

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET – 3 MAY 2016**

Title of report	<b>NORTH WEST LEICESTERSHIRE LOCAL PLAN – HOUSING REQUIREMENTS UPDATE</b>
Key Decision	a) Financial No b) Community Yes
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Purpose of report	To outline the current situation in respect of the Council's emerging Local Plan, particularly in respect of the issue of housing requirements
Reason for Decision	To agree how the Council should proceed forward with its Local Plan
Council Priorities	Value for Money Homes and Communities
Implications:  Financial/Staff  Link to relevant CAT  Risk Management  Equalities Impact Screening  Human Rights	The cost of preparing the Local Plan is met from existing budgets.  None  A risk assessment of the project has been undertaken. As far as possible control measures have been put in place to minimise these risks, including monthly Project Board meetings where risk is reviewed.  This will be undertaken before the plan is considered by Council  Not applicable

Transformational Government	Not applicable
Comments of Head of Paid Service	The Report is Satisfactory
Comments of Deputy Section 151 Officer	The Report is Satisfactory
Comments of Deputy Monitoring Officer	The Report is Satisfactory
Consultees	Local Plan Project Board
Background papers	<p>National Planning Policy Framework which can be found at <a href="http://www.gov.uk/government/publications?topics%5B%5D=planning-and-building">www.gov.uk/government/publications?topics%5B%5D=planning-and-building</a></p> <p>Planning Practice Guidance in respect of Housing and economic development needs assessments which can be found at <a href="http://planningguidance.communities.gov.uk/blog/guidance/housing-and-economic-development-needs-assessments/">http://planningguidance.communities.gov.uk/blog/guidance/housing-and-economic-development-needs-assessments/</a></p> <p>Strategic Housing Market Assessment which can be found at <a href="http://www.nwleics.gov.uk/files/documents/leicestershire_shma_report/Leicestershire%20SHMA%20Report%20%20June%20%28Final%29%20reduced.pdf">http://www.nwleics.gov.uk/files/documents/leicestershire_shma_report/Leicestershire%20SHMA%20Report%20%20June%20%28Final%29%20reduced.pdf</a></p> <p>Memorandum of Understanding which can be found at <a href="https://www.nwleics.gov.uk/files/documents/background_paper_2_appendix_a/BackgroundPaper2%20-%20Appendix%20A.pdf">https://www.nwleics.gov.uk/files/documents/background_paper_2_appendix_a/BackgroundPaper2%20-%20Appendix%20A.pdf</a></p>
Recommendation	<p><b>THAT CABINET:</b></p> <p><b>(I) NOTES THE CONTENTS OF THIS REPORT AND THE RISKS ASSOCIATED WITH PROGRESSING WITH THE LOCAL PLAN; AND</b></p> <p><b>(II) AGREES TO PROCEED WITH THE LOCAL PLAN PROJECT THE NEXT STEP OF WHICH WILL BE A REPORT TO FULL COUNCIL ON 28 JUNE 2016.</b></p>

## 1.0 PURPOSE OF REPORT

- 1.1 This report outlines for Cabinet the current situation in respect of the Council's emerging Local Plan, particularly in respect of the issue of housing requirements.

## **2.0 CONTEXT**

- 2.1 Members will recall that the draft Local Plan was approved for consultation purposes by Council at its meeting on 15 September 2015.
- 2.2 The draft Local Plan was published for consultation on 29 September 2015 up until 30 November 2015.
- 2.3 In total 326 individuals and organisations made 1,935 detailed comments. In addition, a further 424 standard letters were received, principally in relation to the proposed development north of Ashby de la Zouch (Money Hill) and concerns regarding possible development south of the A453 near East Midlands Airport.
- 2.4 The Local Plan Advisory Committee has subsequently considered two reports in respect of the comments made to draft Local Plan and officers suggested response to these comments.
- 2.5 A revised draft Local Plan has now been drafted and is going through a number of external validation checks. It is currently proposed that the revised draft Local Plan will be considered at a meeting of Council on 28 June 2016.

