

# **Erewash Core Strategy Review Examination Response to Matters, Issues & Questions (MIQs)**

## **Main Matter 1: Procedural / Legal Requirements**

### **Issue:**

**Whether the Council has complied with relevant procedural and legal requirements.**

### **Questions:**

#### ***Plan Preparation and Scope***

#### **1. Has the preparation of the Core Strategy Review been in accordance with the Local Development Scheme in terms of its form, scope and timing?**

The Core Strategy Review (CSR) has been prepared in accordance with the Borough Council's Local Development Scheme (LDS). In terms of its form, the LDS confirms the CSR will be a Development Plan Document (DPD). The scope of the CSR accurately reflects the subject matters identified within with LDS, with the named elements addressed by the following policies of the CSR:

- Settlement hierarchy (Strategy Policy 1)
- Housing Strategy (Strategic Policies 1.1, 1.2, 1.3, 1.4, 1.5 & 1.6)
- Employment Strategy (Strategic Policies 2 & 2.1)
- Retail Centres Strategy (Strategic Policy 3)
- Green Infrastructure (GI) Strategy (Strategic Policy 4)
- Transport Strategy (Strategic Policy 5)

It should be pointed out that the CSR's progression differs from the key milestones as set out by the timetable presented at Page 4 of the LDS. The publication of the current LDS in March 2021 was a direct response to the early stages of the CSR being substantially impacted by the Covid-19 pandemic, with progression from Regulation 18.1 to 18.2 taking considerably longer than originally intended. This delay was heavily influenced by the prolonged period the Council gave all stakeholders to respond to the Regulation 18.1 document, with consultation occurring spanning several months between January and July 2020. The impacts of the Covid-19 pandemic continued into 2021, beyond the publication of the current LDS, with further restrictions on social interactions and contact combining to influence a slowing of the ongoing production of the CSR. The Council, recognising the limitations raised by lockdowns and risks of further subsequent measures aimed at the protection of public health, adopted a precautionary approach in the speed in which it would advance the CSR. This saw progression to Publication (Regulation 19) delayed into 2022. The Publication and Submission stages have both occurred around ten months beyond the originally intended stages. Despite the challenges outlined above, the Council were able to submit its CSR back in November 2022.

## **2. How did the Council engage with interested stakeholders on the allocation of land contained in Policy 1.4 of the Core Strategy Review? Was this appropriate?**

The Council engaged with interested stakeholders via the methods and standards of consultation as set out by the Erewash Statement of Community Involvement (SCI) – adopted in August 2019. Whilst the SCI makes only optional provision for depositing local planning documents at locations outside the Borough, it was felt that due to the nature of proposals which saw the identification of the North of Spondon allocation for 200 homes likely to result in high local interest, the Council deposited copies of Regulation 18.2 documentation at Spondon Library (in the administrative area of Derby City) to satisfy the anticipated level of interest, and allow for all other proposals contained within the draft Plan to also be inspected. The Council also published at a corporate level, communications to explain, via its Media and Communications Team, that a modified version of the CSR now contained a draft housing allocation at Spondon – alongside other proposed changes and alterations made to the draft Plan. The Press Release was made available to all local news media outlets, alongside social media posts helping to bring the Council's identification of the North of Spondon allocation to a wider audience. The success and effectiveness of engagement resulted in a significant rate of response from the Spondon community, with the Statement of Consultation for the Revised Growth Options (Appendix E (Core Strategy Review Submission Documents)) demonstrating the range of comments made over numerous aspects concerning the inclusion of the North of Spondon housing allocation site. For this reason, the Council maintains that the level of engagement undertaken was appropriate and entirely proportionate to the arrangements set out by its adopted SCI.

## **3. Has the preparation of the Core Strategy Review complied with the Statement of Community Involvement?**

Yes, the preparation of the CSR has complied fully with the provisions set out by the Council's SCI at every stage of the CSR's production. Further to the answer given above to Q2, the Council's approach to demonstrating compliance to the requirements of consultation is explained in detail by each of the three Statement of Consultations, which all form Core Strategy Review Submission Documents. These present more comprehensively how the Council consulted and engaged at each of the main stages associated with the production of a DPD, explaining also how consultation has met the requirements set out within the 2012 Local Planning Regulations (as amended).

