

## Council's response to Inspector's discussion document D1

Following Hearing Session 5, the Inspector produced discussion document D1 in which he concludes that the modifications originally proposed by the Council to policy 'E5 development outside town centres' in response his Question 87 do not go far enough. The Inspector has helpfully proposed amended wording for policy E5 and has sought the Council's response to this proposed wording. The Inspector's proposed wording for E5 is as follows

*"E5 development outside town centres*

*"Proposals for main town centre uses not within defined town centres will undergo a sequential test. Main town centre uses should primarily be located within defined town centres. If no suitable sites are available within defined town centres, main town centre uses should be located in edge of defined town centre locations. Only when no suitable sites are available in edge of defined town centre locations will out of town centre sites be considered. In assessing suitability, factors such as viability and availability should be considered.*

*"In addition to the above sequential test, proposals outside defined town centres for non-food retail and food retailing, including extensions, will be granted subject to compliance with all the following criteria;*

*"a. The proposal would not have a significant adverse impact on the vitality and viability of the defined town centres, either as an individual development or cumulatively with similar existing or proposed developments. An impact assessment, for proposals of 2,500 sq m or more likely to affect Aylesbury or for proposals of 400 sq m or more in other cases, submitted with the application will assist the Council to make this evaluation.*

*"b. The form of retail unit proposed would complement those already provided in the defined town centre and could not be conveniently accommodated within or at the edge of the relevant defined town centre.*

*"c. Servicing and customer traffic can be safely and conveniently accommodated by the surrounding road network and would not add to traffic generation in the defined town centre.*

*"d. The proposal is easily accessible by the highway network and public transport and includes provision for access by cycle and on foot and*

*"e. The design of the buildings will not detract from the character or appearance of the site and/or surrounding area."*

As requested by the Inspector the council has considered the Inspector's proposed E5 and would like to suggest the following changes to it. At the end of this document is a comparison of the Inspector's and the Council's proposed policy E5 using tracked changes to highlight the differences.

### **E5 Development outside town centres**

*Proposals for main town centre uses that do not comprise small scale rural development and are not within defined town centres<sup>1</sup> will undergo the following sequential test:*

*Main town centre uses should primarily be located within defined town centres. If no suitable sites are available within defined town centres, main town centre uses should be located in*

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<sup>1</sup> As shown on the policies maps.

*edge of defined town centre locations. Only when no suitable sites are available in edge of defined town centre locations will out of town centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. In assessing suitability, factors such as viability, town centre vitality and availability should be considered.*

*In addition to the above sequential test, proposals for retail and leisure, including extensions, on sites not allocated in plans and located outside defined town centres will be granted subject to compliance with all the following criteria:*

- a. The proposal would not have a significant adverse impact on the vitality and viability of the defined town centres, either as an individual development or cumulatively with similar existing or proposed developments. An impact assessment is required to be submitted with the application if the proposal is likely to only affect the Aylesbury town centre and the proposal is 1,500 square metres or more. If the proposal is likely to affect any other defined town centre, an impact assessment is required to be submitted if the proposal is 400 square metres or more;*
- b. The proposal does not have a significant adverse impact on existing, committed and planned public and/or private investment in a centre or centres in the catchment area of the proposal either as an individual development or cumulatively with similar existing or proposed developments.*

The reasons for the Council's suggested changes are set out below.

The first paragraph of the policy has been amended to refer to main town centre uses "that do not comprise small scale rural development". This is to ensure that proposals for main town centre uses in smaller settlements that fall outside of the defined town centres can be considered compliant with the policy without undergoing the sequential test. If the sequential test were to be applied to main town centre uses in smaller settlements, the policy would inhibit main town centre uses in smaller non-defined centres which would be likely to cause harm to the vitality of smaller settlements in the district. By qualifying the policy in this manner, the policy will ensure that proposals that will enhance the vitality and sustainability of smaller settlements are not inhibited while still being in accordance with the 'town centre first' approach of the NPPF. The council also proposes that this paragraph of the policy should make reference to the requirement contained in paragraph 24 of the NPPF 2012 that when considering out of town centre locations preference should be given to accessible sites which are well connected to the town centre.

Town centre vitality has been added as one of the examples of factors considered in assessing suitability. The purpose of this qualification of the sequential test is to provide a diversity and reduce uniformity in the goods, services and forms of retail units in the town centre.

The third paragraph of the policy has been changed from applying to proposals for "non-food and food retailing" to apply to proposals for "retail and leisure". This is based on paragraph 26 of the NPPF 2012 which states that the impact assessment requirement should apply to applications for retail and leisure, and as such it is suggested that the policy is reworded to accurately reflect this.

