

South Derbyshire District Council Part 2 Local Plan Review

**Regulation 18 Issues and Options
consultation**

Prepared by Fisher German on behalf of



Professional memberships and accreditations



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1. Introduction

- 1.1. These representations are prepared by Fisher German on behalf of our client, [REDACTED], in respect of South Derbyshire District Council's Part 2 Local Plan Review Regulation 18 (Issues and Options) consultation and their land interests east of Newton Road, Newton Solney.
- 1.2. Most recently, the sites were the subject of representations submitted to the Council in response to its Local Plan Part 1 Review Regulation 19 consultation carried out between March and April 2025.
- 1.3. The site being promoted by [REDACTED] is considered suitable for consideration for development and is available now, or as an option to accommodate housing growth of a future Local Plan Review under the new plan making system, depending on the route chosen by the Council which is a subject for consideration within this consultation.

2. Representations

Introduction to sites

- 2.1. The following site is considered suitable for consideration for development and is available now, or as an option to accommodate housing growth of a future Local Plan Review under the new plan making system. A brief summary of the site's credentials and red line boundary are provided below.

East of Newton Lane, Newton Solney



Figure 1: Site location plan

- 2.2. The site has been positively assessed in the SHELAA subject to any mitigation required and access would be achieved through neighbouring land immediately to the west which is also being promoted (also positively assessed in the SHELAA). The site is located within Flood Zone 1 and is otherwise without constraints. It physically adjoins – via a recently completed Barratt Homes scheme immediately to the southwest of the site (App ref: 9/2014/1039) – the highly sustainable urban centre of Burton on Trent/Stapenhill, which includes a wide range of services and facilities. On Newton Road there is an existing bus stop served by the regular V3 service to Derby/Burton; the site is considered capable of demonstrating suitable sustainability credentials.
- 2.3. To clarify and for the avoidance of doubt, the land immediately to the west of our client's interests as shown at Figure 1 being promoted within these representations is within the same ownership but under option and being promoted by Marron's on behalf of Davidsons Developments Ltd (Council's SHLAA Site Reference : 147 - land off Newton Road, Newton Solney). Our client has retained rights of access through that site to ensure land being promoted within these representations is able to come forward as an extension of the above development.
- 2.4. Our client would also be willing to work with the owners of the land to the south to deliver something more substantial in this location if that was the preference of the Council, however the submitted parcels of land are considered logical infilling of the gap between the David Wilson

Summary

- 2.5. Land east of Newton Lane, Newton Solney was the subject of representations submitted to the Local Plan Part 1 Review Regulation 19 consultation in April 2025. These representations confirm that the site as

outlined above continues to be available, occupying a sustainable location, being adjacent to a significant urban area with access secured. It represents a logical extension to Burton on Trent/ Stappenhill and an appropriate option to contribute to housing land supply within the district. The sections below provide further consideration around various relevant sections of the consultation document.

Question 1: Should the Council produce a Local Plan Part 2 Review under the existing planning system, or should a single full Local Plan Review be undertaken under the new system?

