

**REPORT TO: PLANNING MEMBER WORKING GROUP**

**Date of Meeting: 24 January 2017**

**REPORT TO: EXECUTIVE**

**Date of Meeting: 14 February 2017**

**Report of: Assistant Director of City Development**

**Title: Mid Devon District Council Consultation (3 January – 14 February) on the Local Plan Review Proposed Submission (incorporating proposed modifications) – with particular regard to the allocation of land at Junction 27 of the M5 for a high quality regional tourism, leisure and retail attraction (71 ha).**

**Is this a Key Decision?**

No

**Is this an Executive or Council Function?**

Executive

**1. What is the report about?**

- 1.1 To consider a proposed response to Mid Devon District Council's consultation on its 'Local Plan Review 2013 – 2033 Proposed Submission (incorporating proposed modifications) January 2017' with particular regard to the allocation of land at Junction 27 of the M5 for a high quality regional tourism, leisure and retail attraction.

**2. Recommendations:**

- 2.1 That Planning Member Working Group notes the issues raised in this report and supports submitting representations to the consultation raising these with MDDC.
- 2.2 That Executive agree to submit representations to the consultation, taking into account the advice of the Planning Member Working Group.

**3. Reasons for the recommendation:**

- 3.1 The allocation of 71ha of land at Junction 27 of the M5 for a high quality regional tourism, leisure and retail attraction will have implications for Exeter. In particular, the provision of an Outlet Shopping Village (6ha) consisting of a 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 comparison floorspace and up to 2,000 sq m of A3 uses will change the retail hierarchy of the sub-region and could potentially have an adverse impact on the vitality and viability of the city centre and its 'town centre' role. This takes into account that Exeter is anticipated to experience the greatest level of trade diversion as a result of the retail proposals. It also takes into account the easy access to the site by car being directly adjacent to Junction 27 of the M5 and significant amount of car parking envisaged (43ha of supporting access roads, parking and infrastructure/landscaping).

**4. What are the resource implications including non financial resources.**

- 4.1 Should the Council decide to submit representations and also attend the public examination of the Local Plan Review in order to answer any questions regarding these by the Inspector, this will have some resource implications in terms of officer time.

**5. Section 151 Officer comments:**

- 5.1 There are no immediate financial implications arising from the report. However, should the plans proceed there could be a direct impact upon the income secured by business rates.

**6. What are the legal aspects?**

- 6.1 Section 110 of the Localism Act 2011 requires local planning authorities to co-operate with other local planning authorities ('duty to co-operate') in relation to planning of sustainable development, i.e. engage constructively on the preparation of development plan documents.

**7. Monitoring Officer's comments:**

- 7.1 Given the potential impact on Exeter City Centre, the Monitoring Officer considers that it would be prudent for Exeter City Council to make representation in response to Mid Devon District Council's Local Plan Review.

**8. Report details:**

- 8.1 Consultation on the MDDC Local Plan Review Proposed Submission document was held between February – April 2015. Representations were submitted on behalf of Eden Westwood Partnership (a collaboration between Friends Life Limited and the Eden Project) supporting the allocation of circa 97ha of land adjacent to Junction 27 of the M5 for a major tourism and leisure attraction, including: The Arc – an interactive and experiential educational-led facility primarily showcasing Devon agriculture and food and drink; 100 bed hotel; Regional Visitor Centre; motorway services (including budget hotel); surf lake and other outdoor leisure uses; Designer Outlet Village; and logistics/warehousing. Following a Full Council decision on 22 September 2016, the Local Plan Review was modified to include a policy allocating the land for this purpose, all-be-it without the logistics/warehousing uses which are no longer being pursued by the promoters of the scheme. Consequently the size of the land allocation has decreased from 97ha to 71ha. A copy of the draft policy and background text is appended to this report (Appendix 1).
- 8.2 The promoters had argued that the Submission Plan would be in danger of being found unsound without the allocation. Mid Devon District Council appointed Nathaniel Lichfield & Partners (NLP) to provide a critique of the promoters' Town Centre Uses Statement (CBRE, April 2015) to verify this. The NLP critique was completed in July 2015 and concluded that the Submission Plan would not be found unsound without the allocation. The argument that had been made that it would be unsound was based on the Mid Devon Tourism Study (GL Hearn, Nov 2014), which suggested a number of ways in which tourism could be enhanced in the district. One of these was to take advantage of the strategic links through the district (M5 and A361 in particular) to encourage a greater proportion of people to 'stop' or break their journey in the area by developing a major tourist facility around these key links. The argument was that this 'need' would not be met by the Local Plan Review if a site was not allocated accordingly. It's worth noting though that the Tourism Study stated that proposals for any major facility would need to be considered carefully in terms of economic impacts on other parts of the district and on other adjoining areas.
- 8.3 However, the July 2015 critique by NLP went on to state that the allocation did present a significant opportunity to address 2 out of the 6 recommendations of the Tourism

