

**From:** Local Plan Review  
**Subject:** FW: Local Plan Review Proposed Submission (incorporating proposed modifications)  
Consultation - 3 January - 14 February 2017  
**Attachments:** 2017-02-14 - ECC Reprs\_MDDC LP Review\_Final.pdf

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**From:** Diamond, Matthew [REDACTED]  
**Sent:** 14 February 2017 16:07  
**To:** Local Plan Review  
**Cc:** Adrian Welsh; Poie-Yee Li; Robbins, Andy; Short, Richard  
**Subject:** Local Plan Review Proposed Submission (incorporating proposed modifications) Consultation - 3 January - 14 February 2017

Dear Sir or Madam

Please find attached a 'holding objection' from Exeter City Council in regard to the above. This is pending the decision by the ECC Executive this evening on whether to submit representations to the consultation.

Yours faithfully

**Matthew Diamond | Principal Project Manager (Development)**  
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Mid Devon District Council  
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Our ref: -  
Your ref: -  
Date: 14 February 2017

Dear Sir or Madam

**Mid Devon District Council Local Plan Review Proposed Submission (incorporating proposed modifications) Consultation**

I'm writing on behalf of Exeter City Council (ECC) in response to the consultation on the Mid Devon District Council (MDDC) Local Plan Review Proposed Submission (incorporating proposed modifications) document ('the Proposed Submission document'). At the current time, ECC wishes to object to the insertion of Policy J27 in the Local Plan Review allocating approximately 71 hectares of land at Junction 27 of the M5 motorway for the provision of a major high quality regional tourism, leisure and retail attraction, specifically the Outlet Shopping Village (OSV) (6ha) element comprising designer outlet shopping centre retailing controlled goods comprising discontinued/end-of-range lines, seconds and surplus/sample stock with up to 14,000 sq m of controlled comparison goods floorspace and up to 2,000 sq m of A3 uses. ECC does not wish to object to the tourism and leisure elements of the allocation, but has concerns over the potential impact of the OSV on the role of Exeter City Centre in the retail hierarchy of the sub-region, particularly given the unsustainable location of the site adjacent to Junction 27 of the M5, and, at this stage, the evidence base work undertaken to justify the inclusion of the OSV as part of the allocation.

The reasons for the objection are set out in more detail under separate headings below.

The Need for the Outlet Shopping Village

The National Planning Policy Framework (NPPF) states that LPAs should set out the strategic priorities for the area in the Local Plan, including strategic policies to deliver the provision of retail, leisure and other commercial development (Para 156). This should be based on adequate, up-to-date and relevant evidence (Para 158), which, in the case of business uses, should be robust and prepared and maintained by working together with neighbouring authorities to understand the business needs of the markets operating in and across their area (Para 160). Where planning issues cross administrative boundaries, particularly those relating to the strategic priorities, public bodies have a duty to cooperate, where the Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities (Para 178).

The Spatial Strategy – Overall Strategy (p.10) of the Proposed Submission document states that development will be managed to meet objectively assessed needs for development,

guided to locations which are or can be made sustainable and to reduce the need to travel by car. In regard to the OSV, the spatial strategy for Junction 27 states that development will be targeted to meet a regional comparison floorspace need (p.12) (this is repeated within the supporting text of Policy S7 – Town centres and Policy J27); at district level there is only a limited need for non-food retail floorspace at around 7,000 sq m (Para 2.14), which, in accordance with Policy S2, will be concentrated with other development at Tiverton, Cullompton and Crediton. Therefore, notwithstanding other reasons to justify the OSV, such as acting as 'enabling development' to deliver the tourism and leisure uses of the allocation, the Proposed Submission document suggests that 14,000 sq m of additional comparison goods floorspace is justified in order to meet a regional comparison floorspace need.