- 2.6. The new plan making system covers plans that will be prepared and amended under the Planning and compulsory Purchase Act 2004, as modified by the Levelling-Up and Regeneration Act 2023. Arrangements are in place to manage the transition into the new system (as set out by the updated NPPG, 27 November 2025). Specifically, Local Planning Authorities are able to produce new plans under the existing (legacy) system provided plans are submitted for examination by 31 December 2026. Effectively two systems will run concurrently through 2026 to allow this. Plans must be produced entirely under one or the other system. Given the status of this consultation in accordance with Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012, and its relationship with the Local Plan Part 1 Review which is advanced, it is clear the Council remain focussed on producing a new plan under the legacy system unless a change of course is adopted. We are of the view that the Council should change course and commit to producing a single full Local Plan Review under the new system for a number of reasons as set out in more detail below.
- 2.7. Notably, even if the Council were to adopt the Local Plan Part 1 review, the immediate wholesale review of the Local Plan under the new plan making system – rather than an additional separate Review of Part 2 under the legacy system in the interim – would only reflect the approach advocated by *Policy REV1: Review of the Local Development Plan* of that document which requires that ***“Plan making for a comprehensive South Derbyshire District Local Plan will commence immediately upon adoption of the Part 1 Review Plan”***. Clarifying text at paragraph 1.44 of the same document provides further context as follows ***“On adoption of the Part 1 plan review, the process of undertaking a comprehensive plan review will begin. This will bring together the current Part 1 and 2 plans and consider issues such as retail provision and the future development of Swadlincote, service villages and other rural areas in the district”***. Paragraph 1.45 goes on to state ***“the comprehensive review will be undertaken in accordance with the new planning system set out in the 2023 Levelling-up and Regeneration Act”***. Notwithstanding that we maintain reservations over the validity of Policy REV1 as per our response to the Part 1 review, the Council considered this approach to be a sound one at the time and it is unclear what has changed since to warrant the need to review Part 2 of the Local Plan separately under the old plan making system, which would be contrary to the approach prescribed here.
- 2.8. Guidance¹ is clear that the Regulation 19 version of any plan consulted on must be the version the Council intend to submit for Examination. The Council must be satisfied that there are no Main Modifications required in order to make the plan sound at the point of submission. By maintaining a course which sees this Part 2 plan reviewed separately under the old plan making system, rather than undertaking a wholesale review upon adoption of Part 1 under the new plan making system, the Council are subverting provisions of their own Part 1 review (Policy REV1 specifically) which suggests they do not consider it to be of sound basis and should therefore make appropriate adjustments and return to Regulation 19. This would significantly delay the process and provide further impetus in favour of carrying out a full Local Plan Review under the new plan making system.
- 2.9. Notwithstanding the above, the purpose of the plan making transitional arrangements² is to enable plans at an *advanced* stage under the existing system to progress to adoption as soon as possible, to increase

¹ <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations>

² <https://www.gov.uk/government/publications/rollout-of-the-new-local-plan-making-system/rollout-of-the-new-local-plan-making-system>

up to date plan coverage. Part 2 is being developed as a separate document, subject to its own separate plan making process. Whilst Part 1 can be said to be advanced, the same cannot be stated for Part 2 which is the subject of this Regulation 18 consultation. We do not consider therefore that the transitional arrangements put in place necessarily apply to the Part 2 plan as would be required should the existing course of action be maintained given the limited stage of progress it has reached.