Study, although it would not be possible to allocate the site until further work had been carried out in relation to need, the sequential test and impacts (including impacts on allocations in other authority areas within the catchment).

- 8.4 Mid Devon asked NLP to carry out this further analysis, which was included in an addendum critique completed in March 2016. It stated that there is theoretical capacity to support the designer outlet village, due to growth in available expenditure in the Core Catchment Area (extending to Devon, Somerset and West Dorset). There is not enough capacity in Mid Devon alone. This means that some of the comparison retail needs of authorities within this wider area will be taken by the development, potentially undermining these authorities' ability to plan to meet their own needs in more sustainable locations. Despite this, NLP consider that there would be enough residual capacity to still meet the needs of these areas.
- 8.5 The addendum critique went on to look at retail impacts. Exeter is anticipated to experience the greatest level of trade diversion to the development. NLP have calculated the impact on the city centre as approximately 2.3%, which it says as a worst case would equate to 11 retail units. However, NLP do not consider that this would be significant, in part due the city centre's good health and also because expenditure growth is forecast to increase. In terms of the sequential test, NLP agrees that the sites that were assessed by the promoters are either unsuitable or unavailable. This is mainly due to the overall size of the proposal. It has also carried out assessments of four more sites, one of which is the Bus and Coach Station Site in Exeter. It concludes that this site is unsuitable and unavailable, again because of its size and because it's committed for other development. It also concludes that the proposal will not undermine bringing forward this allocation. The three other sites are urban extensions to Tiverton and Cullompton and are dismissed as they would require these allocations to be radically changed. NLP also comment on the issue of disaggregation, i.e. splitting the proposal up to see if the different uses can be provided separately on more sequentially preferable sites. Whilst case law prevents this for planning applications, there is no guidance on this issue for plan making and NLP state that the Council can consider this in determining the appropriateness of the allocation if it so wishes. On this matter, NLP comment that they consider there to be synergy between most of the proposed uses, but less synergy between the designer outlet village and tourism attraction. However, their co-location is likely to be mutually beneficial in terms of spin-off trade and linked trips.
- 8.6 The addendum critique also comments on the promoters' claim that the designer outlet village is necessary to make the development as a whole viable financially, i.e. as 'enabling development'. In this regard, NLP consider that insufficient information has been provided, although the Council could still go ahead and include the designer outlet village in the allocation if the Council is satisfied that there is a need for it and the sequential/impact tests have been passed. Otherwise, the evidence for it would need to be compelling and require a full open book financial appraisal. Overall, the addendum critique concludes that inclusion of the allocation would not render the Submission Plan unsound.
- 8.7 NLP provided supplementary retail advice to MDDC in July 2016 following issues raised by neighbouring authorities. One issue was the updated retail information in the draft Exeter & West End of East Devon Retail & Leisure Study 2016, which had been provided to MDDC. Overall, NLP did not consider it necessary to change its previous advice to MDDC. In regard to the updated retail capacity forecasts, NLP's advice to MDDC was that there will still be ample comparison goods expenditure growth to support commitments in Exeter, as well as growth outside Exeter. It should be noted

however, that the final draft of the study has just been received by ECC, which has revised growth and capacity forecasts based on the latest national economic forecasts published in 2015/16. This shows lower levels of growth than the previous draft. It was taken to the Planning Member Working Group on 24 January and has been provided to MDDC to fulfil the duty to co-operate.

