plan's reliance on the timely delivery of large-scale Sustainable Urban Extensions, namely South of Mickleover and Infinity Garden Village. Experience indicates that schemes of this nature are often subject to lead-in times, infrastructure dependencies and delivery risks. In this context, the level of headroom currently identified would allow for only minimal slippage, with even relatively modest delays likely to result in a failure to meet the Plan's minimum housing requirement.
25. In order to ensure that the Plan is effective and sufficiently flexible to respond to changing circumstances, it is essential for Plan soundness identify a materially greater buffer within the housing land supply. A margin in the order of at least 10%, and preferably closer to 20%, would provide a more robust basis for delivery.

Policy FLG 1 - Land at Brun Lane, Mackworth

26. The updated Plan and accompanying housing trajectory indicate that land at Brun Lane, Mackworth is now expected to deliver in full within the plan period to 2042. This represents a notable departure from the previous iteration of the Plan, where no completions from this site were anticipated within the plan period to 2041.
27. However, there appears to be no corresponding amendment to Policy FLG1 to reflect this change in reliance. The site continues to be identified as a "long term strategic housing growth area", which suggests a role beyond the immediate plan period rather than as a key contributor to short- to medium-term housing delivery.
28. It is also relevant that, whilst the site retains a form of recognition within the adopted Amber Valley Local Plan as a Future Area for Growth, it was not taken forward as an allocation as proposed due to constraints relating to site availability, namely that the landowner did not wish to see the site developed. The supporting text to that Plan (paragraph 6.1.4) indicates that the site is not expected to deliver until the latter part of the plan period and is not relied upon to meet housing requirements in Amber Valley.
29. In this context, and having regard to the cross-boundary nature of the site, it is difficult to conclude that sufficient certainty exists regarding its availability and deliverability, particularly not when it forms part of a wider growth area most of which lies in an adjacent authority. Where adjacent authorities have not relied upon the site to meet their own housing requirements, there is limited justification for it to be treated differently in the context of South Derbyshire's Plan. As such, the inclusion of Brun Lane, Mackworth as a substantive source of housing supply over the Plan period introduces a clear element of risk and in light of the discussion above, a plainly unacceptable one, given the high reliance the Plan must place on it to deliver even its minimum housing requirement.



30. Land at Brun Lane, Mackworth cannot be relied upon with a sufficient degree of certainty to form part of the identified housing land supply. Accordingly, it should be removed from the housing trajectory unless for Plan effectiveness until robust evidence is provided to demonstrate its availability, suitability and deliverability within the plan period. This would necessarily result in the Plan's supply delivering fewer homes than the housing requirement and so, alternative sites must be identified.
31. Wain Estates' site at Burton Road, Swadlincote is in a highly sustainable location in the County's third largest settlement. Swadlincote is identified as an Urban Area and prioritised for development in the adopted Local Plan. As a result of its size, Swadlincote benefits from higher order facilities, services and connections and is an ideal location for growth. Given the constraints to the south and west of the settlement, sites in the north are preferable. Land at Burton Road, Swadlincote is suitably located to achieve the growth required, is unconstrained, and available for development. The site is therefore deliverable and considered to be suitable for allocation for new homes in the emerging Local Plan. Further details of the site can be found in the Vision Document submitted to the previous Regulation 19 consultation on behalf of Wain Estates in April 2025.

Sustainability Appraisal

32. As with previous submissions, there remain substantive concerns regarding the robustness of the Sustainability Appraisal (SA) process. The most recent iteration, dated 5 May 2026 and entitled "Regulation 19 Addendum: Proposed Modifications – Sustainability Appraisal Report", has been reviewed in this context.
33. Earlier representations identified significant shortcomings in the SA, notably its failure to adequately consider reasonable spatial alternatives beyond the fringes of Derby. Instead, the assessment focused exclusively on options for growth in that location, thereby excluding meaningful consideration of district-wide alternatives for housing distribution. Furthermore, no alternative employment sites were appraised.
34. It is acknowledged that the Council has sought to address these concerns through the introduction of five growth scenarios (Options A to E), which include consideration of locations beyond the Derby fringe. However, the timing of this assessment is of concern. By the point at which these options have been appraised, the Council has already reached a settled position in respect of both the spatial strategy and the distribution of growth. In these circumstances, it is plain that exercise undertaken now does not and has not materially informed the selection of the preferred strategy.
35. Case law establishes that the consideration of reasonable alternatives must be undertaken at a stage in the plan-making process when it can genuinely influence decision-making. The purpose of the SA process is to ensure that environmental considerations are integrated into the formulation of the Plan from the outset, rather than being applied retrospectively once key strategic choices have already been made. Assessing reasonable alternatives after the "main" Regulation 19 consultation has already been carried out is clearly tantamount to such a deficiency in terms of the SA process.