## **4. How does the Erewash Core Strategy Review relate to existing plans and how will they be affected by the adoption of the Core Strategy (adopted Erewash Core Strategy and made Neighbourhood Plans)?**

The Erewash CSR forms an intentionally strong association with the other existing plans named by Q4 which form part of the Council's Development Plan in order to ensure the ongoing existence of a robust planning policy framework for the Borough. As should be the case, the CSR does not in any way replicate the content of those plans and as such, the schedule at the rear of the Submitted Local Plan reflects

where the CSR's new policies overwrite existing policies from the adopted Core Strategy or the Saved Policies (non-strategic) document.

Currently there are two made Neighbourhood Plans which cover the Little Eaton and Breadsall neighbourhood planning areas, both of which now form part of the Borough's Development Plan. Another, covering the parish of Sandiacre, is currently in the early stages of preparation which will, if it is ultimately made, also become part of the Development Plan. The draft policies in the CSR do not directly impact any of those contained within the made or in-progress Neighbourhood Plans, with none of the strategic housing or employment allocations located in any of the NP areas for example. As the CSR is only a partial review of the adopted Core Strategy, its scope and the topics it focuses on are limited in the sense that only matters of strategic policy are being addressed. The Neighbourhood Plans are confined to dealing with non-strategic planning matters, most of which are related to more localised, Development Management-orientated issues.

### ***Sustainability Appraisal:***

#### **5. How has the Sustainability Appraisal (SA) informed the preparation of the Core Strategy Review at each stage? How has the SA been reported? Has the methodology for the SA been appropriate?**

The Sustainability Appraisal (SA) has informed the preparation of the Core Strategy at each stage. This is set out and explained within the SA document at 1.3 (CD4), spanning the various stages of preparation and is aligned to the stages of progress the CSR has taken. 1.4 of the SA explains the relationship between the various stages.

The SA has been reported in the following way. SA1 and the SA Scoping Report were published in January 2020 in support of the contents included within the Options for Growth document (Regulation 18.1). Sections SA2 and SA3 of the SA were published in March 2021 in support of the Revised Growth Options document. The SA remained unchanged when the Council reached Publication (Regulation 19) stage, although the key elements of each of the component parts (minus the Scoping Report) were brought together into a single SA document which now forms CD4. Even though the individual components do not appear in their entirety within CD4, they are appropriately explained and referenced.

The SA's methodology is appropriate. It was originally developed alongside partner councils within the Nottingham Core Housing Market Area (HMA), capitalising on the SA work undertaken across Greater Nottingham which helped to support and assist the delivery of several sound Core Strategies in the early-2010s. The SA produced by the Council to guide the development of the CSR is felt to be proportionate in its thoroughness and has proven effective in robustly testing options on spatial growth, the selection of strategic sites and the choice and scope of policies.

#### **6. What options were considered through the SA for the following:**

##### **a. The overall scale of housing and other growth**

The matter of options around the overall scale of housing and other growth (including employment) and the necessity to test various options, but mainly those which would see the Council plan for higher figures than those in which evidence has been assembled for housing and employment development, has been addressed elsewhere in Statements 3 and 5 prepared by the Council. These explain why the Council feels it inappropriate to have tested higher growth options, which ultimately reflects why the SA has not included specific testing and has carried out its SA on the basis of the Council planning to meet its needs.

**b. The broad distribution of development across the Borough**

SA1 of the SA developed and then tested all aspects which would realistically be considered as parts of a spatial growth hierarchy. The Council considers that all reasonable options, eight in total, were robustly assessed and no omissions in spatial options had been made.

**c. Potential allocation sites**

Building on the work of SA1, SA3 of the SA appraised a wide number of potential allocations in order to test each's sustainability. All potential allocations submitted to the Council (reflecting the extensive portfolio of SGAs found at EBH1) were appraised using the SA framework to ensure all reasonable alternatives had been covered.

**d. Policy approaches**

Similarly to the answer provided to 6c above, SA2 appraised a range of options for each of the strategic policies which ultimately informed Strategic Policies 2-5 in the CSR. Each emerging strategic policy had at least two options tested by the SA, demonstrating that reasonable alternatives had been identified in order to establish which approach was sustainable.

**7. What were the conclusions of the SA in relation to these options and how have they informed the preparation of the Core Strategy Review?**

To answer this question, it is sensible to structure the response on the same basis in which Q6 has been asked.