## **3.0 THE TIMETABLE**

- 3.1 At the 28 June Council meeting Members will be asked to agree a 'publication' version of the Local Plan. This will represent the Local Plan which the Council proposes should be submitted to the Secretary of State for examination. The Local Plan will then be published for a period of 6 weeks during which people will be invited to make formal representations.
- 3.2 Following receipt of representations it is intended that the Local Plan will then be submitted for examination during September.
- 3.3 At this point the Council will no longer be in control of the timetable as this will initially be determined by the Planning Inspectorate, and then by the Planning Inspector appointed to hold the examination. Based on experience elsewhere it is likely that examination Hearings would take place in late 2016 / early 2017.

## **4.0 THE HOUSING REQUIREMENT IN THE DRAFT LOCAL PLAN**

- 4.1 The draft Local Plan identifies a housing requirement of 535 dwellings each year for the period 2011-2031 (10,700 dwellings in total). This figure is higher than the Objectively Assessed Need (OAN) identified in the Strategic Housing Market Assessment (SHMA) (June 2014) which is 350 dwellings each year (7,000 dwellings in total). This is also the figure included in the Memorandum of Understanding (MOU) agreed by all the Leicester and Leicestershire Housing Market Area (HMA) authorities.
- 4.2 The housing requirement was set at a higher level to take account of the potential impact of the then proposed Strategic Rail Freight Interchange (Roxhill) on the number of jobs in the district compared to those assumed in the SHMA. This has since been approved by the Secretary of State on 12 January 2016. There is an important difference between the housing requirement and the housing need figures (i.e. the OAN). The housing need was

set out in the 2014 Strategic Housing Market Assessment (SHMA) for Leicester & Leicestershire, and is used as the basis for calculating a five year supply and as the starting point for determining the housing requirement. The requirement takes that need 'baseline' figure, and applies specific local circumstances, in this case the Roxhill scheme, to adjust the need figure. The need figures for the rest of Leicester & Leicestershire are not affected by the uplift that North West Leicestershire has applied to its own need figure.

## **5.0 WHAT RESPONSES WERE RECEIVED TO THE CONSULTATION ON THE DRAFT LOCAL PLAN?**

- 5.1 In response to the consultation on the draft Local Plan a relatively large number of residents, the vast majority of who live in Ashby and oppose the Money Hill site allocation in particular, considered that the housing requirement was too high, with particular concerns expressed regarding the impact upon existing infrastructure. As we would expect, some housebuilders considered that the requirement was too low, with one representation in particular from Gladman suggesting the requirement should be 637 dwellings each year (12,740 in total).
- 5.2 Concerns were expressed by Charnwood Borough Council and Oadby and Wigston Borough Council regarding the level of housing requirement. In particular concern has been expressed that:
- The proposed housing requirement has been put forward without agreement across the Housing Market Area;
  - The methodology used to identify the housing requirement could be used by developers to undermine their five year supply position;
  - Alternatively, an increased provision of housing in North West Leicestershire could impact upon the delivery of housing sites elsewhere, specifically the Loughborough Sustainable Urban Extension;
  - Any (as yet unquantified) impact upon the OAN for the other HMA authorities as set out in the SHMA and MOU need to be understood and agreed across the HMA; and
  - No consideration has been given as to the possible impact upon affordable housing resulting from a higher housing requirement.

## **6.0 WHAT HAS HAPPENED SINCE THE END OF THE CONSULTATION?**

- 6.1 It is important to understand, as recognised by the Government in the Planning Practice Guidance that identifying a housing requirement as part of a Local Plan is not an exact science.
- 6.2 In view of the comments received and to seek to ensure that the Council's housing requirement is as robust as possible, however, additional work, from an independent consultant (who also worked on the 2014 SHMA) has been commissioned to provide more evidence regarding the likely impact of the Roxhill development on the housing figures, particularly now that this has been approved by the Secretary of State. The work is not yet completed. However, initial findings suggest that the Council should indeed make higher provision than that identified in the SHMA and MOU.
- 6.3 Members will be aware that the HMA partners have agreed to prepare a Strategic Growth Plan. This plan will be informed by a range of evidence including that relating to future

housing and economic needs across the HMA. To this end a HMA wide Housing and Economic Development Needs Assessment (HEDNA) has been commissioned which will identify the current OAN for the HMA and individual districts/boroughs (it should be noted one of the consultants working on this was also the consultant engaged by the Council to provide the additional advice referred to above). Once the technical assessment has been concluded, currently scheduled for September 2016, the intention is to agree a new MOU (or equivalent agreement). This element, however, is unlikely to be concluded until late in 2016 at the very earliest.