- 2.10. Part 1 is still not submitted for Examination and a significant period of time has passed since completion of the associated Regulation 19 consultation. To progress Part 2 without an adopted Part 1 (or at least a version which is well advanced through the Examination process with related scrutiny) in the name of outpacing Local Government reorganisation is a flawed approach, particularly when considering Part 1 should act to substantively inform Part 2. It is also a considerable risk to commit resources to advancing a Part 2 without sufficient progress achieved on a Part 1, particularly in this case where unresolved strategic issues remain across the HMA; namely remaining unmet housing need.
- 2.11. We raised objections separately on behalf of our client in response to the Part 1 Regulation 19 consultation in 2025, including the failure to fully address the remaining HMA unmet need of 2,461 dwellings. In the context of a now well-advanced Amber Valley Examination (marked by the completion of the Main Modifications consultation carried out between July and October 2025), this calls into question the legitimacy of the Part 1 consulted on earlier in 2025 which – although making a significant contribution to resolving the HMA unmet need – does not resolve the issue. There is nothing to indicate at this stage that Part 1 will be able to navigate this issue through Examination successfully and demonstrate that it has satisfied Paragraph 11b of the NPPF 2023 and been positively prepared (to ensure unmet need from neighbouring areas is met – NPPF 2023 Paragraph 35a). If Part 1 ultimately fails or is significantly delayed as a result, this has direct implications for progression of Part 2 and would lead to significant further delays.
- 2.12. Even if Part 2 was to be submitted successfully under the plan making system arrangements for transition and then successfully navigate Examination and reach adoption (also supported by an adopted Part 1, subject to its own challenges as above), it is highly likely that the Council will be required to immediately review Part 1 given that it is being progressed under NPPF transitional arrangements (as per paragraph 234(a) of the NPPF 2024). As such, the plan to which much resource is being focussed to produce will have been delivered to accord with NPPF 2023. Taking into account the likely time required for an Examination to complete and the fact that thus far it has not been submitted for examination, at the point of adoption Part 1 will likely be significantly misaligned with the national policy position as well as Local Housing Need position. Publication of the draft new NPPF in December 2025 for consultation (with expected publication in 2026) further enforces this concern.
- 2.13. In their post hearing advice letter of January 2025, the Inspectors examining the Amber Valley Local Plan were clear that the Council will be required to start preparation of a new plan once the plan is adopted. A specific policy requiring review was deemed required to ensure the plan recognises the extent of the HMA unmet need. Main modifications MM98 and MM99 ensued through the Main Modifications consultation carried out between July and October 2025 and included a proposed amended Policy MR1: Monitoring and Review to require this. There is also a need in Amber Valley to reflect updated, materially different Local Housing Need, introduced with the changes to the PPG in December 2024 and equally applicable to South Derbyshire. An approach to enforce immediate review is not, therefore, without local precedent, particularly in circumstances entirely similar to South Derbyshire, and to continue with the current approach therefore would appear to be wasteful at best. The Council should instead pursue a course of wholesale Local Plan Review alongside an updated Statement of Common Ground with the Derby HMA in order to properly address its unmet need. It would also act as the most efficient and effective route to deal with South Derbyshire's housing land supply position which is marginal at best and otherwise deficient as highlighted by the recent appeal decision for land south of Kings Newton Lane, Melbourne³.

³ <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?Caseid=3368728&ColD=0>

- 2.14. NPPF transitional arrangements do not apply to Part 2. As such and as correctly stated within the consultation document, it must be developed in accordance with NPPF 2024. Whilst technically possible, we consider this to be far less than ideal with potential for mis-correlation between the two components given that they are to be formed on the basis of different national policy. We also consider that it highlights even further the need to have significantly progressed and, ideally, adopted a Part 1 before embarking on a Part 2 to ensure potential divergence between Part 1 and 2 in national policy terms can be addressed holistically.
- 2.15. Given the above, we consider that spending time and resources on carrying out a Local Plan Part 2 Review under the legacy plan making system is ineffective and wasteful and instead resources should be focussed on expediting a single full Local Plan Review under the new plan making system. This would allow South Derbyshire District Council to pursue a single process and in doing so better align its timescales with those emerging for Amber Valley and fully address outstanding strategic issues – including HMA unmet need – through an updated Statement of Common Ground – whilst ensuring compliance with a significantly updated national policy position.
- 2.16. Much of the work undertaken to date would remain relevant and, in any case, the new plan making system is designed with expediency and efficiency at its core to ensure speedy progress. We do not consider that a decision around the most appropriate form of plan making should be unduly influenced by the expected timetable for Local Government reorganisation. However, such influence would, we consider, point to the production of a single Local Plan under the new plan making system as the most efficient and likely to succeed within the timeframe in any case given the issues considered above.

Question 2: Where should the housing needs be met?

