

**Councils Full Response to Inspectors' Letter to the Council of 2 July 2019 –
Wednesday 31 July 2019**

[Section 1: Paragraphs 2-6]

Supporting Text/Reasoned Justification

2. The Council's response to our Initial Question 19 is noted. However, the National Planning Practice Guidance (the Guidance) is clear that whilst all plans need to be as focussed and concise as possible, they also need to be as accessible as possible. The Guidance also recognises that Regulations 8 and 9 of the Town and Country Planning (Local Planning) (England) Regulations prescribe the general form and content of local plans. As previously raised, paragraph 8 (2) of the Regulations states that 'a local plan or a supplementary planning document must contain a reasoned justification of the policies contained in it' (my emphasis).

3. Paragraphs 1.1 to 3.1 of the Plan encompass the Introduction to the Plan and an outline of its vision and objectives. They do not provide reasoned justification for the policies that follow in Section 3. Whilst recognising the need for it to be succinct and kept to a minimum, the reasoned justification in support of policies is necessary to explain and justify the approach (with reference to the evidence to support them) as well as to provide the context to the policies and to explain how they are to be applied. It is a legal requirement.

4. Additionally, the policies and proposals should be readily distinguishable from the reasoned justification (in light of the High Court judgement in the 'Cherkley' case (Cherkley Campaign Ltd v Mole Valley DC v Longshot Cherkley Court Ltd [2013] EWHC 2582 (Admin) 22 August 2013 and the subsequent Court of Appeal judgement).

5. The Council suggests in its response to Initial Question 19 that further succinct and concise reasoned justification has been provided to individual policies where considered necessary. However, in responding to representations in the SADC Regulation 22 (c) Consultation Statement it states that all text under the policies is policy (and suggests that this is clear from the overall plan format). Notwithstanding this confusion, any reasoned justification that may have been provided needs to be clearly identified as such and readily distinguishable from the policy itself.

6. On this basis, we request that the Council re-considers the need for a reasoned justification to be provided for the policies in the plan. The Council will also need to consider whether further consultation would be required on such additions/changes to the plan. We note that representations to the plan have been made on this issue.

1.1 The Council has carefully considered your observations on this issue. As set out in the Council's response to Initial Question 19 (ref ED21), the Council considers "There is a succinct, focussed, concise and accessible reasoned justification within the draft Local Plan at paragraphs 1.1 to 3.1."

1.2 The question of what regulation 8(2) requires by way of reasons was considered recently (albeit in a different context) in *R (oao Spurrier) v Secretary of State for Transport* [2019] EWHC 1070, [118]) when the Court considered that a "reasoned justification" or "reasons for a policy in a development plan in only broad terms may be given". The *Cherkeley* case did not indicate what amounted to reasons for the purposes of the local plan regulations and it is notable that regulation 8 does not indicate that reasons must be

set out specifically under each policy. With regard to the requirement to distinguish between policies and their reasons, this was contained in the previous 1999 development plan regulations and associated policy, and it was these two documents which were the subject of the decision in the *Cherkley*. However, the current regulations and policy on the content of plans does not include such a requirement.

- 1.3 As a result, SADC considers that the plan in its current form does comply with the current statutory requirements.
- 1.4 Nevertheless, SADC wants to facilitate the efficient use of the examination process. SADC has provided a list of specific reasons for the policies with this response. The reasons are reflective of the evidence and decision-making processes of the Council.
- 1.5 The Council is providing these reasons now so that, should you consider it necessary that the Plan includes such additional information, you will be able to make a main modification recommendation at the appropriate time. The current local plan “Procedure Guide for Local Plan Examinations June 2019” guidance envisages this situation (at paragraph 1.5). While the additional wording is not part of the Plan, you would be entitled to discuss the wording at the examination hearing sessions and then, should the text form the basis of main modifications, it will be the subject of consultation at that stage. SADC considers it sensible to take that approach and would ask you to adopt it.
- 1.6 The additional text is set out in total at appendix 1. The additional text is also set out in appendix 3 as it would appear if inserted into the draft LP (including addressing the ‘paragraph numbering’ point addressed at paragraph 10). The new text is set out in red and new red boxes enclose the original Policy wording, to distinguish clearly between them.