Conclusion



36. In overall terms, the Plan in its current form cannot be regarded as sound when tested against the requirements of national policy. The cumulative effect of the matters identified above in our original Regulation 19 representations is such that the Plan is not sound and accordingly significant further work is required before it could be found capable of adoption.
37. A fundamental concern arises in relation to the reliance on transitional arrangements. Whilst it is accepted that the Plan formally met the criteria at the point of the original Regulation 19 consultation in March 2025, the position has materially changed. The extent of the modifications now introduced, including the extension of the plan period, revisions to the housing requirement, and the identification of additional sources of supply, represent changes of a substantive and strategic nature. These are not minor refinements but alterations that go to the core of the Plan's spatial strategy and overall quantity of development. In these circumstances, it is not evident that the Plan can reasonably continue to rely upon its earlier procedural position, but the scale of change is such that the Plan should be treated as having reached Regulation 19 at this later stage, with the consequence that it should be assessed against the National Planning Policy Framework 2024.
38. The proposed plan period itself further undermines the soundness of the Plan. Having regard to the delays that have already arisen, and the stage the Plan has now reached, it is unlikely that adoption will occur before late 2027 at the earliest. On that basis, the current end date of 31 March 2042 would not provide the minimum 15-year period required by national policy. The Plan as drafted would therefore fail to meet one of the most fundamental expectations of the Framework. In order to rectify this deficiency, the plan period must be extended to ensure at least a full 15-year horizon from the realistic point of adoption, with a longer period providing a more robust and flexible basis for delivery.
39. Concerns also arise in relation to the effectiveness of Policy REV1. The removal of a clear and immediate commitment to review, and its replacement with a more generalised requirement to prepare a new plan under the future system, weakens the certainty previously offered. Given the acknowledged limitations of this Plan as a partial review, and the history of delays in its preparation, it is essential that a clear and enforceable mechanism is in place to ensure that a comprehensive review is progressed without delay. The absence of defined timescales and the absence of any meaningful consequences for failure to adhere to those timescales, results in a policy that lacks the necessary certainty and "teeth" to be effective.
40. The position in respect of housing supply is similarly deficient. Whilst the updated trajectory indicates a nominal surplus over the plan period, the scale of that surplus is minimal, amounting to approximately 1%. This provides no meaningful flexibility and does not reflect the realities of housing delivery, particularly where the supply is heavily dependent on large and complex sites with known risks relating to lead-in times, infrastructure provision and market absorption. A plan which has so little headroom cannot reasonably be described as effective or deliverable. Even modest delays on key sites would result in an immediate shortfall against the minimum requirement. In this context, the absence of a more substantial buffer is a clear weakness, and the Plan should include a materially greater margin of supply in order to ensure resilience and flexibility.



41. The concerns in respect of housing supply generally are compounded by the reliance on Land at Brun Lane, Mackworth. The evidence does not demonstrate with sufficient certainty that this site is available or capable of delivering within the plan period. Its continued identification as a long-term growth area sits uneasily alongside its assumed contribution to short and medium-term supply. Furthermore, the position adopted in the adjoining authority's plan, where the site has not been relied upon to meet the minimum housing requirement, reinforces the lack of certainty surrounding its delivery. In the absence of robust and compelling evidence to the contrary, it cannot be concluded that the site is deliverable as assumed. Its inclusion within the housing trajectory therefore introduces a clear and significant risk to the overall supply position, which is already marginal. The Plan would need to either remove this reliance or provide substantially stronger evidence of deliverability, alongside identifying alternative sources of supply where necessary.
42. Finally, there remain significant shortcomings in the Sustainability Appraisal process. Whilst it is acknowledged that additional work has been undertaken to consider alternative spatial strategies, this has occurred at a stage when the overarching approach to growth has already been established. As a consequence, it does not appear that the consideration of reasonable alternatives has genuinely informed the development of the Plan. This runs contrary to the fundamental purpose of the Sustainability Appraisal process, which is to embed environmental considerations into plan-making at the formative stages. The retrospective nature of this exercise significantly limits its value and raises doubts as to whether the Plan has been justified through a proper assessment of reasonable alternatives.
43. Drawing these matters together, the deficiencies identified are not minor or technical in nature and go to the heart of the Plan's soundness. Addressing them will require substantive changes, including reconsideration of the transitional position, extension of the plan period, strengthening of the early review mechanism, identification of additional and more robust housing supply, removal or proper justification of uncertain allocations, and a robust approach to the appraisal of alternatives.
44. In light of the scale and significance of these issues, it is essential our client is afforded the opportunity to 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).
45. Please contact the undersigned should you have any questions about this letter or its content.

Yours Sincerely

Ben Ward MRTPI

Planning Director



DD: [REDACTED]

[REDACTED]

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 1

Client Name: Wain Estates

Prepared By: B Ward MRTPI

Signed: B Ward MRTPI

Date: 15th April 2025

Reviewer A Gore MRTPI

Signed A Gore MRTPI

Date: 15th April 2025

Revision: 1

Table of Contents

1. Introduction	4
2. Scope, Vision and Objectives	5
3. Housing Requirement	8
4. Spatial Strategy	14
5. Land north of Burton Road, Swadlincote	17
6. Conclusions and Changes Sought	18

1. Introduction

1.1 Background

1.1.1 These representations have been prepared by Marrons on behalf of Wain Estates (Land) Limited ('Wain Estates') to comment on the soundness and legal compliance of the South Derbyshire Local Plan Part 1 Review Regulation 19 (Publication Version) Consultation.

1.2 Client Site Name

1.2.1 Wain Estates is promoting Land north of Burton Road, Swadlincote for residential development.

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
- Housing Requirement
- Spatial Strategy
- Land at Burton Road, Swadlincote

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 addressed 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.