ECC has concerns over the robustness of the evidence base work carried out to date to demonstrate that there is a regional need for the amount of comparison goods floorspace proposed, particularly as the allocation is a strategic planning issue affecting neighbouring authorities. The Critique of Retail and Leisure Statement (NLP, 17 July 2015) states that there is no quantitative need to allocate further comparison goods floorspace within the Local Plan (Para 3.65) and criticises the evidence submitted by the promoters of the scheme, in part, for not taking into account the Local Plan allocations of the 18 local authorities within the core catchment area of the OSV (Paras 3.60 & 3.61). However, in their addendum Critique (7 March 2016), NLP only considered this matter in detail for 3 of the neighbouring local authorities: Taunton Deane Borough Council, North Devon District Council and Exeter City Council. Therefore, the Local Plan allocations of 14 local authorities (not including Mid Devon) do not appear to have been given any consideration. This raises concerns in regard to the robustness/diligence of the work carried out and also the Duty to Cooperate. Furthermore, in regard to Exeter it states that there will be capacity for 32,300 sq m (net) comparison retail floorspace by 2024. This is an overestimate, as the latest capacity forecasts for Exeter provided in the Exeter & West End of East Devon Retail & Leisure Study 2016 (GVA, December 2016) identify capacity for -4,119 sq m (net) comparison retail floorspace by 2021 and 10,955 sq m (net) by 2026, taking into account commitments. The Study recommends where this need can be met in Exeter City Centre, which is a more sustainable location than land at Junction 27. It also recommends that some of this capacity can be met in Cranbrook town centre. There are also likely to be other retail proposals in Exeter and the catchment area of the OSV as a whole that will absorb some of the available capacity.

Therefore, contrary to the Proposed Submission document, it's considered that a regional need has so far not been satisfactorily demonstrated to justify the allocation of the OSV. Existing and indeed potential Local Plan allocations of a number of local authorities within the core catchment area have not been considered. Para 182 of the NPPF states that to be found sound Local Plans 'should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development' (emphases added). In this case, it's considered that insufficient evidence has been prepared to demonstrate that it is reasonable to meet the comparison retail needs of the local authorities within the core catchment area of the OSV and that this is consistent with achieving sustainable development, taking into account the relevant policies of the NPPF.

#### Sequential Test Approach/'Enabling Development'

The NPPF requires a sequential approach to allocate sites to meet the needs for town centre uses, i.e. town centres first followed by edge of centre sites that are well connected to town centres followed by other accessible locations that are well connected to town centres (Para 23). It also states LPAs should undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites where needs are compromised by limited site availability. The Planning Practice Guidance (PPG) also states that different policy options

should be evaluated when formulating town centre strategies to meet development needs, articulated through Local Plans (Paragraph: 003 Reference ID: 2b-003-20140306).

The evidence base work prepared by NLP dismissed other sites in more sustainable locations on the basis that the individual elements that make up the allocation should be treated as a single development and other sites are not large enough to accommodate the development as a whole, allowing for flexibility. This was also the approach taken by the promoters of the scheme. However, whilst NLP acknowledge that developers are not required to disaggregate their proposals for planning applications, they also acknowledge that there is no guidance in this regard for plan making. Therefore, NLP state within their addendum Critique that, 'NLP does not accept that the Council cannot consider the scope to disaggregate or change the content of the proposed development at EW, when considering the appropriateness of a plan allocation.' (Para 4.11). NLP conclude that it is for the Council to decide if disaggregation should be considered.

ECC is not aware of any work undertaken by MDDC in this regard. The supporting text of Policy J27 states, 'There is a clear synergy between the Designer Outlet Village proposal and the tourism and leisure aspects of the proposed allocation. It is not considered viable to disaggregate this proposed allocation given the nature and interdependency of the uses.' (Para 3.184c). However, this does not align with the evidence base work by NLP, which states that whilst there is synergy between the proposed tourist attraction, themed hotel, restaurants, cafes and food hall, the DOV has less synergy with the proposed tourist attraction (Paras 4.13 & 4.14 of addendum Critique). NLP goes on to state that in their view the co-location of these uses will be beneficial to each other in terms of spin-off trade and linked trips. This advice was repeated in the MDDC Report of the Head of Planning and Regeneration (September 2016) to assess the implications of including the allocation in the Local Plan Review, so is assumed to be the reason why disaggregation has not been considered further alongside viability considerations.

In regard to viability, the Proposed Submission document states that the 'associated' retail floorspace will 'deliver' the tourism and leisure elements (Spatial Strategy and Paras 2.48 & 3.184c), whilst elsewhere it states that the controlled retail element will 'support' the tourism and leisure aspects of the proposal (Policy S2, Paras 2.25a & 2.46); however, this language is not used in the wording of Policy J27 itself. This language and the statement on viability and disaggregation within the supporting text of Policy J27 indicate that MDDC considers that the OSV is necessary to make the development viable as a whole, i.e. it acts as 'enabling development' for the other uses. In their addendum Critique, NLP state that the case for enabling development and the benefits to the public interest would need to be compelling (Para 5.3). Furthermore, at the time the addendum Critique was written (March 2016) insufficient evidence had been presented to demonstrate this (Para 5.4). NLP state that the necessary and compelling evidence required would need a full open book financial appraisal to demonstrate that the proposed quantum of enabling development is necessary to deliver the other uses and that these uses would be unviable without it (Para 5.10). The MDDC Report of the Head of Planning and Regeneration (September 2016) states that, 'The promoters have provided further detailed viability evidence which is considered to demonstrate the interdependency of the tourism, leisure and retail (DOV) proposals.' (Para 4.3). However, this crucial piece of evidence has not been made available to ECC and does not form part of the evidence base of the Local Plan Review.