- 6.4 One of the reasons for commissioning the HEDNA is that the current SHMA is not based on the most up-to-date national household projections (2012) and so could not be relied upon to support the Strategic Growth Plan. The creditability of the current SHMA as a true reflection of the current Full Objectively Assessed Need for housing across the HMA and thus in the District is, therefore, at significant risk of challenge. Indeed the recent appeal decision at Greenhill Road, Coalville is one such illustration of this point as are a number of other appeal decisions across Leicestershire.
- 6.5 As noted, some of the HMA authorities have raised concerns about the proposed housing requirement being above the OAN figure that is set out in the SHMA and MOU. There is an important difference between the need and the requirement figures: the need is the baseline minimum number of homes that must be provided, and the requirement is the result of an adjustment to take account of local circumstances. Such local circumstances, in the case of North West Leicestershire, concern the East Midlands Strategic Rail Freight Interchange, which is expected to generate in excess of 7,000 new jobs within the next six years, and now benefits from planning permission. Discussions are ongoing in respect of this matter with representatives of all of the HMA authorities under the auspices of the Duty to Co-operate. These discussions have yet to be concluded, but it is apparent that the principal concern that has been raised relates to the perceived risk to the other authorities as a result of our housing requirement being set higher than the OAN in the SHMA. It is the view of some of the HMA authorities that the only appropriate mechanism for identifying the basis for the objectively assessed need is within a strategic housing evidence base (i.e. a SHMA or HEDNA) and that this should be done collaboratively.
- 6.6 There is some suggestion that the Council should continue to seek to rely upon the figure of 350 dwellings per annum. In view of the appeal decision at Greenhill Road referred to above this is not considered to be appropriate or realistic.
- 6.7 It has also been suggested by some that the next stage of our Local Plan should be delayed to await the outcome of the recently commissioned HEDNA.
- 6.8 The Government has recently confirmed that it wants to see up-to-date Local Plans in place across the whole country as soon as possible. To this end Government has made clear its intention to intervene in the preparation of Local Plans where one is not in place by early 2017. Based on an interview given by the Minister for Planning and Housing (Brandon Lewis MP) to Planning Resource it appears that the Government considers "that authorities must have submitted a plan for examination in order to hit the deadline". Delaying the progress of the Plan to await the publication of the HEDNA may, therefore, put the Council at significant risk of not being able to meet the early 2017 deadline for submitting the Plan for examination.

## 7.0 WHAT SHOULD THE COUNCIL DO?

- 7.1 Essentially, the Council is faced with a choice: carry on with the Local Plan as currently planned; or delay making a decision on the Local Plan until such time as the new HEDNA and MOU are in place.
- 7.2 It should be appreciated that neither course of action is absolutely risk free in terms of the Council being able secure an up-to-date Local Plan as soon as possible.
- 7.3 It is necessary to consider what the potential merits and risk of each approach might be. The table below summarises these.

	<b>For</b>	<b>Against</b>
<b>Carry On</b>	<p>Would enable an up-to-date Local Plan to be in place sooner rather than later. This would strengthen the Council's position in terms of determining planning applications and defending appeals</p> <p>Would meet the Government's deadline for having a Local Plan in place and so avoid the threat of intervention.</p>	<p>Risk that an Inspector would not support the housing requirement because not part of HMA wide agreement.</p> <p>Risk that an Inspector would consider that the Local Plan was not sound and/or not satisfy the Duty to Cooperate</p> <p>No agreed HMA wide position.</p>
<b>Slow Down</b>	<p>Agreed position across the Housing Market Area.</p> <p>Likely that the housing requirement in the Local Plan would be considered acceptable at examination.</p>	<p>Delaying the Local Plan would make its submission for examination prior to the Government's deadline very difficult to achieve and so could leave the Council open to the risk of the Government intervening in the preparation of the Local Plan.</p> <p>Government would withhold New Homes Bonus (in the order of £600,000 to NWLDC, and £200,000 to LCC) and so significantly adversely impact upon the Council's financial position.</p> <p>Delay would mean longer without having an up-to-date Local plan in place leading to increased risk that</p>

