

# Response 276

## Respondent Details

Information	
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

## PART A - About You

1. Please complete the following: Please note the email address (if provided below) will be sent a full copy of the submitted response and a unique ID number for future reference (pdf attachment).

Name of person completing the form: Mark Aylward

Email address: [REDACTED]

2. What type of respondent are you? Please select all that apply.

An agent

3. Please complete the following:

Contact details	
Organisation name (if applicable)	Derwent Holdings Ltd
Agent name (if applicable)	Mark Aylward (ATP)
Address 1	16 Tamewater Court
Address 2	Dobcross Oldham
Postcode	OL3 5GD
Telephone number	[REDACTED]

## PART B - Representation Form 1

1. To which part of the Local Plan does this representation relate? From the drop down list please select one option.

Policy DEV5 Retail and Leisure Needs

2. Does your comment relate to a specific paragraph (s) or policy sub-number (s)? Please select one option.

A paragraph number (s)

If a paragraph or policy sub-number then please use the box below to list:  
New Retail and Leisure Development

3. Do you consider the Draft Local Plan is: Please select one option in each row.

	Yes	No
Legally Compliant	X	
Sound		X
Compliant with the Duty to Co-operate	X	

4. If you have answered 'No' to any of the options in the above question then please give details in the box below of why you consider the Draft Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

By consequence of the wording of this policy, the Plan is unsound because it is unjustified and is not underpinned by the evidence base.

We accept that national policy does direct main town centre uses towards defined centres. However, national policy supports those types of development in other locations (outside defined centres) where they comply with the sequential approach and there is no significant adverse impact on the vitality and viability of centres.

There is no requirement for any proposal to actively enhance vitality and viability, so that aspect of bullet 4 is fundamentally unsound.

With reference to bullet 5, we would recommend that the policy should cross-refer to the more detailed guidance within the NPPG in terms of what would constitute a proper approach to considering the sequential approach to site selection, both for the applicant and the local planning authority.

With reference to bullet 7, the 500 square metre threshold is identified but is not underpinned by the evidence base as is set out after para 4.3.19. The NPPF advises a threshold of 2500 sq m, unless a locally set threshold is identified which is evidence-based. The Retail and Leisure Study does not appear to consider the topic of locally based thresholds at all, so therefore we cannot see any logical basis for the application of a 500 sq m threshold. The nationally applicable 2500 sq m threshold should be adopted unless there is an evidence based threshold to the contrary.

We are aware that there was a lower threshold applied through policy PV4 of the 2014 Local Plan Core Strategy, but we can find no supporting material for the evidence base at that point to justify the lower threshold.

5. If you answered 'Yes' to any of the options in question 3 then please give details in the box below the reasons why you support the legal compliance or soundness of the Draft Local Plan or its compliance with the duty to co-operate. Please be as precise as possible.

We make no comments in these respects.

6. Please set out what modification(s) you consider necessary to make the Draft Local Plan legally compliant or sound, having regard to the test you have identified above where this relates to soundness. (NB please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

We would suggest the following revisions to bullets 4, 5 and 7. The removal of the final sentence to bullet 4 is necessary to reflect national guidance. The additions to bullets 5 and 7 also ensure that the Council's approach is consistent with national policy and guidance.

4. Retail and Leisure uses will be directed towards the Town Centre, District, Neighbourhood and Local Centres where the development is of a scale and nature appropriate to the area served by the centre.

5. Where retail or leisure uses are proposed outside of a defined centre, the applicant will be required to demonstrate that no suitable sites are available within the centre or in edge of centre locations through applying a sequential approach to site selection consistent with the requirements as outlined in the NPPF and the NPPG.

7. Proposal for retail, leisure and office uses over 2500 square metres gross will need to provide justification in the form of an impact test proportionate to the scale of the proposal.



7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination? Please select one option.

Yes, I wish to participate at the oral examination (I understand details from Part A will be used for contact purposes)

**If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:**  
To ensure that the points above can be discussed for the benefit of the Inspector.

You have just completed a Representation Form for Policy DEV5 Retail and Leisure Needs. What would you like to do now? Please select one option.

Complete another Representation Form (Part B)

## PART B - Representation Form 2

1. To which part of the Local Plan does this representation relate? From the drop down list please select one option.

Objective W1

2. Does your comment relate to a specific paragraph (s) or policy sub-number (s)? Please select one option.

A paragraph number (s)

**If a paragraph or policy sub-number then please use the box below to list:**

4.3

3. Do you consider the Draft Local Plan is: Please select one option in each row.

	Yes	No
Legally Compliant	X	
Sound		X
Compliant with the Duty to Co-operate	X	

4. If you have answered 'No' to any of the options in the above question then please give details in the box below of why you consider the Draft Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

Policy DEV5 properly considers the retail hierarchy and then seeks to identify a development management approach to consider proposals for main town centre uses. We have set out separately that DEV5 is unsound as structured, and recommended revised wording such that it can be made sound.

However, section 4.3 of the Plan fails to highlight that there is existing shopping provision in out-of-centre locations that performs a role in meeting local shopping needs. It is not necessary for the Plan to ascribe importance of policy protection to those trading locations but it is important to recognise shopping patterns.

We also note that conclusions in terms of residual capacity for new retail floorspace are expressed at paragraph 4.3.9, but this does not explain that these conclusions are drawn following an allowance for commitment schemes in the borough. This is of critical importance, as it may be the case that those schemes would change in terms of profile or programme and this would fundamentally change any residual requirement for further floorspace.

5. If you answered 'Yes' to any of the options in question 3 then please give details in the box below the reasons why you support the legal compliance or soundness of the Draft Local Plan or its compliance with the duty to co-operate. Please be as precise as possible.

We make no comments in this respect.

6. Please set out what modification(s) you consider necessary to make the Draft Local Plan legally compliant or sound, having regard to the test you have identified above where this relates to soundness. (NB please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

New para after 4.3.3 to identify major out-of-centre provision, such as Gemini Retail Park and Junction 9 Retail Park to clarify their existing role in shopping patterns.

4.3.9 to be amended as follows:

The updated Retail Needs Assessment (2019) for the Borough has assessed the future need and capacity for retail and leisure floorspace over the plan period to 2037, taking account of commitment schemes identified at that point. With regard to comparison floorspace, the Assessment concludes that existing stores in the Borough have the capacity to absorb needs over the plan period. There is a need for up to around 4,500 sq.m. of additional convenience floorspace, which justifies the designation of the new neighbourhood and local centres in the Main Development Areas (Waterfront, Garden Suburb, South West Extension and Peel Hall). Any further out-of-centre retail (over and above that which is already approved and identified as a commitment scheme) could have a significant detrimental impact on the Town Centre and the Borough's other defined centres.

7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination? Please select one option.

Yes, I wish to participate at the oral examination (I understand details from Part A will be used for contact purposes)

**If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:**  
We would wish to participate at the Examination so these matters can be explored, for the convenience of the Inspector.

You have just completed a Representation Form for Objective W1. What would you like to do now? Please select one option.

Complete the rest of the survey (Part C)