Given the importance of the allocation as a strategic planning issue, it's considered that the detailed viability evidence submitted to MDDC between March 2016 and September 2016 should be made available to neighbouring authorities in order to fulfil the Duty to Cooperate. In addition, it should clearly show that the amount of comparison retail floorspace in the allocation is necessary to deliver the other uses of the allocation and that these uses will be unviable without it. In terms of the issue of disaggregation, ECC is concerned that this issue

does not appear to have been given a great deal of scrutiny, particularly as the need for the OSV is considered to have not been satisfactorily demonstrated. Whilst disaggregation is not required for planning applications and the guidance for plan making is silent, previous national guidance in Planning for Town Centres (CLG, 2009) suggests a more thorough analysis should have been carried out:

*“The requirement to incorporate a range of uses in order to achieve a viable development is unlikely in itself to be sufficient reason for promoting development in less central locations where more central appropriate sites exist, which can accommodate elements of the proposal.” (Para 6.35)*

Whilst this guidance was cancelled by the PPG in 2014, nothing in the PPG suggests that it still does not constitute good planning. NLP also point out in their addendum Critique that evidence from the Eden Project in Cornwall suggests that such ambitious projects can rely heavily on charitable donations and grant funding in order to be developed and sustained (Para 5.5). It's considered that alternative funding sources such as this need to be fully investigated and ruled out before an enabling case for the OSV can and should be made. If the case is made, ECC would also like assurances over the funding mechanisms and phasing of the development to ensure that the tourism and leisure uses are delivered to the high quality envisaged as early as possible, and the OSV is restricted to the size proposed.

### Impact Test

Despite the evidence base work not taking into account the most up-to-date information, as provided in the Exeter & West End of East Devon Retail & Leisure Study 2016 (GVA, December 2016), ECC does not consider that the proposed allocation is likely to have a significant adverse impact on Exeter City Centre, due to its current good health with good choice and competition for comparison retailing. In addition, at this stage, given the likely timings involved, it's considered unlikely that the proposed allocation will have a significant adverse impact on investment to redevelop the Bus and Coach Station site in Exeter, although this project is still at the detailed planning stage and has yet to be implemented. However, ECC notes that NLP originally considered the promoters' impact assessment to be incomplete, as it did not consider the cumulative impact of the proposal or impact on Local Plan allocations (Para 4.14 of Critique of Retail and Leisure Statement). This still does not appear to have been carried out by either the promoters of the scheme or NLP. This work should be completed to ensure there will be no significant adverse impacts on town centres within the catchment area of the OSV, including the impact of the recent decision to expand Cribbs Causeway in South Gloucestershire (subject to no call-in by the Secretary of State).

The PPG also states that for plan making the impact test may be useful in determining whether proposals in certain locations would impact on the role of centres (Paragraph: 014 Reference ID: 2b-014-20140306). This is considered further below in regard to Exeter City Centre.

### Planning Controls/Impact on the Role of Exeter City Centre

The Proposed Submission document makes frequent references to the goods sold from the OSV being controlled. Indeed, it has been modified to state that 'uncontrolled retail' as opposed to just 'retail' in the wrong location can have serious adverse impacts on town centres and surrounding uses, suggesting that the retail controls are critical in order to deliver sustainable development in out-of-centre locations (Para 2.12). The nature of these controls is not made explicit in the wording of Policy J27, however the supporting text states that, 'Controls using legal agreements will be required to control the extent and types of use that take place on the site, particularly in respect of retailing which will be tightly controlled.' (Para 3.184d). Appendix 2 of the MDDC Report of the Head of Planning and Regeneration (September 2016) states that historically planning consents for designer outlet centres have

sought to control the use of floorspace ensuring that a significant percentage (typically between 70% and 95%) of gross retail floorspace is to be used only for the purposes of manufacturers selling their branded seconds, surplus stock or discounted lines. It states that goods are intended to complement rather than compete with the current products available in town centre shops. Conditions are often used to restrict the sale of certain types of goods, although typically goods sold from DOCs include: fashion, sportswear, household goods, general apparel and accessories. These goods are sold at heavily discounted prices, typically between 30% and 70% of the recommended retail price. It goes on to state that:

