



Hearing Statement- Matter 4 Employment Policies

On behalf of:
Derwent Holdings Ltd

In respect of:
Lancaster Local Plan
Examination in Public- Stage 1 Matter 4

Date:
March 2019

Reference:
MA/DHL/018-4/R001m

1.0 Introduction

- 1.1 This Hearing Statement is submitted by Aylward Town Planning Ltd ("ATP") on behalf of our client Derwent Holdings Ltd ('Derwent') to supplement representations previously submitted in advance of the Matter 4 Hearings session which is due to commence on 25th April.
- 1.2 This Statement is submitted in respect of the questions set out under document EX5, and whilst we have of course submitted representations to the emerging Local Plan on these matters, we reserve our position on those themes at this time in the light of any further updated evidence or change in position from the Council.
- 1.3 The Inspector has published an earlier set of questions on 5th September 2018, which elicited a response from the Council on 03/10/18 (LCC1). The Council had subsequently confirmed (through LCC6) that their position in terms of these questions is unchanged from the position as expressed in October 2018. We have had regard to document LCC7.4 dated 25/03/19 which seeks to address the Inspector's identified questions. We assume that this represents the Council's formal position on economic development matters.
- 1.4 We will say during the Matter 4 sessions that we believe that the Council's plans for the delivery of additional B1 office floorspace within the District over the Plan period are aspirational but that they are wholly unrealistic.
- 1.5 Whilst it may well be the case that additional sectoral employment would be welcome consistent with population growth, the Council's own evidence is that the delivery of new B1 floorspace will be unviable. The Plan will be unsound where it promotes growth and allocates land (for employment uses) which will not be deliverable over the Plan period.
- 1.6 The Council should fundamentally reconsider site allocation EC1.15 which we say has no evidence of deliverability (as per the draft policy requirements) within the Plan period as is consistent with the Council's own published evidence to this Examination.
- 1.7 We will also say that the Council's approach to retail development is unsound (DM16 and DM19) particularly given that it is inconsistent with its own evidence base in terms of the approach to setting locally based thresholds for impact assessments.
- 1.8 The Council have produced a response to the Inspector's Matters and Issues as set out at EX5, this being identified as LCC7.4. We are not convinced that the LCC7.4 document provides a robust and evidence-based response to the Inspector's questions. We respectfully reserve the right to add to these comments as and when the Council do make any further comments.

2.0 Matter 4 Responses

- 2.1 Comments are being made in terms of themes raised at Matter 4. It is confirmed that our key interest are policies EC1 and EC5 which are considered within Question A under Matter 4, and can be cross-referenced to Question B. Our response in respect to policy DM16 would fall under Question D. We envisage that there may be further opportunity to comment on policies EC1.15 and EC5.3 during the Examination process and in relation to any main modifications which may be proposed in due course and reserve our right to do so.
- 2.2 We also make comments in respect of the following policies which are cited by the Inspector's Questions (cross-referring to other matters as applicable):
- SP4;
 - EC2;
 - DM14; and
 - DM16.
- 2.3 For convenience and completeness, we make no substantive comments in terms of the following policies which are referenced in the EX5 document in respect of Matter 4. We have set out our view that there are several matters which arise in terms of proper planning for employment land which are intrinsically linked to matters pertaining to proper requirements for the release of land to meet new homes- in our view this relationship remains unresolved.

POLICY	EX5 QUESTIONS	RESPONSE
STRATEGIC POLICIES AND LAND ALLOCATIONS DPD		
EC3	A	No comments.
DOS4	A	No comments.
DOS5	A	No comments.
DOS9	A	No comments.
SG5	C	No comments.
TC2	C	No comments.
DEVELOPMENT MANAGEMENT DPD		
DM18	D	No comments.
DM23	E	No comments.
DM28	F	No comments.
DM51	G	No comments.

- 2.4 We do however reserve the right to address these matters in the event that the Council do progress any material changes to the Plan as submitted for Examination in due course.