- 8.8 Together with Taunton Deane Borough Council, ECC officers asked ECC's retained retail consultants (Bilfinger GVA), who prepared the draft Retail & Leisure Study, to provide technical advice on the robustness of the retail elements of the proposed allocation (this advice is available in the Members Room). The advice has raised concerns with the robustness of the retail work carried out by the promoters and NLP. It considers the analysis to be out-of-date, as it's based upon economic forecasts published in 2014 and not the latest in 2015/16. It also considers that the need for the designer outlet village has not been demonstrated taking into account all commitments and allocations within the overall catchment area. Furthermore, viability evidence has not been made available to demonstrate that the designer outlet village is necessary as enabling development for the tourism uses, or to see whether alternative funding options might be available to deliver these. It also considers the impact assessment to be incomplete, as the cumulative impacts of the scheme with other developments on town centres within the catchment have not been assessed, e.g. the recent resolution to approve the expansion of Cribbs Causeway in South Gloucestershire (subject to no call-in by the Secretary of State), with up to 35,250 sq m of A1 retail floorspace.
- 8.9 Despite these issues, officers do not consider that the proposed allocation is likely to cause significant issues for Exeter. This is due to its current good health with good choice and competition for comparison retailing. It also takes into account that the BCS scheme has outline planning permission and is steadily moving forward. Officers asked Bilfinger GVA to provide a 'best estimate' of the quantitative financial impact of the designer outlet village on the city centre based on the evidence to hand. This estimates a diversion of £29.8m from the city centre compared with £23.5m forecast by NLP. This equates to a 3.5% solus impact and a 6% impact upon the future (2021) turnover of the city centre. At this time, officers do not consider that this is likely to constitute a 'significant adverse impact', which would automatically fail the impact test in the NPPF.
- 8.10 Having stated this, the amount of comparison floorspace and easy access by car (10 mins drive from the edge of Exeter) raises concerns that the designer outlet village could become a rival shopping destination to the city centre in terms of fulfilling certain comparison goods needs. Potentially free and easily accessible car parking, a quality environment together with A3 restaurant and café uses will make it an attractive place to shop for many consumers (including those living in and around Exeter). This could undermine Exeter City Centre's role in the retail hierarchy of the area. A point which requires further clarification/investigation is the nature of the proposed controls that will be placed on the comparison retail floorspace, i.e. required to sell discontinued/end-of-range lines, seconds and surplus/sample stock, and the impact these will have (both positive and/or negative). Whereas MDDC envisage these will help to minimise impacts on town centres selling similar comparison goods, it is considered likely to also be an attractor to the designer outlet village over these centres due to the reduced prices placed on goods. Indeed, it is not considered that the proposed controls will differentiate the retail floorspace in the allocation from the goods being sold in surrounding town and city centres, and the retail floorspace within the allocation is likely to directly compete with retailers in Exeter City Centre. Furthermore, it raises the question of how these controls will be enforced effectively. Lastly, there is also the risk

that the designer outlet village could increase in size in the future, particularly if the tourism elements are not successful.