*“The DOC concept is often about more than a functional shopping trip. DOCs are usually high quality, traffic free environments with an emphasis on leisure. DOCs are increasingly combining with other leisure uses. Many visitors to DOCs consider themselves to be on ‘a day out’ rather than responding to everyday shopping needs to which Town Centres are aligned to.”*

ECC has significant concerns over the effectiveness of the proposed planning controls on mitigating the impacts of the OSV on Exeter City Centre and other centres within Exeter. Whilst it's envisaged that the goods sold will complement and not compete with the goods sold in Exeter City Centre or other centres in the core catchment area of the OSV, it's considered that the planning controls will not differentiate the retail floorspace in the allocation from the goods being sold in these centres. The retail floorspace within the allocation is likely to directly compete with retailers in Exeter City Centre and other town centres. This will be exacerbated by the heavily discounted prices of goods, which will attract customers away from these centres. Even if the planning controls were accepted to differentiate the retail floorspace of the allocation from existing centres, questions of how these will be effectively monitored and enforced arise.

Furthermore, the assertion that DOCs tend to serve more of a leisure need, whereas town/city centres serve everyday shopping needs does not align with current retail trends and thinking. The Exeter & West End of East Devon Retail & Leisure Study 2016 (GVA, December 2016) highlights the importance of diversifying the uses within town/city centres, particularly the provision of leisure uses, so that they remain viable in the face of weaker expenditure growth and loss of trade to online retailing and out-of-centre shopping centres. It states that, 'To ensure that town centres have a viable function moving forward they must provide an attractive shopping and leisure experience which the internet is unable to match.' (Para 3.32). Therefore, instead of complementing Exeter City Centre, the OSV is likely to become a rival shopping/leisure destination, which will potentially undermine Exeter City Centre's role in the retail hierarchy of the area. This will be exacerbated by the significant amount of car parking envisaged and easy access to the site by car. Indeed, notwithstanding the proximity of the site to Tiverton Parkway station, it's hard to see how such a car orientated development fits in with the Vision of the Local Plan Review of meeting social and economic needs in ways that enhance the environment and reduce the area's carbon footprint. Whilst Policy J27 will require pedestrian and cycle links across the motorway to the station, the noise and pollution of the motorway could act as a psychological barrier to people wishing to cross it. This could be a qualitative factor that leads to more people choosing to travel to the development by car instead of by more sustainable modes of travel.

#### Text

Notwithstanding the above issues, ECC has some concerns with the wording in the Proposed Submission document. A number of these have already been referred to above, i.e. undertaking further evidence base work before confirming that there is a regional need for the comparison retail floorspace within the allocation; explaining why it's considered that there is a clear synergy between the Designer Outlet Village and the tourism and leisure aspects of the proposed allocation, when this appears to contradict NLP's advice; and also providing

more detail on why it's not considered viable to disaggregate the uses. In addition, the Proposed Submission document should clarify whether the proposed comparison retail floorspace is being treated as 'enabling development' to deliver the other uses.

If these matters are satisfactorily addressed together with the other issues raised in this letter, then the wording of Policy J27 should be updated accordingly. In particular, the wording should be amended to make it clear that the retail element is a supporting use for the principle tourism and leisure uses; presently, the policy states that the land 'is allocated for the provision of a major high quality regional tourism, leisure and retail attraction supported by ancillary roadside services and supporting infrastructure...' (emphasis added). Therefore, it promotes the retail element to one of the principle uses, contrary to the language used elsewhere in the document. In addition, notwithstanding the concerns raised above, the policy should state the mechanisms that will be used to control the sale of goods to ensure that the controls remain in place permanently and are not removed in the future, e.g.:

*"The development is subject to the following:*

*a) Planning controls, in the form of conditions and legal agreements, to ensure that the comparison retail floorspace is restricted to the sale of goods comprising discontinued/end-of-range lines, seconds and sample stock;"*

### Conclusion

ECC seeks assurances that the above matters will be addressed by MDDC before Policy J27 is included in the Local Plan Review. ECC would welcome the opportunity to comment on the Local Plan Review further pending the outcome of these matters. ECC would like to reserve its right to be heard at the Hearings of the Examination of the Local Plan Review.

Yours faithfully



Andy Robbins  
City Development Manager