The NPPF 2012 states that "local planning authorities should require an impact assessment...", and criterion a. of policy E5 has been reworded to emphasise this requirement. Criterion a. introduces a revised reduced threshold for when an impact assessment is required as part of an application. The council suggests that proposals of more than 1,500 square metres of floor space that are likely to only affect Aylesbury town centre, or 400 sqm of floor space if the proposal is likely to affect any other defined town centres, should be the thresholds referred to in the policy. The 1,500 sqm threshold for Aylesbury is lower than the standard threshold of 2,500 sqm set out in the NPPF. Following the

hearings sessions in July 2018, and in accordance with the action for the Council to revisit the proposed thresholds (ED 178 I5.1), GL Hearn produced the Aylesbury Retail Impact Threshold Note which provides further clarification on the potential for a different threshold for Aylesbury as per the Inspector's request. The note takes into account a number of inter-related issues, and recommends that an appropriate floorspace threshold for Aylesbury would be 1,500 sqm.

Criterion c. in the Inspector's proposed wording sets out a requirement that the proposal does not add traffic generation in the defined town centre. The council proposes the removal of this criterion as this is already covered by policy T4 Delivering transport in new development, which states that "Transport and new development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development".

Criteria d. and e. in the Inspector's proposed wording for the policy relate to the accessibility and design of the proposal. It is proposed by the council that these criteria are not included in the policy as these requirements are already covered in other policies in VALP. In particular:

Policy S1 Sustainable development for Aylesbury Vale states that "*In assessing development proposals, consideration will be given to: [...] providing high-quality accessibility through the implementation of sustainable modes of travel including public transport, walking and cycling*".

Policy BE2 Design of new development states that "*All new development proposals shall follow the guidance set out within the Council's design SPD and shall respect and complement:*

- a. The physical characteristics of the site and its surroundings including the scale and context of the site and its setting*
- b. The local distinctiveness and vernacular character of the locality, in terms of ordering, form, proportions, architectural detailing and materials*
- c. The natural qualities and features of the area, and*
- d. The effect on important public views and skylines."*

It is considered that these policies sufficiently cover the requirements of proposed criteria d. and e., and their inclusion would duplicate other policies in VALP.

The Council hopes that the Inspector will agree that its proposed amendments to his suggested policy E5 are acceptable.

## Inspector's and council's policy E5 comparison

### ***E5 Development outside town centres***

Proposals for main town centre uses that do not comprise small scale rural development and are not within defined town centres<sup>2</sup> will undergo the following sequential test:

Main town centre uses should primarily be located within defined town centres. If no suitable sites are available within defined town centres, main town centre uses should be located in edge of defined town centre locations. Only when no suitable sites are available in edge of defined town centre locations will out of town centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. In assessing suitability, factors such as viability, town centre vitality and availability should be considered.

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<sup>2</sup> As shown on the policies maps.

In addition to the above sequential test, proposals ~~outside defined town centres for non-food~~ retail and ~~food retailing~~leisure, including extensions, on sites not allocated in plans and located outside defined town centres will be granted subject to compliance with all the following criteria:

a. The proposal would not have a significant adverse impact on the vitality and viability of the defined town centres, either as an individual development or cumulatively with similar existing or proposed developments. An impact assessment, ~~for proposals of 2,500 sq m or more likely to affect Aylesbury or for proposals of 400 sq m or more in other cases,~~ is required to be submitted with the application ~~will assist if the Council to make this evaluation.~~ proposal is likely to only affect the Aylesbury town centre and the proposal is 1,500 square metres or more. If the proposal is likely to affect any other defined town centre, an impact assessment is required to be submitted if the proposal is 400 square metres or more;

~~“b. The form of retail unit proposed would complement those already provided in the defined town centre and could not be conveniently accommodated within or at the edge of the relevant defined town centre.~~

~~“c. Servicing and customer traffic can be safely and conveniently accommodated by the surrounding road network and would not add to traffic generation in the defined town centre.~~

~~“d. The proposal is easily accessible by the highway network and public transport and includes provision for access by cycle and on foot and~~

~~b. “e. The design of the buildings will not detract from the character or appearance of the site and/or surrounding area.”~~ The proposal does not have a significant adverse impact on existing, committed and planned public and/or private investment in a centre or centres in the catchment area of the proposal either as an individual development or cumulatively with similar existing or proposed developments.