**a. The overall scale of housing and other growth**

See response to 6a.

**b. The broad distribution of development across the Borough**

The conclusions of the SA in relation to a spatial growth strategy are presented in SA1 of the SA. CD9 sets out the conclusions reached insofar as the SA's testing of the eight various spatial growth options are concerned. The concluding table is presented by Table 13 at page 161 of CD9 and shows the options which ultimately formed the Council's preferred spatial growth strategy performing strongly against sustainability criterion.

**c. Potential allocation sites**

The conclusions of the SA in relation to the selection of potential allocation sites (25 in total) is set out in Table 9 of CD4. This shows the ranked performance against the SA testing framework, with all selected allocations positioned within the highest third

of the schedule of sites. It is important to note that the Council is under no obligation to simply select the most sustainable option tested through the SA. A number of other factors should be considered in relation to how an individual site might associate with another element of the SAs testing. The Council is of the view that as long as outcomes of testing demonstrate sustainable options, then this is ample justification to take forward planning to include such an option within a Plan.

#### d. Policy approaches

The conclusions of the SA in relation to the various policy approaches taken in Strategic Policies 2 to 5 of the CSR begin at Section 3.3 of CD4. Several tables, relating to each of the policy options show the performance of options when tested against the SA objectives and wider framework. In all instances, the Council has identified options which test favourably against reasonable alternatives. Option 1 (Transport) differs slightly from the general approach as shown in Table 8 of CD4 (Page 21). Some mitigating circumstances relate to the close association between the need for a relief road to ensure acceptable traffic and highway conditions connected to the South West Kirk Hallam allocation site.

### **8. What are the overall conclusions of the SA?**

The overall conclusions of the SA are a combination of the various elements of information that are presented in responses to 7a-d above. In general, each of the options chosen at the various stages of the SAs preparation (SA1, 2 and 3) are supported by rigorous appraisal in the SA.

### **9. How have the requirements of the Strategic Environmental Assessment Directive been met?**

Reference to the Strategic Environmental Assessment (SEA) Directive is firstly made at 1.2 of the Erewash SA document, establishing the duties incumbent upon the Council to comply with the Directive. This answer will not go into detail as to the legalities of what the Directive entails, other than to explain how the requirements of the SEA Directive have been met.

Acknowledging the co-dependencies and interrelationships between the SA and SEA workstreams and processes, the SA at the outset of its production established 16 SA objectives which originated and were justified by information and data from the Scoping Report (CD8, CD8a & CD8b). These objectives are listed at 2.2 of the SA (CD4). Alignment of the 12 individual topics mentioned in the Directive to the SA objectives were made, thus ensuring that the assessment work undertaken throughout the course of the SA's work was able to demonstrate to what extent the CSR (as the relevant 'plan') and its various policies might affect the 12 SEA topics.

#### ***Habitats Regulations Assessment (HRA):***

### **10. How was the Habitats Regulations Assessment (HRA) carried out and reported and was the methodology appropriate?**

The Erewash Borough HRA was undertaken in-house by Council Officers. Its technical methodology followed a broadly similar one to that used by ecology and

environmental consultants David Tyldesley and Associates (DTA) in producing the HRA in support of the development of the Greater Nottingham Aligned Core Strategies (including the Erewash Core Strategy). Despite the DTA-produced HRA being undertaken back in 2013, the methodology followed was ultimately found to be appropriate by each of the Inspectors examining the three separate Core Strategies (the Erewash, Rushcliffe and the Broxtowe/Gedling/Nottingham documents). This demonstrates that the Councils had fulfilled legal requirements around the appropriate assessment of any potential impacts arising from growth proposed across the Nottingham Core Housing Market Area (HMA). Since the production of the 2013 HRA, the UK's exit from the European Union has led to the transposing of Nature Directives into domestic UK law, with the Conservation and Habitat Species Regulations 2017 (as amended) ('the Habitats Regulations' now forming the legal framework).

Work on the HRA assessing the contents of Core Strategy Review began in autumn 2021 with an understanding of the revised legal requirements associated with HRA referred to above. It was resolved that the Council, by virtue of the provisions of the Habitats Regulations which included it fulfilling its requirements as a 'competent authority', were required to progress a HRA in order to establish if any of its emerging policies and proposed strategic housing and employment growth allocations would significantly harm the designated features of a European site.

