

P22-0876

13 December 2022

Planning Policy
North West Leicestershire District Council
PO Box 11051
Coalville
LE67 0FW

Dear Sir/Madam,

Draft Air Quality Supplementary Planning Document

Thank you for the opportunity to comment on the Draft Air Quality Supplementary Planning Document (SPD). These representations are submitted on behalf of Davidsons Development Limited.

The proposed SPD have been prepared to provide clarity on how Local Plan Policy D2: Amenity will be interpreted with respect to air quality. It outlines when planning applications will need to be supported by an air quality assessment and details of the scope of any assessment and when measures will be required to reduce, minimise or mitigate the impact of development on air quality.

The good practice measures set out in the proposed SPD, which will reduce emissions and exposure for all developments at the outset, is welcomed.

The proposed SPD, however, proposes to introduce significant new requirements on applicants of major developments. The Local Plan indicated that the SPD would set out new development guidelines, but the SPD, as drafted, includes significant new requirements, as well as new guidance. It is our view that these requirements should not be introduced via a SPD but considered in the round as part of preparing the new Local Plan.

The national Planning Practice Guide (PPG) sets out that SPDs should:

'build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development.' (Paragraph: 008 Reference ID: 61-008-20190315)

The proposed SPD introduces the following requirements for all major applications to provide and this is considered to be at odds with the PPG:

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- Damage Cost Calculation;
- Construction Dust Risk Assessment;
- Good Practice Measures Statement; and
- Consideration of Additional Measures.

In addition, for some major developments the following is also proposed to be required:

- Site Suitability Assessment (where applicable); and
- Air Quality Impact Assessment.

This is in addition to the current expectation of an Air Quality Assessment to support relevant major applications.

These new proposed requirements are particularly disproportionate in the context of major development being defined as more than 10 dwellings. These requirements will impact on a large proportion of development considered by the Council. There is also no distinction made between outline and detail proposals, it would be anticipated that for outline applications these issues could be picked up through conditions covering construction dust mitigation for example.

It is suggested that these additional requirements go well beyond the remit of a SPD and should instead be incorporated into the review of the Local Plan rather than introduced through supplementary guidance. The proposed approach of introducing new requirements through a SPD risks legal challenge.

In terms of mitigating impacts, whilst it is important that the opportunity to redesign a development to eliminate or reduce the impact is considered first, it is important that this is considered within the context of the wide range of other factors which influence the design of a development.

We hope that you will take into account our comments and consider incorporating the additional requirements into the Local Plan rather than through this SPD.

Yours Sincerely

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Enc.