- 2.17. The NPPF is and always has been clear that Local Planning Authorities should develop plans which ***“promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth infrastructure; improve the environment; mitigate climate change (including making effective use of land in urban areas)…”*** (Paragraph 11a). The overarching requirement is for plans to ***“be prepared with the objective of contributing to the achievement of sustainable development”*** (Paragraph 16).
- 2.18. In our Regulation 19 response we raised a number of concerns around assumptions made with regards to delivery of STRA1 and STRA2 allocations proposed within Part 1, in particular that the Council have assumed overly optimistic levels of annual delivery. Whilst we do not object to the allocations in principle, we take issue with the level of reliance placed upon them. Instead, the Council should adopt a more balanced approach to delivery which sees a proportionate distribution of housing sites across the district at various sites that will help to meet the needs of varied populations, sustain the viability and vitality of different settlements and provide flexibility in housing supply to help ensure consistent and timely delivery. Critically, by distributing housing sites across a wide range of locations within the district, market absorption challenges that would otherwise arise are mitigated. The ability of the market to absorb new housing is also directly linked to the speed at which new housing can be delivered.
- 2.19. In view of the above, the Council should focus on pursuing a strategy which is informed by local housing needs evidence but primarily seeks to meet housing needs utilising the whole spatial hierarchy, prioritising in order of sustainability the ‘Urban Area’ (Swadlincote including Woodville), ‘Key Service Villages’, then ‘Local Service Villages’ and so on, whilst also recognising the role and significance of the neighbouring Burton upon Trent/ Stappenhill urban area. Such an approach should distribute on a proportionate basis, commensurate with the level of sustainability of each settlement and the scope of services and facilities it provides. Our client’s site at Newton Solney (and adjacent to Burton upon Trent/ Stappenhill) as detailed above is available and presents a sustainable opportunity that could contribute to a diversification of the supply and a balanced distribution strategy as part of a full Local Plan Review.

Question 6: What could the Council do to speed up delivery on strategic allocations?

- 2.20. The Council is limited in what it can do directly to speed up delivery on strategic allocations however it is able to significantly influence the speed of delivery across the district in general, by promoting an increased range of sites both in terms of typology and scale and across a range of locations within the district in order to mitigate market absorption challenges.
- 2.21. It is clear at Paragraph 72 of NPPF 2024 (paragraph 68 of NPPF 2023) that ***“planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability”***. The provision of site allocations of a range of typologies and scales will help to boost housing delivery by limiting the reliance on large strategic sites which in turn will support flexible and phased delivery from a range of providers including smaller and SME builders. Critically, and related to our answer to Question 2 above, the provision of a range of site allocation sizes across multiple locations is a major factor in sustaining a robust and deliverable housing pipeline and five-year housing land supply. It is a fact that delivery of larger-scale strategic sites requires extended lead in times to deliver with more complex assembly and build out also an impediment to short term delivery. Allocating an increased number of sites comprising a wider range of scales and typologies can address this and provide much needed flexibility. Critically also, the provision of site options across a wide range of locations within the district – providing a balanced distribution strategy -will act to counter some of the usual market absorption challenges which otherwise tend to arise.
- 2.22. It is also clear that a lack of certainty and simplicity in plan making acts as a barrier to delivery. We argue that the current course of action being pursued is disjointed and, for the reasons outlined in answer to question 1 above, significantly flawed. This, alongside a delayed progression of Part 1 since Regulation 19 consultation (and unusual simultaneous pursuit of Part 2 despite this) presents a confusing and potentially volatile picture to the development sector and it fails to provide an environment conducive with strong delivery progress.
- 2.23. We consider that pursuit of a single and wholesale Local Plan Review under the new plan making system would be the form of plan making most likely to expedite delivery across the district. It will act to provide a clear and consistent basis for the identification of additional and varied sites as well as associated infrastructure requirements across a range of locations, against an up-to-date national policy context and Local (and HMA wide) Housing Need. With this in mind, our client's site at Newton Solney as detailed above is available and presents a sustainable opportunity that could contribute to a diversification of the supply and a balanced distribution strategy as part of a full Local Plan Review.

Question 7: Should the Council allocate land South of Mackworth for development within the plan period?

- 2.24. The Council should not allocate the land South of Mackworth for development within the emerging plan period. In circumstances where plan development continues under the legacy system (despite the range of issues with this approach highlighted above), the Council should retain the approach promoted through the Regulation 19 Part 1, which identifies it as a 'long term strategic housing growth area' under Policy FLG1. The same or equivalent approach should apply where a plan is developed under the new plan making system, too.
- 2.25. To bring forward development of the site would undermine long term and wider ambitions to deliver a comprehensive development in the area – including the portion within Amber Valley (Brun Lane) - and all the associated benefits this brings including comprehensive infrastructure delivery. Policy FLG1 is clear on the requirements for the site to come forward through a comprehensive masterplan approach for good reason and such an approach should be sustained.
- 2.26. Given the range of alternative site options available to the Council for consideration – including that which is the subject of these representations – to re-frame the site for delivery within the emerging plan period would seem an unnecessarily risky approach given it is intrinsically linked with a site recently found unsound by the Inspector examining the Amber Valley Local Plan. Main Modifications set out that land at