- 8.11 Therefore, officers recommend that the Council submits representations in response to the current consultation raising these concerns with MDDC. In particular, the Council should seek assurances from MDDC that the need for the designer outlet village has been fully demonstrated and all reasonable alternatives have been explored and dismissed before it is allocated. This includes taking into account all commitments and allocations in the catchment area. In addition, a complete and up-to-date impact assessment that includes cumulative impacts with other retail developments in the catchment should be carried out. Furthermore, additional information on the nature of the proposed planning controls to be placed on the retail floorspace should be sought, including how these will mitigate the adverse impacts on town/city centre retailers selling the same or similar goods and how these controls will be enforced effectively.
- 8.12 Officers also have concerns with the wording of the proposed policy. The 'Spatial Strategy' for Junction 27 (Appendix 2) states that existing town centres will be safeguarded "through planning controls" (page 12). However the detailed Junction 27 policy fails to provide these planning controls. Whilst the allocation does make provision for "controlled comparison goods", there is nothing requiring the development to be subject to conditions and/or legal agreements to ensure this control remains in place. Furthermore, the spatial strategy uses the word "associated" when referring to the retail element of the proposals (page 12), but again the detailed Junction 27 policy fails to utilise similar terminology, instead referring to a "regional tourism, leisure and retail attraction". It is recommended that detailed text changes are suggested to address these issues and ensure that what is delivered is what is envisaged, and that the development safeguards existing town/city centres.
- 8.13 As a point of clarity, Members may be aware of the recent successful bid for DCLG funding for Culm Garden Village. The Mid Devon Local Plan Review proposal for 1,750 dwellings in East Cullompton provides the first phase of the Culm garden village proposal. However, the remaining 'up to 5,000' dwellings referred to in the bid isn't specifically identified in the Local Plan Review. Therefore, there is a potential opportunity for the Greater Exeter Strategic Plan to consider the proposal for up to 5,000 dwellings beyond the plan period in a strategic allocation.

## **9. How does the decision contribute to the Council's Corporate Plan?**

- 9.1 One of the priorities of the Corporate Plan 2015/16 is to grow the economy, partly by maintaining a thriving city centre. The decision seeks to ensure that this priority continues to be met.

## **10. What risks are there and how can they be reduced?**

- 10.1 The risks are that the allocation of Junction 27 for mixed uses, including a designer outlet village, could undermine the health of the city centre.

## **11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

- 11.1 None.

**12. Are there any other options?**

12.1 Do not submit representations to the consultation, i.e. take a neutral position.

**13. Planning Member Working Group**

13.1 Planning Member Working Group supported submitting representations to the consultation objecting to the proposed allocation of land at Junction 27 of the M5 until the issues raised in this report have been fully addressed.

**Assistant Director City Development**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

Contact for enquires:  
Democratic Services (Committees)  
Room 2.3  
01392 265275

## **Appendix 1: Draft Policy and background text – Land at Junction 27 (pages 128 – 129)**

### **Policy J27**

#### **Land at Junction 27 of the M5 Motorway**

**A site of approximately 71 hectares adjoining the south bound carriageway of the M5 motorway, adjacent to junction 27 is identified for major development. The land, which lies to the south of the A38, is allocated for the provision of a major high quality regional tourism, leisure and retail attraction supported by ancillary roadside services and supporting infrastructure including a pedestrian bridge across the M5 motorway linking the site to Tiverton Parkway railway station.**

**The site provides a prime location for delivery of a major leisure destination themed around agriculture and the agri-economy; the regional environment and tourism; outdoor land and water-based adventure activities and outlet-retailing. The site provides a major opportunity to deliver a unique leisure destination at the gateway to Devon and Cornwall which should be realised as a single cohesive and comprehensively masterplanned visitor attraction.**

**The allocation makes provision for the following elements:**

- Travel Hub (7ha) – Motorway/roadside services; electric car hub; hotel.**
- Agronomy Visitor Centre (9ha) – exhibition space and hall, gallery; research and education space; regional visitor centre and hotel. The Agronomy centre will include up to 1,000 square metres of ancillary retail.**
- Outdoor Adventure Zone (6ha) – Surf lake/lagoon; beach; high ropes adventure area.**
- Outlet Shopping Village (6ha) - Designer outlet shopping centre retailing controlled goods comprising discontinued/end-of-range lines, seconds and surplus/sample stock. The Outlet Shopping Village to include up to 14,000 square metres of controlled comparison goods and up to 2,000 square metres of A3 uses.**