Q4A *Would the approach of Policies SP4, EC1, EC2, EC3, EC5, DOS4, DOS5, DOS9 and DM14 provide flexibility and choice for employment land within the District in line with the Employment Land Review?*

Relevant Policy References

- SP4
- EC1
- EC2
- EC5
- DM14

2.5 The Council's evidence base in respect of employment land is comprised of the following:

REPORT NAME	AUTHOR	DATE
Partial Employment Land Review (with appendices)	ATKINS	October 2008
Review of the Employment Land Position	TURLEY	January 2015
Prospects and Recommendations for Achieving Economic Potential	TURLEY	April 2015
Employment Land Survey	LANCASTER MBC	Summer 2015
Viability Assessment Stage 1	LAMBERT SMITH HAMPTON	April 2018
Lancaster District Inclusive Growth	HALL AITKEN	July 2018
Viability Assessment Stage 2	LAMBERT SMITH HAMPTON	November 2018
SHELAA 2018	LANCASTER MBC	Late 2018

2.6 The Inspector's question refers to the "employment land review" but it is evident that there is no report with that title since 2008. We do note however that the Council's SHELAA identifies the Turley report (final date January 2015) as being the Employment Land Review so we follow the same approach for consistency. The Employment Land Review seeks to provide a quantitative basis to ascertain the extent of employment land that would be required based upon a given methodology, before then going on to seek to establish the capacity provided through existing supply and allocations.

2.7 We would ask the Inspector to seek clarification from the Council in terms of the quantitative extent of employment land (both through new allocations and the potential delivery from historic allocations as the numeric references to supply within LCC7.4 do not appear internally consistent and this impedes confidence.

2.8 Lancaster Business Park is identified through the ELR analysis as being a "Local Plan

Allocation" with residual capacity of 4.65 hectares suitable for B1 use. This is likely to represent circa 10% of the overall quantum from the "historic EC1 allocations" but given the issue cited above in terms of the robustness of the data we are unable to provide a firm figure.

- 2.9 Whilst the Turley report does cross-refer to market advice received from Colliers it does not appear to provide any analysis in terms of relative viability of future employment development. It would appear that the decision-making in terms of whether sites should be safeguarded or positively allocated largely stem from anecdotal judgments in terms of "market attractiveness" by consequence of whether they have been subject of previous development activity and also latent opportunity caused by proximity to regeneration activity or new infrastructure such as the Heysham Link.
- 2.10 The Turley report identifies that Lancaster Business Park represents high quality facilities with evidence of new build and some take-up over a period of time. It does not make any commentary in terms of the relative viability of those transactions or the extent of latent demand. It is rated highly in terms of a facility and recommended for continued allocation for employment use, but specifically for B1 use.
- 2.11 It is important to note that the original allocation was for B/B2/B8 and the consent for the land identified for future development at Lancaster Business Park has a B1/B2/B8 consent. Whilst the developer has only implemented B1 employment uses alongside the other uses which have been taken forward (D2 gym, C1 hotel and A4 public house) the residual land has approval and long established acceptance for a range of employment uses which are much wider than the uses now suggested. This restrictive approach is unlikely to assist deliverability and realisation of new employment opportunity.
- 2.12 The Local Plan was submitted for Examination in May 2018, and the site was identified as allocation EC1.15 within Priority Regeneration Area EC5.3. It is identified for B1 office use.
- 2.13 The LSH reports from 2018 (latterly November 2018) finally have consideration of viability and henceforth the realism of deliverability of these Plan-led approaches to deliver new space to meet identified needs. This evidence very plainly confirms that office development in this type of location will not be viable in the Plan period.
- 2.14 The key issue is that the achievable rents in the Lancaster area do not meet the costs to complete these developments, and that the "gap" to make any such development viable is identified by LSH as being "significant" in scale (please see paragraphs 8.71-8.75 of the LSH April 2018 Report) both in Lancaster and other areas within the District. It then goes onto add

at paragraph 9.6 (at a District wide level):

"That employment (office / industrial / logistics) development is unviable based upon adopted values and build costs."

2.15 Nevertheless, the Council's SHELAA and the Plan which remains under Examination is seeking to safeguard land and positively allocate land for B1 office uses despite the Council's own evidence clarifying that this type of use in this type of location will not be viable and therefore has poor prospects of deliverability over the Plan period.

2.16 It is noted that the Council's most recent evidence in terms of economic development (LCC7.4) makes absolutely no cross-reference to the relative viability or deliverability of the various sites identified under EC1 albeit that it does cross-refer to guidance from the 2012 NPPF at paragraph 4A.27 which is important.

Policy SP4

2.17 Policy SP4 sets out that the district is home to a number of important businesses and that this economic base needs to be protected. It then goes on (in considerably more detail) to focus on sustainable economic growth opportunities and discusses new allocations.

2.18 To that extent therefore, the only reference to existing employment areas (within Policy SP4) is provided through a simple statement to offer protection but without any clarification at all.