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 2025 to 2028. *Inter alia*, the LDS sets out that the Council considers itself to be working under the 'transitional arrangements' per the NPPF, meaning this Local Plan Review will proceed under the provisions and procedure of the 2023 NPPF. It is therefore their intention to continue under the two-part plan approach, but accept that a full single plan review will be necessary to be undertaken post adopted of LPP1. It is noted that a new LPP2 would need to be submitted for examination prior to December 2026 if that was the route taken.

2.2.4 Elsewhere in the LDS it is noted that several key pieces of work which would contribute to the evidence base to a Local Plan have yet to be completed. This includes the Local Plan Viability Assessment and some Transport Modelling.

2.2.5 What is notable is that until this most recent Regulation 19 consultation, the LDS (2022-2025) had stated that most of the policies of the Local Plan Part 2 for South Derbyshire would be reviewed alongside the Part 2 Local Plan and subsumed into a new Local Plan. In addition, it was 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."

2.2.6 As set out above, the form of the Plan currently consulted on clashes with that older LDS, and thus proceeds on a different basis to which was previously anticipated. It does not review adopted Part 2 Local Plan, which is carried forward in its entirety. 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.

2.2.7 Paragraph 1.13 of the Plan states that its focus will be upon two specific strategic allocations at Derby Urban Fringe. This 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.

2.2.8 The Plan should address housing needs of South Derbyshire as a whole in addition to those unmet needs emanating from Derby and across the HMA over an appropriate plan period.

2.2.9 The restricted scope of the Plan as a partial review only to deal with Derby's unmet housing need is not justified and is inappropriately driving choices regarding the amount and location of housing and economic development.

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 a suitable time period and across the District as a whole rather than just the part adjacent to Derby 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 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 is ineffective because it does not set out the scope of a future review, nor any consequences should one 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 draft Vision makes reference to the Climate Emergency declared by the Council, but does not acknowledge the Housing Emergency, despite a chronic lack of affordable homes in the District and declining housing affordability.

2.4.2 The Vision lacks a clear commitment to tackling this affordability problem through boosting the supply of affordable homes and housing more generally. As set out below, the Plan's housing requirement in addition to not meeting all of Derby's unmet needs with the Plan period, will also not be sufficient to secure delivery of sufficient affordable homes to meet objectively assessed needs.

2.4.3 For the reasons set out below, the Plan's housing requirement of 14,500 will be insufficient to support an ambitious economic growth strategy, will not deliver enough affordable homes over the Plan period nor will it address unmet housing needs or meet the needs of older people or requirements for custom and self-build housing or other specialist housing types and tenures.

2.4.4 As might be expected given the Plan's restricted scope, which has predetermined the manner in which Derby's housing needs will be addressed, there is little meaningful description within the Vision of the role and function of other settlements or categories of settlements, including Swadlincote which is identified as an Urban Area and prioritised for development in the adopted Local Plan. The generalised aspirations listed for these locations do not set out the role of settlements outside of Derby within the plan reviews' growth strategy, which is not appropriate given the geographical scope of the Plan, which is the District of South Derbyshire.

3. Housing Requirement

3.1 Introduction

3.1.1 Within this section, we comment upon the housing requirement and the underpinning evidence base in relation to housing needs within South Derbyshire and across the wider HMA.

3.2 HMA-wide Housing Need & Duty to Cooperate

3.2.1 The latest Statement of Common Ground (“SoCG”) for the HMA was published in December 2024. The SoCG records that Derby City is constrained and that Derby City Council has undertaken work that estimates housing capacity supply over the Plan period 2022 to 2039 at 12,500 dwellings. Despite the crucial relevance of that work to a Plan which seeks to address Derby’s unmet needs for housing, that work has not been published either as part of the current consultation or at previous stages.

3.2.2 Until the Derby Capacity Study is published and subject to independent scrutiny and examination, there is no confidence that the figure of 12,500 is robust. Those wishing to make representations have been deprived of an opportunity to comment on this critical evidence base.

3.2.3 Paragraph 27 of the NPPF states that strategic policy-making authorities should prepare and maintain one or more statements of common ground. Amongst other things, these should be made publicly available throughout the plan-making process to provide transparency. Whilst the most recent SoCG has been made publicly available through the examination of the Amber Valley Local Plan, the Derby Capacity Study is a major evidence base document which underpins the SoCG and this remains unpublished.

3.2.4 Table A of the SoCG sets out a comparison of HMA need (calculated using the previous version of the Standard Method) against HMA-wide “supply,” which equates to the emerging housing requirement figures for Amber Valley and South Derbyshire. For Derby, the city’s presumed urban capacity figure of 12,500 is used for the supply-side. It’s concluded that HMA need is 35,734 and supply is 37,225, resulting in a surplus of 1,491.

3.2.5 The figures above, however, are calculated from 2022 to 2039 whereas South Derbyshire’s emerging Plan extends to 2041 and Amber Valley’s to 2040. Therefore, housing need and supply within the HMA has not been considered over the appropriate time-horizon. Between 2022 and 2041, aggregate need would amount to 39,938 compared to the supply of 37,448. In other words, even taking Derby’s urban capacity at value, **there is a 2,500-dwelling shortfall across the HMA**. This is summarised in Table 1 below.