**The development is subject to the following:**

- a) Provision of supporting access roads, parking and infrastructure/landscaping (43ha);**
- b) Provision of transport improvements to ensure appropriate accessibility for all modes, including new or improved access and egress onto the M5 motorway and pedestrian and cycling links across the motorway to Tiverton Parkway Railway Station;**
- c) Environmental protection and enhancement including noise mitigation;**
- d) A comprehensive phasing programme to ensure the tourist and leisure provisions are delivered at the same time as the retail and service elements of the development; and**
- e) Prior to the approval of any planning permission for the site any required mitigation measures for the Culm Grasslands Special Area of Conservation shall be identified and agreed together with a time-scale for their provision and a mechanism for their maintenance.**

**Development of the site should be brought forward in accordance with the terms of a detailed development brief, comprehensive masterplanning including at least two stages of public consultation and adoption of the Masterplan as a Supplementary**

**Planning Document before any planning application for any part of the site is determined.**

3.184a A site of 71 hectares is allocated to the south and east of Junction 27 of the M5 motorway. The allocation identifies the land for tourism, leisure and retail development. The proposal seeks to significantly increase the tourism and leisure offer available in Mid Devon as identified in the Mid Devon Tourism Study 2014. The 2014 study identified that the M5 and the mainline railway provides an opportunity to develop Mid Devon's tourism infrastructure around these key links. To encourage a greater proportion of people to break their journey in the area, for instance to visit a local attraction, market or retail facilities or to stay. It identifies that this opportunity builds on the District's location at the gateway location to Exmoor and the North Devon Coast; and on the route to Dartmoor, the South Devon Coast and Cornwall from much of the UK. Given the volume of tourists who pass through Mid Devon on route to other destinations, such as North and South Devon and Cornwall, the study identified that more could be done to encourage these tourists to stop en-route and increase the length of time (and money) tourists spend in Mid Devon.

3.184b The study identified six potential strands to assist the growth of tourism in Mid Devon offering opportunities for visitors to stop and stay when travelling through to destinations further south and west. The allocation at J27 makes provision to directly address three of the recommended strategies by setting a policy which can provide a major tourist, leisure and retail facility which caters for all age groups and which encourages visitors passing through to stop and spend time in Mid Devon.

3.184c The allocation includes associated outlet/discounted retail floorspace to meet a regional comparison need and deliver the tourist and leisure elements of the allocation. Existing town centres will be safeguarded through planning controls. 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. Therefore it needs to be in a location which can accommodate this scale of development and has appropriate links to the strategic highway and rail networks. A number of sites were considered both within and outside of Mid Devon. These sites included Cullompton, Tiverton, Taunton and Exeter. None could provide the site area required to accommodate the proposal as a single development nor could they provide the accessibility of the allocation site. The J27 site provides sufficient land to accommodate the proposal as a whole, adjacent to the strategic road and rail network and one which is served by local bus services. The site lies adjacent to the main road and rail tourist routes into the West Country and is also ideally situated to serve the wider catchment area. The site already has planning permission for a roadside service area. The allocation site lies within easy reach of Exeter Airport and on route to the southwest European ferry terminal. The site is adjacent to one of the larger M5 motorway junctions south of Bristol which can readily be improved to accommodate the proposal.

3.184d The proposals for a major facility of this nature needs to be considered carefully in terms of its impacts and the policy makes provision for detailed transport assessments, environmental protection and green infrastructure, energy conservation, provision of improved public transport, pollution and drainage considerations, phasing and importantly master planning with full public consultation prior to any planning applications being approved. 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. Section 106 planning obligations will also make provision for any necessary infrastructure and public transport improvements and would need to ensure appropriate mechanisms are in place to ensure that the integrity of the Culm Grasslands SAC will not be adversely affected.



## **Appendix 2: Spatial Strategy – Junction 27, M5 Motorway (page 12)**

Regionally significant transport infrastructure linkages and acts as a gateway to the South West Peninsula.

Development will be targeted to:

- Provide a high quality tourist and leisure focused development to meet needs identified within the tourism study.
- Associated outlet/discounted retail floorspace to meet a regional comparison floorspace need and deliver the tourist and leisure elements of the allocation. Safeguarding existing town centres through planning controls.
- Ensuring enhanced linkages to Tiverton and Cullompton and the National Rail Network.
- Mitigating environmental impacts.
- Upgrading directly affected transport infrastructure.