2.19 The accompanying text (notably paragraph 8.16) provides some more context in terms of existing employment areas and how these will be addressed by policy EC1. Paragraph 8.15 is of interest and we highlight it here:

"Through the course of the plan period, the Council will continue to monitor whether the economic expectations projected remain realistic in light of any changes to the national or local economy and where necessary will act accordingly to deliver economic growth opportunities. "

2.20 The Council's own evidence (through the LSH Viability Reports) are that any economic expectations which would support the allocation of further B1 space are not realistic and therefore the Council will need to act accordingly to deliver economic growth.

2.21 The Council seems to appear to rely on development management decisions (through the application of DM14) to demonstrate where end uses in accord with a very recent allocation process are not deliverable. This does not appear to be a sensible or proactive approach to take forward a Local Plan- if those sites are not suitable for those uses in terms of deliverability, this should be captured now rather than proceeding with a Local Plan which is

fundamentally flawed at the very outset. Advice in terms of how this might be achieved is provided by LSH at paragraphs 9.11-9.12 which state:

"Lancaster district and the wider region also has a long record of realising development (including major employment developments) that have been assisted through public sector funding support or enabling development. The future context for public sector funding assistance (particularly in light of Brexit) is unclear. However, opportunities for public sector support or enabling development are being utilised to advance otherwise unviable commercial developments in neighbouring authorities and the wider region.

Examples include:

- *Direct development delivery by public sector organisations*
- *Public sector organisations providing income strip guarantees to developers to support viability*
- *Enabling development, whereby high value uses are included to cross-subsidise unviable development elements to provide reasonable returns to landowner and developer*

These options to enhance development viability should be considered through the Local Plan preparation process and further site specific and plan-wide viability modelling."

2.22 We support the approach outlined at paragraph 8.15 of the Local Plan, with advice in that respect being provided by LSH during 2018 in terms of the delivery of employment floorspace. Regrettably, the evidence is that this approach is not being adopted through the remainder of the Plan.

2.23 We would suggest that the supporting text from paragraph 8.15 should be added to the policy text within SP4, perhaps at the end of the first paragraph. This would therefore state:

"The district is home to a range of important businesses and organisations that provide a strong economic base in terms of job creation and investment, this base needs to be protected and supported. Through the course of the plan period, the Council will continue to monitor whether the economic expectations projected remain realistic in light of any changes to the national or local economy and where necessary will act accordingly to deliver economic growth opportunities."

2.24 Subject to the above revision, Policy SP4 contains a mechanism to respond positively to market signals where the evidence is that the policy framework might otherwise impede the delivery of employment opportunity or otherwise that it is not necessary to safeguard land where the extent of deliverable opportunity may have been over-estimated.

Policy EC1

2.25 This is concerned with already established employment areas and seeks to support and encourage economic growth and new development opportunities in those areas. This is then split into areas for general employment, rural employment and office development.

- 2.26 Only two sites (EC1.14 and EC1.15) are identified expressly for office development, going further to say that proposals which involve B2/B8 uses will not be supported.
- 2.27 The policy goes on to specify two locations where the loss of employment space would be acceptable (in line with other policies of the Plan) and also separate requirements in terms of two named sites to ensure that environmental protection is provided.
- 2.28 In terms of Lancaster Business Park, accompanying text at paragraph 18.23 advises it was planned as a B1 estate and should remain as such. This is incorrect.
- 2.29 The site was originally allocated in 1988 for B1/B2/B8 and then the original consents were won in 2001 for a mixed employment scheme with enabling development. The employment uses comprised B1/B2/B8 and the enabling elements (whilst all employment generating) were really designed to provide amenity for new employment occupiers. These comprised a gymnasium, hotel and public house all of which are built and occupied. In terms of land-take, the space given over to office use from that original consent was less than 50%. This has never been developed as a solus office park.
- 2.30 Opportunities for further development do remain on the site, and the rationale for that is quite straightforward. The extent of latent demand for B1 space is limited, and the rental levels which can be achieved in the Lancaster market do not meet development costs so the endeavour to create additional office floorspace is non-viable.
- 2.31 The only credible approach to secure further office floorspace (and occupation of the existing void space) is either grant funding or enabling development. It is our understanding that grant funding opportunities are limited, so therefore the residual opportunity is enabling development which could both cross-subsidise further office uses and potentially improve amenity which might catalyse demand for inward investment.
- 2.32 The additional statement LCC7.4 provides no response expressly with reference to EC1 sites other than the admission of an error in terms of land identified as EC1.13 at South Heysham.
- 2.33 In practice, policy EC1 sets out that for Lancaster Business Park that any use other than B1 will not be supported. This is despite the fact that the Council's own evidence clearly shows that B1 uses are non-viable and therefore deliverability over the Plan period has no realism.
- 2.34 We refer to paragraph 4A.27 of LCC7.4 which is instructive. This is prefaced by a reference to 2012 NPPF guidance which stated that

"local planning authorities should avoid the long-term protection of employment sites which have no

reasonable prospect of coming forward for employment uses."