Table 1: Housing Need compared to Supply (2022 - 2041)

LPA	Local Housing Need (dpa)	Aggregate Need (2022 to 2041)	Emerging Housing Requirements	Surplus / Deficit
Amber Valley	351	6,669	10,465	3,796
Derby City	1,244	23,636	12,500	-11,136
South Derbyshire	507	9,633	14,483	4,850
Total	2,102	39,938	37,448	-2,490

3.2.6 It is common ground between the HMA authorities that Derby cannot meet its own need. The emerging Amber Valley Local Plan is in the latter stages of examination. Accordingly, if the Plan for South Derbyshire is adopted in its current form with its housing requirement of 14,500, a substantial shortfall will result within the HMA.

3.2.7 The SoCG erroneously states that South Derbyshire District Council is preparing a plan to cover the time period between 2022 and 2039. It also states that Derby City Council is also preparing a Plan that would look to 2039, but this would not comply with the NPPF's expectation the plan period must extend a minimum of 15 years from adoption.

3.2.8 Paragraph 11 b) of the NPPF states that strategic policies should, as a minimum, provide for objectively assessed needs for housing, as well as any needs that cannot be met within neighbouring areas. Paragraph 26 requires effective joint working between strategic policy-making authorities, including whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

3.2.9 The HMA authorities have agreed that Derby's unmet need can be met between 2022 and 2039, which does not align with the Plan period. That time horizon also does not align with the period for the emerging Amber Valley Local Plan nor the likely period for any local plan progressed by Derby City Council. In our view, this does not constitute effective or ongoing joint working.

3.3 Derby's Urban Capacity

3.3.1 As set out above, Derby's Urban Capacity study has not been published. Derby City Council has, however, published a Position Paper dated October 2024, which provides an overview of the work undertaken to date. This does not form part of the Plan's evidence base, but clearly has implications for its proposed housing requirement. **Most notably, the Position Paper states on the last page that the figure of 12,500 is merely an indication of urban capacity and it has not been informed by the full, detailed assessment of sites that would be required to justify a**

housing requirement figure. That is tacit acknowledgement that the figure cannot be relied upon.

- 3.3.2 There is repeated reference throughout the Position Paper to the 12,500 being “ambitious.” In fact, it is stated at one point that the Council’s consultants (AECOM) recommended a lower capacity figure of 10,400. Recent trends of housing delivery within Derby suggest that caution is warranted.
- 3.3.3 The Housing Trajectory in the Derby City Council Local Plan Part Core Strategy (2017) projected that, by the 2022/2023 monitoring year, a total of 9,459 dwellings would be delivered. However, the Government’s live tables on housing delivery show a cumulative total of 6,747 dwellings, resulting in a shortfall of approximately 2,712 units compared to the targets set in the adopted Core Strategy for the same period.
- 3.3.4 The actual delivery rate equates to an annual average of 613 dwellings since the start of the Core Strategy’s Plan period, significantly lower than the 700-800 dpa anticipated in the urban capacity work. There is little reason to believe that such a substantial increase in delivery is feasible within the context of a constrained urban authority and there is no reliable evidence to indicate otherwise.
- 3.3.5 The Position Paper also correctly sites market absorption in Derby City as a matter to be considered in relation to potential delivery rates, especially in a context of a development strategy in the adjacent authorities of South Derbyshire and Amber Valley which focuses new development on the fringes of the city. However, there is no consideration within the Position Paper or the wider evidence base underpinning the Plan on market absorption and the likely impact on delivery rates in this regard.
- 3.3.6 No part of the evidence base addresses Derby’s urban capacity. Recent trends and the limited evidence that has been published suggests that it is over-stated considerably and until the matter is addressed comprehensively and tested through examination, there can be no confidence that the Plan’s housing requirement is addressing HMA-wide need.
- 3.3.7 In relation to HMA-wide need, it should be noted that Table 5 of the SoCG relies on the consultation version of the “new” Standard Method, which has since been updated with the published version. Even so, it is evident even on the new figures that there will be a recalibration of where need arises throughout the HMA, with fewer homes needed in Derby City Council’s administrative area and more within the adjacent authorities.
- 3.3.8 As Derby City Council itself points out in its response to the Regulation 18 consultation published within SDDC’s “summary of responses,” this may have implications as to where growth is located. It should also be noted that whilst SDDC is progressing under a version of the Standard Method which includes the “urban uplift” and therefore attributes more housing need to Derby,

any local plan for Derby will need to respond to the current version of Standard Method, as well as any early review to the emerging Amber Valley Local Plan, if adopted.

3.4 The Housing Requirement

3.4.1 The District's LHN figure, calculated using the Standard Method, serves as a minimum starting point and does not represent the final housing requirement. This is clearly outlined in the Planning Practice Guidance (PPG). The PPG also specifies that exceptional circumstances are required if planning for fewer homes than the Standard Method indicates. Therefore, the LHN should be viewed as a floor, not a ceiling. The PPG also sets out a number of circumstances and factors where it might be appropriate to plan for a higher housing requirement than the LHN. These are summarised below:

The Standard Method does not attempt to predict the impact of changing economic circumstances or the impact other factors might have on demographic behaviour.