Recognising the three-stage process enshrined within HRA (screening, appropriate assessment (AA) and exemption) that is helpfully described by guidance on the Government website ([Habitats regulations assessments: Protecting a European site](#)) published in February 2021, Officers set about conducting a robust screening exercise, closely analysing what, if any, role draft policies contained in the Regulation 18.2 version of the draft Core Strategy Review would have on potentially impacting conditions at designated European sites. The online guidance provided the Council with clarity over how it should undertake its own HRA, clearly setting out the required stages and steps in necessary work. With no European site located within Erewash Borough, information on the nearest designations which a HRA is required to address was obtained from the DEFRA 'Magic' interactive mapping portal which holds details of all Special Protection Areas (SPAs), Special Areas of Conservation (SAC) and Ramsar (wetlands) sites. The Screening Report was completed and published/reported alongside a range of other planning documents at the time the Council commenced consultation on its Publication (Regulation 19) version CSR document in March 2022.

#### **11. What was the basis for determining that an Appropriate Assessment was not required and is this a justified conclusion?**

The basis for determining that an Appropriate Assessment of the CSR was not required has arisen from two specific factors. Firstly, the geographic remoteness of the nearest European sites from any of the proposed strategic growth planned within the CSR. This helped to confirm that there was no realistic prospect of any adverse impact arising from the proposed allocations, with the nearest European site (Gang Mines – Special Area of Conservation (SAC) located 13.8km from the Borough's boundary, and 20.1km away from the nearest strategic allocation (Strategic Policy 1.3: Acorn Way). It was also determined that as a consequence of the dispersed

nature of strategic allocations around Erewash, it was extremely unlikely that there would be any cumulative effects arising from any significant scale of growth concentrated to a particular part of the Borough.

The second factor negating the need for an Appropriate Assessment was the absence of such an instruction made by Natural England in their formal representation responding to the Publication version of the CSR. From this, the Council concluded that, without any information provided to the contrary, both the content and the conclusions reached by the Screening exercise were both appropriate and valid.

**12. Do the strategic policies look ahead a minimum of 15 years from adoption, to anticipate and respond to long term requirements and opportunities as required by paragraph 22 of the National Planning Policy Framework?**

Yes, the strategic policies contained within the Council's CSR look ahead 15 years from adoption. However, the plan was intended to apply across a period between 2022 and 2037 as demonstrated by reference to the duration of the housing strategy within Strategic Policy 1 - Housing. The Council is of the view that all of its policies in the submitted CSR anticipate and respond to long term requirements as per the provisions of NPPF Paragraph 22.

Whilst the document has a strong emphasis towards boosting the supply of housing land and accelerating the rate of new residential units within Erewash (through the identification of several strategic housing allocations), other aspects of the CSR help to demonstrate the benefits of planning for a longer-term vision which delivers sustainable development at suitable locations around the Borough. For example, land-use policy interventions around transport, retail and green infrastructure will all be to the benefit of Erewash as a whole. The CSR responds to longer-term housing requirements, but in a complimentary manner, also capitalises on opportunities to deliver enhancements to the natural environment and over the plan-period, influence more sustainable patterns of travel and transport to address a need to mitigate and adapt to the effects of climate change.

**13. Does the Core Strategy Review include policies designed to ensure that the development and use of land in the Borough contributes to the mitigation of, and adaption to, climate change in accordance with the legislation? If so, which?**

The CSR does include policies which are designed to ensure that the development and use of land in the Borough contributes to the mitigation of, and adaption to, climate change in accordance with the legislation. Importantly, the overall Development Plan continues to include Policy 1 of the Erewash Core Strategy (2014), which applies to all development proposals made within the Borough. This expects all development proposals to mitigate and adapt to climate change, and to help comply with national targets on reducing carbon emissions and energy use. This has been influencing the delivery of sustainable development in Erewash since the adoption of the Core Strategy.