- 2.35 However, it is pitched that the Council is "mindful" of that stance rather than necessarily complying with it and then goes on to add as follows:

"The Council consider that the direction taken by Policy DM14 provides an appropriate balance between this national policy direction and to allow flexibility in alternative uses for sites which genuinely have no future role in economic growth for the district."

- 2.36 In the context of the uses promoted through policies EC1.14 and EC1.15 these provide no flexibility and are in fundamental conflict with the Council's evidence base in terms of what would be deliverable.

- 2.37 We do not feel that it is appropriate to allocate land for employment uses (especially EC1.14 and EC1.15 where no flexibility is provided) at the outset of a Local Plan where the evidence base demonstrates those uses are non-deliverable. The policy appears to rely (as is implied at LCC7.4 at paragraph 4A.26) on the development management tool providing a pragmatic way forward to consider future uses of land.

- 2.38 That approach would be acceptable for circumstances where the relative viability/deliverability of employment land changed partway through a Local Plan period but it should not be utilised where it is plain that those uses are unrealistic at the very start of the Plan period, based upon the Council's own evidence.

- 2.39 We would suggest that the text of EC1 (in terms of the section headed Office Development) be amended to give greater potential to secure deliverability. This would therefore state:

"Development proposals for B1 (Office) will be supported in principle within the following employment areas identified below. Subject to viability evidence, the Council may consider the introduction of ancillary uses which would facilitate the delivery of economic growth opportunities within the Plan period. Proposals that would materially increase levels of HGV traffic and have materially adverse impact on local amenity will not be supported. "

- 2.40 Subject to the above revision, Policy EC1.15 contains a mechanism to respond positively to market signals where the evidence is that the policy framework might otherwise impede the delivery of employment opportunity or otherwise that it is not necessary to safeguard land where the extent of deliverable opportunity may have been over-estimated.

Policy EC2

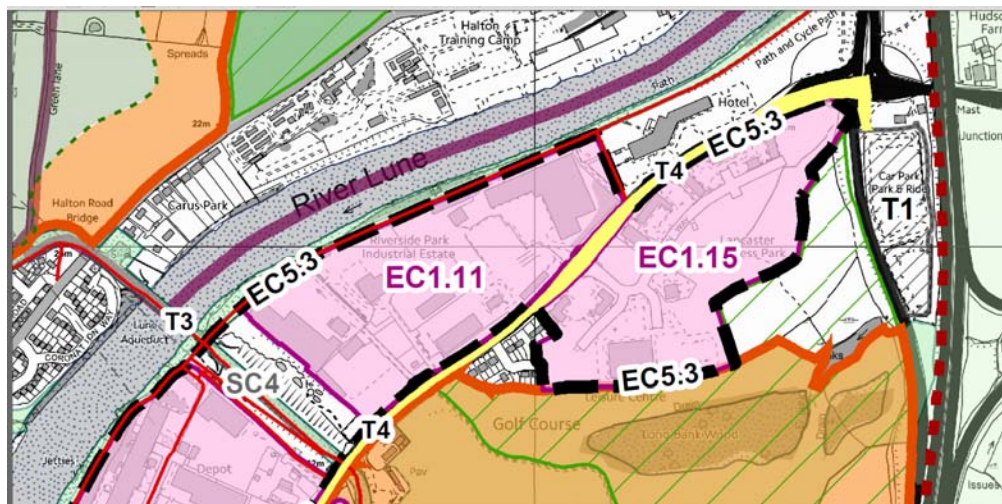
- 2.41 This is concerned with proposed new allocations for development including employment

uses. We refer specifically here to site SGg which identifies a further allocation for new B1 floorspace. Whilst our client has no commercial position in respect of that land we would of course note that this is another example where land is being allocated to meet a given objectively assessed need but that market signals clearly demonstrate that this is not deliverable in practice.