Circumstances where it may be appropriate to plan for a greater level of housing growth than the LHN includes, but is not limited to:

- *Growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth*
- *Strategic infrastructure improvements that are likely to drive an increase in the homes needed locally; or*
- *An authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground.*
- *There may also be situations where previous levels of housing delivery in an area, or previous assessments of need, are significantly greater than the outcome of the Standard Method.*

Total affordable housing need can then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, taking into account the probable percentage of affordable housing to be delivered by eligible market housing led developments. An increase in the total housing requirement included in the plan may need to be considered where it could help deliver the required number of affordable homes. [Emphasis Added]

3.4.2 Paragraph 4.34 of the Plan states that the Local Housing Needs Assessment ("LHNA") December 2023 confirms there are no exceptional circumstances justifying a departure from the Standard Method in calculating housing needs. However, the question of whether there are exceptional

circumstances to depart from the Standard Method is distinct from whether the housing requirement should be increased beyond the Standard Method to account for the factors mentioned in the Planning Practice Guidance. The PPG makes it clear that the Standard Method does not determine a final housing requirement, but only serves as a minimum starting point. Therefore, we would expect the Plan and its evidence base to comprehensively address the factors outlined in the PPG.

- 3.4.3 The Government's live tables on net additional housing supply indicate that over the last five years South Derbyshire has seen an annual average of 1,107 completions per annum. This suggests that the Council can sustain a rate of housing delivery well more than the LHN (which for South Derbyshire on the old Standard Method is 507 dpa). The emerging housing requirement, by contrast, is 763 dpa. This delivery of significantly less growth than what has been recently achieved is clearly not consistent with the NPPF's objectives of significantly boosting the supply of housing.
- 3.4.4 South Derbyshire has averaged 167 affordable housing completions per year. However, the LHNA identifies a need for 410 affordable dwellings per year. Similarly, Derby City Council has delivered an annual average of 169 affordable units over the past decade, while the LHNA estimates its annual need at 1,076 homes.
- 3.4.5 The LHNA states at paragraph 6.53 that the notional percentage of affordable housing in South Derbyshire is 41% of the LHN. However, this does not appear to capture the calculated need for affordable home ownership and intermediate affordable tenures. The true ratio is therefore much higher and closer to 80%, when compared to an affordable housing policy requirement of 30% within the District.
- 3.4.6 In spite of the above, the LHNA concludes that the housing requirement should not include an uplift to address affordable housing needs. The rationale for this is explained at paragraph 6.69 and amounts to the claim that it is too difficult to link affordable housing to the overall housing requirement and that there is no justification for making the link. That proposition is supported by reference to guidance issued by the Planning Advisory Service in 2015. Despite seemingly being aware of the clear direction in the PPG to consider an increase in total housing figures to help deliver the required number of affordable homes, the LHNA appears to disagree with the PPG's clear advice and has proceeded not to apply it in, concluding that no uplift should be made to deliver affordable housing figures. That approach is inconsistent with national policy and has resulted in an unsound housing requirement which has clearly not been informed by the significant level of affordable housing need within Derby and South Derbyshire identified within the evidence base.

3.5 Flexibility & Contingency

3.5.1 The Plan identifies a housing requirement of 14,500 dwellings. Policy S4: Housing Strategy sets out that this will be met through the following provision:

- 12,470 dwellings proposed for allocation within the Plan and those remaining to be completed on allocations in the adopted Part 1 Plan;
- 242 dwellings to completed on sites in the adopted Part 2 Local Plan; and
- 1,788 dwellings on existing unallocated sites of ten dwellings or more and windfall development on sites of fewer than ten dwellings

3.5.2 The components of supply identified above equate to exactly the minimum housing requirement of 14,500. However, the housing trajectory at Appendix 5 indicates 14,443 cumulative completions over the Plan period, slightly below the minimum housing trajectory.

3.5.3 No allowance for flexibility or contingency has been made to account for delayed delivery. Marrons recommend that Plans incorporate a supply-side buffer of 10-20% to ensure the minimum housing requirement is met.

3.5.4 In the case of the Plan, its strategy for the delivery of homes is heavily weighted towards two Sustainable Urban Extensions (SUEs) located on the Derby urban fringe. STRA1: Infinity Garden Village is forecast to deliver 150 dwellings per year starting in 2029/30. STRA2: South of Mickleover is anticipated to commence delivery at the same rate but starting in 2030/31. Forecast completions for each site extend beyond 2041.

3.5.5 Given the above, even minor delays to the delivery of these SUEs would start to push a considerable number of completions beyond 2041 meaning that the Plan's minimum housing requirement will not be delivered within that timescale.

3.5.6 Analysis by Lichfields suggests that sites of 2,000+ dwellings take almost 7 years from the validation of an outline planning application to delivery on site. Using that metric, assuming the Plan is adopted by the start of 2027 and that submission of an outline planning application follows shortly after, 2034 is a more realistic start year. On this analysis, the trajectory is overstated by around 900 dwellings. Given this drastic shortfall, it is our assertion that the plan cannot be found sound.

4. Spatial Strategy

4.1 Introduction

4.1.1 Within this section, we make representations in respect of the Plan's apportionment of housing growth and the evidence underpinning it, namely in respect of the Sustainability Appraisal process.

4.2 Sustainability Appraisal

4.2.1 A Sustainability Appraisal ("SA") of the Regulation 19 Plan has been undertaken by SLR and is dated 10th March 2025. Page 45 of the SA confirms that the SA process focuses on four strategic site options for distributing housing need for the Derby HMA. Two of these options have been taken forward and two rejected. No options beyond the Derby fringe have been considered within the Regulation 19 SA itself, although it cross references earlier work undertaken on an HMA-wide basis, which concluded that focusing development on the urban fringe of Derby is the most sustainable option.