Brun Lane is to be identified as a sustainable location for future growth beyond the emerging plan period; South Derbyshire should continue with its own approach which now correlates with that enforced onto Amber Valley, also as per proposals of Part 1. In the long term, there is also the opportunity for this site to come forward under a single Local Plan as a result of Local Government reorganisation. To deliver land South of Mackworth unilaterally and bring forward delivery to within the emerging plan period would undermine any potential for this.

- 2.27. Notwithstanding the above, to diverge from the approach contained within Part 1 would require a return to Regulation 19 to consult on proposed changes, given that the version consulted on at Regulation 19 should be consistent with the version the Council intend to submit for Examination. Such an approach would appear to support a strategy of wholesale Local Plan Review under the new plan making system, given the time delays this would cause in any case.

Question 8: Are there other steps the Council could take to accelerate housing delivery on other sites?

- 2.28. As per response to Question 6 above, the Council is limited in what it can do directly to speed up delivery on individual sites however it is able to significantly influence the speed of delivery across the district in general, by promoting an increased range of sites both in terms of typology and scale and across a range of locations in order to mitigate market absorption challenges. Our response to Question 6 provides a more detailed overview of this.

Questions 9-11: Settlement boundaries

- 2.29. We agree with the principle that settlement boundaries should be drawn around existing settlement extents, following defined physical features, and that the settlement boundaries should be drawn to include any existing, proposed and new allocations which come forward as part of the Local Plan Review, as well as existing commitments.
- 2.30. We note that, whilst the settlement boundary of Burton upon Trent/ Stappenhill is a policy outside of the jurisdiction of South Derbyshire, by virtue of the recently completed Barratt Homes development southwest of the site, our clients land represents a continuation of the settlement extent.

Conclusion

- 2.31. For reasons outlined above, we consider that spending time and resources on carrying out a Local Plan Part 2 Review under the legacy plan making system is ineffective and wasteful and instead resources should be focussed on expediting a single full Local Plan Review under the new plan making system. This would allow South Derbyshire District Council to pursue a single process and in doing so better align its timescales with those emerging for Amber Valley and fully address outstanding strategic issues – including HMA unmet housing need – through an updated Statement of Common Ground - whilst ensuring compliance with a significantly updated national policy position. We also consider that such an approach would be the form of plan making most likely to expedite delivery across the district, alongside the identification of a broad type and scale of sites in a range of locations.
- 2.32. With the above in mind, a Local Plan should pursue a broad housing distribution strategy which utilises the whole spatial hierarchy, prioritising in order of sustainability the 'Urban Area' (Swadlincote including Woodville), 'Key Service Villages', then 'Local Service Villages' and so on, whilst also recognising the role and significance of the neighbouring Burton upon Trent/ Stappenhill urban area. Such an approach should distribute on a proportionate basis, commensurate with the level of sustainability of each settlement and the scope of services and facilities it provides. Such an approach should avoid allocating land at Mackworth for delivery within the plan period given the risks around this considered in more detail above.
- 2.33. Our client's site at Newton Solney (also adjacent to the Burton upon Trent/ Stappenhill urban area) as detailed above is available and presents a sustainable opportunity that could contribute to a diversification of the supply and a balanced distribution strategy as part of a full Local Plan Review.

[REDACTED]

[REDACTED]

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[Report](#)

Good afternoon,

Please find attached to this email representations in respect of the SDDC LP Part 2 Review: Issues & Options on behalf of our client, [REDACTED], in respect of their land interests at Newton Solney.

I trust the contents are clear, but should you have any questions please do let us know.

Please can you confirm receipt of this email and its attachment?

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]