- 2.42 We do not seek to provide specific textual revisions to policy EC2, but we do think it important to flag these anomalies to the Inspector which all go towards the relative deliverability of these Plan-led aspirations.

Policy EC5

- 2.43 This is concerned with seven areas which have been identified as Regeneration Priority Areas, and typically comprise larger areas of land which include a number of discrete parcels which are otherwise subject of specific allocations. Our focus is solely in respect of EC5.3 which is identified as the Caton Road Gateway which covers a broad area including parcel EC1.15.



- 2.44 We would note in the first instance that the advice from EC5.3 and the accompanying text would infer that a range of employment generating uses would be supported rather than the much more onerous and restrictive advice of EC1.15 which would support B1 uses only regardless of the evidence that those are unviable.
- 2.45 We feel that policy EC5.3 has a greater depth of realism than policy EC1.15 and has the prospect of interpretation to arrive at what might be agreed to be the most appropriate and deliverable employment generating uses for development management purposes.
- 2.46 Other than with cross-reference to our amended wording for policy EC1 we would not seek any other material revision to policy EC5.

Policy DM14

- 2.47 Policy DM14 provides the development management framework for the provision of employment uses on non-allocated sites and also for the use of allocated employment sites for other purposes.
- 2.48 The policy sets out a framework through which non-employment uses can be supported key to which is that there is demonstration that employment uses are neither deliverable nor viable and that the alternate uses would accord with other ambitions of the Plan including Policy EC5.
- 2.49 Our view is that if the site allocation process was tested in accord with DM14, then site EC1.15 should not be allocated for office uses because it will not be delivered and will not contribute to the regeneration objectives of policy EC5. We refer to accompanying text at paragraph 6.11 which states:
- "The Strategic Policies and Land Allocations DPD has set an approach to future employment land provision through the plan period, ensuring that any employment land that has no realistic opportunity to return to an employment generating use has been allocated for alternative purposes. Therefore the identified employment land stock allocated in the forthcoming Land Allocations DPD is considered to be of value and should be retained. In times of limited demand relating to the economic recession, employment land should not be simply released to other uses because this reduction in demand is likely to be relatively short-term and the loss of employment land to non-employment uses (such as residential) is irreversible. The Council will also be mindful of the need to retain industrial land for a range of employment and economic needs. "*
- 2.50 We are concerned that proposals for such uses which would be submitted in the early part of the Plan period might well be rebuffed on the basis of paragraph 6.11 which would suggest that only deliverable opportunities had been put forward for allocation.
- 2.51 That being the case, the LPA might well suggest that there was no case for "release" because viability considerations had not materially changed since the datum of an adopted Local Plan where that use was positively allocated. That conclusion might be reasonable if the Council's viability evidence demonstrated that the proposed use was viable and deliverable- but this is clearly not the case at this point.
- 2.52 We feel that if policy DM14 is to be retained alongside accompanying text at paragraph 6.11, that this can only be reconciled through our proposed amendment in terms of the wording of policy EC1.15. Absent of that, paragraph 6.11 would regrettably need to be deleted because it is plainly not a correct representation of the Plan which would otherwise include land allocations which have little or no prospect of delivery within the Plan period.

Q4B *Is monitoring adequate and what steps will be taken if sites do not come forward?*

- 2.53 The policies (with reference to employment land) provide no appropriate mechanism to respond to market signals or introduce remedial actions to improve delivery closer to Planned objectives in terms of generating new employment opportunity. Subject to what those market signals might say, this could require a range of measures to improve deliverability of new space for market sectors where take-up or construction of new space is poor.
- 2.54 We are also mindful of paragraph 6.11 of the Plan which clearly states the view that the Plan already responds to market signals and only includes allocations which are deliverable, where this is plainly inconsistent with the Council's own evidence base. We have suggested specific changes to policy EC1 and SP4 to improve the prospects of them having the ability to respond to market signals and to allow positive action to be taken in the scenario of poor delivery.
- 2.55 We also refer with interest to paragraphs 4B.2 and 4B.3 of LCC7.4 which are concerned with how proposals are likely to be considered over the forthcoming Plan period. It states:
- "Should allocations not come forward for employment purposes then the Council will seek to investigate the reasons for why such opportunities are not being taken forward. These reasons may include changes in the market (either locally or nationally) or the presence of site specific constraints which are holding a site back from coming forward for its intended use. This can be investigated through ensuring that the evidence relating to economic growth and employment land delivery is maintained in a robust and sound manner and is regularly refreshed.*
- "Subject to the reasons behind why a site has not come forward for its intended use (or why it is not likely to come forward in a reasonable timeframe) a range of options will be available to the Council to address this. The Council could consider a direct and positive intervention to assist with its delivery through the purchase of land or through the provision of financial incentives or through permitting alternative uses on a site in the context of the most up-to-date national planning policy. Alternatively, the Council could seek to address the matter as part of the next Local Plan Review and seek to reallocate the site for a more appropriate purpose."*
- 2.56 Paragraphs 4B.2 and 4B.3 of LCC7.4 would suggest that any such proposal (through a planning application) would be considered on its merits and that alternate uses would be supported subject to an evidence-based approach.
- 2.57 The above is of particular interest to site EC1.15. During the previous Plan period, a pre-application request was submitted in respect of some ancillary A3/A5 uses within the site to improve amenity for existing and future occupiers to catalyse both lease renewals and new lettings to drive the construction of further phases under the old approval.