4.2.2 The September 2024 Derby HMA Sustainability Appraisal of Housing Options ("HMASA") by SLR considered various high-level options for the scale and distribution of housing growth. Turning first to scale discussed at section 2.1.1, the HMA SA considers scenarios between 2023 and 2039. This does not align with the Plan period either in respect of the base year or the end year.

4.2.3 Consequently, applying the Standard Method across the HMA, the SA tests a figure of 36,584 ("Scale 1") between 2023 and 2039 when it should, in fact, test a figure of 39,938 between 2022 and 2041. The only other options for scale of housing growth considered within the SA involve removal of the Standard Method's 35% urban uplift altogether ("Scale 2") its replacement with an arbitrary 10% uplift ("Scale 3").

4.2.4 Neither Scale 2 nor Scale 3 are realistic options. National planning policy is clear that the Standard Method calculates the minimum number of homes required. There is no basis for disapplying the urban uplift for Derby or replacing it with a lower figure nor is there any evidence to indicate otherwise. The urban uplift is an inherent part of the relevant version of Standard Method and part and parcel of calculating an area's minimum need for housing. Scale 2 and Scale 3 are therefore not reasonable alternatives.

4.2.5 Page 4 of the HMASA says that consideration has been given to a higher growth option than Scale 1 but does not say what this figure is. It then goes on to set out several reasons why housing provision might be greater than the minimum need indicated by the Standard Method but dismisses any option higher than it on the basis that Scale 1 "already includes a 35% uplift identified by central Government and it is agreed that Derby City is unable to meet this." That is not a valid reason given that the urban uplift is an inherent part of undertaking the calculation

and, as recognised in national policy stated within the HMASA itself, the Standard Method only identifies the minimum starting point and does not preclude a higher housing requirement figure.

- 4.2.6 Turning to distribution of growth, four scenarios have been considered summarised under Section 2.1.2 of the HMASA. These distribution options consider meeting housing need either within Derby, on Derby's fringes or a mixture of the two. Option D3, however, does consider meeting housing need within towns and key service villages in Amber Valley and South Derbyshire, but again in tandem with growth on Derby's fringe. In the framing of the options, it appears that no genuine effort been made to identify or test growth options beyond Derby's fringes, and this is reflected in the lack of distinctiveness between the options tested.
- 4.2.7 Table 2-1 provides an overview of how growth options have been assessed. All options presented under Scale 1 (i.e. 36,584 homes) only test the apportionment of 9,022 homes – the purported extent of Derby's unmet need. Setting aside the fact there is no cogent or robust evidence base underpinning Derby's urban capacity and therefore the extent of unmet need is unknown, the Plan is clear that it is addressing housing needs both within Derby and within South Derbyshire. Therefore, only testing the extent of unmet housing need attributable to Derby is not a robust approach.
- 4.2.8 Option D3 considers how a dispersed pattern of growth may be distributed. It assumes that 5,576 dwellings would be met on Derby's urban fringe with the remaining 3,446 split outside of the urban fringe as per various sub-options. These options do not identify how growth is distributed to individual settlements or tiers of settlements and in an approach which is common across all options, only considers different scenarios for apportionment based on administrative boundaries.
- 4.2.9 The HMASA makes repeated reference to the Growth Options Study ("GOS") by AECOM. It is unclear the extent to which this has driven site selection, but the GOS has significant limitations, recognised within the Study itself. Broad locations have only been identified where they have the capacity to accommodate a minimum of 1,000 homes. Specific sites or levels of growth have not been considered nor was the GOS undertaken with an understanding of housing need within the HMA or individual authorities. The GOS provides very little explanation in respect of how it has identified the sixteen broad directions of growth following its very broad thematic review and we do not consider that it should inform SA testing or site selection in any way.
- 4.2.10 For the above reasons, the SA process has not been carried out robustly and the Plan in terms of its proposed scale and distribution of growth is not justified.

4.3 Other Comments on the Spatial Strategy

4.3.1 The Plan proposes to allocate two large-scale strategic urban extensions net of existing commitments to address housing needs to 2041, including part of the unmet need arising from Derby within the same period. For the reasons explained above, the SA has closed its mind to reasonable alternatives that do not involve strategic expansions to the edge of Derby and this has informed an approach that is not robustly evidenced or justified.

4.3.2 The Plan has failed to consider locally specific settlement-based needs. Paragraph 67 of the NPPF (December 2023 version) states that strategic policies should set out a housing requirement for designated neighbourhood areas. The Plan fails to do this thereby falling into conflict with national policy. The Plan has also failed to consider making provision for a stock of small and medium sized sites over the plan period, as required by paragraph 70 of the NPPF, thus falling into conflict with this aspect of national policy as well.

4.3.3 The Draft Plan does not outline how housing needs have been assessed at a more detailed, parish level across the District. This is despite clear evidence in Section A of the December 2023 LHNA, which indicates that areas of South Derbyshire beyond the Derby fringe have distinct affordable housing needs. It also appears that the Plan has not considered other housing needs necessary to sustain local settlements. In contrast, Amber Valley District Council's local plan's evidence base included a "Small Area Analysis" to estimate the housing needed to maintain a stable working-age population and adequate numbers of children to support local schools. In SDDC's case, there is no indication of whether the distribution of housing over the plan period will address the social sustainability of settlements outside of Derby and, critically, whether the amount of housing already planned for in these areas will support local service provision. In this respect, we draw attention to paragraph 83 of the NPPF (December 2023) version which states to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies, it states, should identify opportunities to grow and thrive, particularly where this will support local services. On the basis that the Plan has taken the decision to concentrate all net growth on the edge of Derby, it clearly has not had appropriate regard to paragraph 83.