Insofar as the CSR is concerned, whilst there is no explicit policy which addresses climate change, it should be borne in mind that the development of strategic site allocations (as well as all other development occurring within the Borough) will need to conform to Policy 1 of the ECS. This is in line with the provisions of Regulation 19(1A) which confirms that Development Plan Documents can be taken as a whole when understanding how they approach the requirement around planning for climate change. Attention should be drawn to the provisions of Strategic Policy 1.1 – Strategic Housing Sites, where various aspects of the policy help to provide additionality to the predominant overarching climate change policy from the ECS. Several of SP1.1 criterion demonstrates a notable relationship with measures to mitigate and adapt to climate change. In particular, criterion 3 requires development to integrate sufficient tree planting and sustainable drainage infrastructure, criterion 5 requires development to be based on a network of streets which prioritise walking, wheelchair use and cycling over motorised transport. Furthermore, criterion 6 requires at least one off-street parking space per new home is served by an electric vehicle charging point. These are all aspects of new housing developments, that when delivered, will deliver resilience to the ongoing effects of climate change.

In addition to SP1.1, there are aspects of each of the strategic housing allocation policies in the CSR which are expected to make notable contributions to the mitigation and adaption to climate change. Many of these are in terms of providing sustainable new neighbourhoods where more emphasis is placed on the provision of key local services and facilities, with a new school and the creation of new shopping areas required on-site at both the South West Kirk Hallam and Stanton South allocations. The provision of such facilities will make an important contribution in reducing the need to make motorised trips in private cars, thus limiting emissions from vehicles.

Also helping to contribute to the Council's framework of policies which positively address climate change are Strategic Policies 3 (Town, Local and Village Centres), 4 (Transport) and 5 (Green Infrastructure). Both individually and collectively, these policies all contain elements which will make provision for the availability of a more sustainable environment in the Borough. This will see the enhanced policy framework encourage new development to contribute to the provision of local, convenient shopping facilities, a more efficient and effectively-running highways network, whilst the enhancement of key GI corridors can influence a lower reliance on the private motor vehicle.

Overall, despite the absence of an additional standalone climate change policy in the CSR (due to the retention of Policy 1 in the ECS), there are substantial elements of the new strategic policies contained within the CSR which taken as a whole form a strong policy framework capable of delivering tangible localised mitigation and adaption to climate change. It is considered that this fulfils the requirements of Regulation 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended).

**14. Has the Council had regard to the other relevant specific matters set out in Section 19 of the 2004 Act (as amended) and in Regulation 10 of the 2012 Regulations?**



Yes, the Council has had regard to the other relevant specific matters set out in Section 19 of the 2004 Act (as amended) and in Regulation 10 of the 2012 Regulations. Focusing on Regulation 10 of the 2012 Regulations first, in terms of additional matters regarding policies developed by a local transport authority in accordance with the Transport Act 2000, Derbyshire County Council (DCC), as the highways authority covering Erewash Borough, have been engaged at each stage of the CSR's production. DCC have therefore been afforded the opportunity across multiple consultations to provide the Borough Council with any technical comments they felt appropriate relating to highways and transport matters. As such, and in assessing all duly made representations, the Borough Council consider that regard has been made to this specific matter. Similarly, with DCC being the minerals and waste authority for Erewash Borough, any comments on these matters have been considered in the preparation of the plan.

As set out within the same Regulations, a number of other specific consultee bodies who hold responsibility for a range of technical functions and land-use matters dealt with between 10(b) and 10(c)(iii) are required to be consulted in order to bring local planning matters being undertaken by the production of a Local Plan to their attention. As per the Council's SCI and as evidenced by the various iterations of Statement of Consultation supporting each consultation stage, it can be demonstrated that bodies responsible for these matters were consulted and any responses were considered by the Council.

Regarding Section 19 of the 2004 Act (as amended), evidence demonstrating that the Council have had regard of its provisions is located elsewhere in a number of places within the response to this Matter. For example, regard to preparing a development plan document (DPD) against the Local Development Scheme is addressed by the response to Q1, how the plan (taken as a whole) addresses the need to react to the threats posed by climate change is addressed by the response to Q13, and the strategic priorities for the development and use of land in the authority's area remain unchanged from those which guide development in the Erewash Core Strategy.

**15. How have issues of equality been addressed in the Core Strategy Review to ensure that due regard is had to the 3 aims outlined in s149 of the Equality Act 2010 in terms of those who have a protected characteristic?**

The Council has produced an Equality Impact Assessment (EqIA) (CD5 – Evidence Base) which assesses any impacts the CSR may have on the nine protected characteristics. The assessment as set out within the EqIA demonstrates that the Council has had due regard to the 3 aims outlined in s149 of the Equality Act 2010 through the preparation of strategic planning policies and the CSR in general.