- 2.58 This was submitted with marketing evidence to demonstrate that the employment uses were sub-viable in isolation and that uses to improve amenity were necessary to attract tenants (and provide some cross-subsidy) to deliver new B1 space. This was rejected on the basis that the site had an employment allocation and should be protected. Little weight was given to evidence in terms of the viability balance because it had just been through a Plan process.
- 2.59 Paragraph 6.11 of the Plan would (in similar form) imply that any such process necessary for the proper allocation of employment land has already been had and therefore would resist changes of end use, regardless of the evidence base. We are concerned that any proposals for sites EC1.14 or EC1.15 which are not solely for B1 uses would be rejected regardless of the evidence sought in terms of DM14. The evidence is that those uses are non-deliverable
- 2.60 At this point, our conclusion would be that whilst we do not question the monitoring activity, the decision-taking in respect of that evidence appears poor and this impacts upon our confidence in terms of how they might respond to market signals.
- 2.61 We have proposed a number of changes to specific policies to improve the framework for responding to change which would improve the prospects for soundness. It will necessarily require the Council to monitor both market signals and also in terms of the effectiveness of its decision-taking through the Plan period to respond to those market signals.

Q4D *Would policies DM16 and DM18 recognise the function of new centres such as Bailrigg Garden Village and can the Council clarify how Retail Impact Assessments would apply in relation to policy DM16?*

- 2.62 We make no specific comments in respect of Bailrigg Garden Village and DM18. In the context of Retail Impact Assessments, our interpretation is that they would need to be undertaken with reference to policies DM16 and DM19. However, as we have set out below, the drafted approach appears to be fundamentally in error and needs substantial revision as will otherwise make the Plan unsound.

Policy DM16

- 2.63 Policy DM16 is concerned with main town centre uses, both within defined centres and outside defined centres. In respect of proposals for main town centre uses outside defined centres it requires reference to the sequential approach and retail impact assessments utilising floorspace thresholds which are lower than those identified in the NPPF. For the record, we feel that policy DM16 has been poorly constructed.
- 2.64 The information relating to floorspace thresholds for retail impact assessment should really

be focused upon proposals located outside defined centres (rather than within centres which is implied by DM16), so we would recommend that this policy be fundamentally reconsidered.

Policy DM19

- 2.65 Policy DM19 then moves on to consider retail development located outside defined centres, identifying floorspace thresholds for retail impact assessments which are very considerably below NPPF thresholds (150m² as opposed to 2500m²) and frankly are lower than any we are aware of across the country.
- 2.66 Through reference to the Council's evidence base in terms of this matter, it is plainly evident that the 150m² gross floorspace figure is not consistent with that advice especially with reference to paragraphs 7.24-7.25 of the 2017 Local Centres Study
- 2.67 The threshold in policy DM19 should be adjusted to 500m², other than locations which are within 800m from the boundary of the nearest defined lower-tier centre which should have a lower threshold accordant with the evidence base. Policy DM19 is completely inconsistent with the evidence base and is unsound as constructed.

3.0 Summary

- 3.1 Despite our comments above, we do not seek to impede the progress of this Plan and nor would we encourage a proposal to defer these matters to an almost immediate cycle of Local Plan Review. We would suggest that a pragmatic compromise would be to seek to identify further meaningful opportunities for the employment policies to provide more flexibility subject to justification for development management proposals.
- 3.2 It will also be important to recognise that without those changes the Plan provides very poor prospects of delivering the mix of uses sought and the proper completion of key gateway opportunities such as EC5.3.