5. Land north of Burton Road, Swadlincote

5.1.1 The site extends around 15 hectares and lies to the north and west of Midway, Swadlincote. The October 2022 SHELAA assessed that the Site could accommodate up to 300 dwellings. The town of Swadlincote is identified as a Main Urban Area in the adopted Local Plan and is now the third largest settlement in Derbyshire after Derby City and Chesterfield, following a period of rapid and significant growth. The District's rapid growth is forecast by the Government to continue into the next Plan period.

- 5.1.2 Whilst the Site is explained in detail below, please refer to the Vision Document at Appendix 2, which shows how the Site may come forward.
- 5.1.3 The Site is of an irregular shape and comprises a series of existing separate fields. Open fields bound the site to the north. The A511, Burton Road, bounds the Site to the south and provides the optimal point for vehicular access. The ground levels of the Site slope down from the highest point in the south close to the boundary of the A511, towards the north-east.
- 5.1.4 There are a number of public footpaths which cross the Site, connecting into an established footpath and bridleway network within the area, which provide onward connectivity to local landmarks and destinations. The Site is not subject to any national or local landscape designations, although is located in the National Forest. Given its size, any development will need to incorporate significant tree planting and habitat creation covering 30% of the Site area.
- 5.1.5 The Landscape Character of Derbyshire indicates that land to the north west of the Site and along the Site frontage with the A511 (Burton Road) lies within the Melbourne Parklands and is identified as falling within the Estate Farmlands Landscape Character Type (LCT). Key characteristics of this LCT are a gently rolling plateau dissected by minor river valleys; mixed farming with intensive arable cropping and improved permanent pasture; scattered hedgerow trees; predominantly medium size semi-regular and regular fields enclosed by hedgerows and open views from elevated areas over surrounding lower lying landscapes.
- 5.1.6 The remainder of the Site falls within the Coalville Village Farmlands LCT. Key characteristics of this area include heavy, poorly draining soils; pastoral farming with localised arable farming on better drained soils; patches of semi-natural woodland; scattered hedgerow trees and locally dense trees along watercourses; ribbon development and housing estates and a legacy of coal extraction.
- 5.1.7 The Site slopes downwards to the north and is dissected by a number of public rights of way offering views towards Repton Shrubs and a low ridge to the north. These views are partially interrupted by mature blocks of trees and woodland as well as existing hedgerows along much of the site frontage with Burton Road.
- 5.1.8 Development would be sensitively located and designed so as to preserve the key views across the Site and wider landscape from the elevated land on the edge of Midway and plateau edge to the west of the Site. Development will be focussed on the contained, low lying fields towards the south and east of the Site and existing field boundaries will be reinforced with new hedgerow, tree and woodland planting to provide further containment and softening of development.
- 5.1.9 Turning to ecology, the Site is located outside of the River Mease Catchment Area and is unaffected by nutrient neutrality requirements. There are no statutorily designated wildlife sites, adjoining or within 2km of the Site. There are a number of Local Wildlife Sites (LWS) in the vicinity

of the Site. The closest recorded LWS is located around 100m to the north of the site and this and other non-statutory wildlife sites will be unaffected by development proposals.

- 5.1.10 There are some Priority Habitat (deciduous woodland) present on the Site as well as several areas in the local landscape. The scheme has been designed to retain these habitats and includes significant areas of new tree planting to support wider habitat connectivity.
- 5.1.11 The Site has been assessed for the likely presence of protected or notable species. The habitats on site may be suitable for supporting amphibians, reptiles, birds, bats and badgers and a suite of Phase 1 surveys would be undertaken at an appropriate time of year to confirm the presence/absence of these species and appropriate measures adopted where required. Based on an initial ecological review of the Site it is proposed that measures such as the provision of new grassland area, enhancement of amphibian habitat, installation of reptile/amphibian hibernacula and the retention of and creation of new native hedgerow and woodland planting could be incorporated into the proposed development to deliver a minimum of 10% Biodiversity Net Gain as part of the development.
- 5.1.12 The Site is wholly within Flood Zone 1. The risk of flooding from surface water has been mapped by the EA on a strategic scale and the mapping indicates the Site to be at low risk of flooding from surface water.
- 5.1.13 There are no Scheduled Ancient Monuments, World Heritage Sites or Conservation Areas located in close proximity to the Site. There are two grade II listed buildings located to the west of the Site. These comprise of Midway Farmhouse (1096593); a Late C18/ early C19 farmhouse and a Mid/Late C19. L shaped range of farm buildings. (1096594). Any development on the Site would be pulled back from these buildings due to the local topography and unsuitability of land close to the buildings for development. As a result the principal views of these buildings will be unaffected by development.
- 5.1.14 It is envisaged that the site access will be taken from the A511 (Burton Road) at the southern part of the Site. Based on the development proposed, a priority 'T' junction arrangement is proposed to serve the development.
- 5.1.15 The location of the access has been chosen to minimise impact on existing trees, whilst an indicative alignment of the access road through the Site has been engineered to demonstrate how it could be delivered in line with design guidance, mindful of the topography of the Site, as it rises towards Burton Road.
- 5.1.16 A number of new pedestrian connections are proposed linking into the adjacent site and complementing the existing extensive public right of way and bridleway provision. Based on an initial review of the Site it is not anticipated that development would have any impact on local highways capacity or road safety.

- 5.1.17 In terms of connectivity to public transport the Site is located within 400m of bus stops on Acacia Avenue which provides a twice hourly bus service operated by Midland Classic. The Site is within walking distance of a number of local services and facilities. A convenience store is located around 600m to the east, Elmsleigh Infant and Nursery School and Springfield Junior School are located 800m to the south of the site, Pingle Secondary School is around 1km from the site, GPs are located within 1.2km whilst Swadlincote Town centre is within 1.5km.
- 5.1.18 Related to the above, it should be noted that Wain Estates also responded to the recent consultation on the Cycle Network SPD. Therein, a Local Cycle Network was posed, which would be in close proximity to the Site.
- 5.1.19 Within their representations, Wain Estates gave their strong support for the proposals, finding that the routes as proposed in the Draft Cycle Network SPD represent an exciting opportunity to enhance the sustainability and connectivity within the Swadlincote area. This is of particular interest given the proximity of a draft LCN to the Site, and the opportunities that presents by linking the Site with wider facilities and settlements.
- 5.1.20 It should also be noted that there has been cooperation between Wain Estates and the promoter of the adjacent land parcel (SHELAA ref. 12), the Northern Trust. The two parties have collaborated on an 'Emerging Wider Masterplan', as shown at Appendix 3. While it should be made clear that the two sites are still intended to be considered separately, and can be developed independently from one another, there are clear advantages and opportunities to be gained from working collaboratively in this manner. As shown on the Emerging Wider Masterplan, there are excellent opportunities to enhance pedestrian connectivity to benefit future occupiers of both parcels, as well as the wider area. We hope that by showing this option, and demonstrating our cooperation, we can give confidence that this parcel can deliver wider benefits and that the two adjacent parcels complement one another.
- 5.1.21 Overall the Site is considered to be a sustainable location for development, and is suitable, achievable and available.

6. Conclusion & Changes Sought

- 6.0.1 The Plan fails the legal Duty to Cooperate. When considered across the Plan period, there will be a substantial shortfall of housing in the amount of circa 2,500 dwellings across the HMA and there is no evidence in relation to how the HMA authorities have sought to address this through effective cross boundary working. Even this figure is based upon a limited understanding of Derby's urban capacity to 2041.
- 6.0.2 To date, no urban capacity study for Derby has been published nor independently examined. The purported extent of unmet need arising from the city is not credibly based in evidence and it is not clear how the HMA authorities have worked together to properly understand the city's urban capacity and therefore the extent of its unmet needs.
- 6.0.3 For that reason, the quantity of growth proposed within South Derbyshire to address Derby's unmet needs for housing is insufficient on its face and there is no meaningful evidence presented of effective joint working to address these needs.
- 6.0.4 To comply with the Duty to Cooperate and for it to be positively prepared, the Plan should meet, as a minimum, Derby's unmet need for homes (grounded in a comprehensive and evidence-led study in respect of the city's urban capacity), in addition to South Derbyshire's own need. However, the LHN calculated using the Standard Method is only the minimum starting point. There are matters such as addressing affordable housing need and economic growth aspirations which may indicate the need for a higher housing requirement than that indicated by the Standard Method. These factors have not been adequately addressed.
- 6.0.5 The Plan's supply of homes over the Plan period is slightly less than the minimum housing requirement meaning there is no flexibility for delayed delivery. Given the reliance on large-scale SUEs (namely those at Infinity Garden Village and Land South of Mickleover), a supply-side buffer or contingency of 20% should be applied to allow for flexibility as well as choice and competition in the market. The delivery timescales and trajectory associated with Infinity Garden Village and Land South of Mickleover are very optimistic and even minor delays to the delivery of these strategic sites will mean a very large number of dwellings not coming forward within the Plan period meaning the minimum housing requirement will not be met.
- 6.0.6 The Site known as Land at Burton Road, Swadlincote, is considered to be a Site which is in a highly sustainable location in the County's third largest settlement. As a result of this size, Swadlincote benefits from higher order facilities, services and connections and is an ideal location for growth. Given the constraints of the south of the settlement, sites in the north will be considerably preferable. This Site is suitably located to achieve the growth required, is unconstrained, and available for development. The site is therefore considered to be suitable for allocation for new homes in the emerging Local Plan.

6.0.7 To conclude, Wain Estates have fundamental concerns regarding both the soundness and legal compliance of the Plan. Due to the significance of these objections—and in light of the above noted land interest(s) within the Plan area—we believe it is both necessary and justified to present our case in person at the Examination in Public hearing sessions following the Plan’s submission.

Waterfront House, Waterfront Plaza
35 Station Street, Nottingham, NG2 3DQ

Marrons is a business name of Shakespeare Martineau LLP. Shakespeare Martineau LLP is a limited liability partnership registered in England and Wales with number OC319029 and authorised and regulated by the Solicitors Regulation Authority, with number 442480 with its registered office at No 1 Colmore Square Birmingham, United Kingdom, B4 6AA



**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*: Nicholas Mills
Organisation: Marrons	Organisation: Wain Estates
[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
------------------------------------	--	---

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.**