		appeals against the refusal of planning permission would be successful
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- 7.4 In terms of carrying on, the Government's deadline is set and is a clear and present risk. In contrast the likelihood that the plan would not be found sound is a potential risk, the magnitude of which is difficult to predict but will partly depend on the Council's ability to assure an Inspector that it has a positive strategy for growth and is committed to an early review of the plan should that be necessary
- 7.5 It should be noted that even if an Inspector did not support the housing requirement proposed in the Local Plan it would be open to him/her to suspend the examination whilst any additional work was carried out. This might be for example, to enable agreement to be reached on any MOU or similar following the completion of the HEDNA. Whilst this would be a disappointing outcome it would not mean the end of the Local Plan. There are numerous examples of where Local Plan examinations have been suspended and the Local Plan in question has gone on to be found sound. Indeed this happened in respect of the recent Charnwood Core Strategy.
- 7.6 In terms of the issue of the Duty to Cooperate(DtC), and based on experience elsewhere, the Council would need to show what steps it has taken to ensure that the other HMA authorities are aware of what was being proposed and why. In this respect officers briefed all of the HMA authorities on the likely approach to housing requirements prior to Council agreeing the draft Local Plan in September 2015. Since then officers have kept the HMA authorities informed of progress and is involved in ongoing discussions. It is considered that the risk of being found not to have complied with the DtC has been minimised as far as possible and practicable. It should also be remembered that it is a Duty to Cooperate and not a requirement to agree.
- 7.7 In terms of the slowing down option, it is almost certain that an Inspector would support the Local Plan, at least in terms of housing requirements, in the event of there being a HMA wide agreement in respect of the amount and distribution of housing. However, there remains significant doubt about how realistic it is to expect that both the technical work of doing a HEDNA, and a subsequent MOU to be in place in time to enable submission of the Local Plan by early 2017.
- 7.8 The technical work of producing a HEDNA is scheduled to be completed by September 2016. How long an MOU will take to agree will be substantially dependent upon the results of the HEDNA itself. Based on the current MOU which was agreed in the context of each authority being able to accommodate its own identified growth, it is possible that an MOU could be agreed by the very end of 2016 in similar circumstances (although this is by no means guaranteed).
- 7.9 However, if it becomes apparent that one or more authority is unable to accommodate its own housing requirement in full, this will result in the need to reach a formal and binding agreement about how to redistribute development among the other HMA authorities. Reaching such an agreement on an MOU in these circumstances will inevitably be much more problematic and is likely to require a significant period of protracted negotiations to conclude. It should be noted that, once agreement has been reached, each individual

Council would need to formally endorse the MOU, which itself is likely to take at least two months. As such it is inconceivable that the Council would be able to meet the Government's deadline. Therefore, the risks of intervention and the loss of new Homes Bonus would be very high.

- 7.10 In view of the risk profile of the situation, and in addition to the ongoing discussions with the HMA authorities, officers have taken advice from our external advisers (Malcolm Sharp MBE of Sharp Planning Plus, and Simon Stanion of Marrons Shakespeares) on this matter. Their view is that at this stage the Council should continue in accordance with the programme outlined in section 3 of this report.
- 7.11 Discussions have also been held with a senior official from the Department for Local Government and Communities, and a former senior Planning Inspector, as well as taking Counsel's advice. A copy of Counsel's advice is available to members as a confidential background paper. The overwhelming message to come out of the advice is that the Council should continue to progress the local plan, in accordance with the programme outlined in section 3 of this report.

## **8.0 CONCLUSION**

- 8.1 Having regard to these considerations and the clear and consistent external advice which has been received, it is considered that at this time the preferable and lower risk course of action is for the Council to continue with the current planned programme.
- 8.2 As already outlined it should be appreciated that this course is not risk free, but it is considered to represent the least risky option at this stage.
- 8.3 A Core Principle of the National Planning Policy Framework is that Local Plans should be kept up-to-date. It should, therefore, be appreciated that even if the Local Plan proceeds along its current course and is found to be sound, it is likely that it will need to be reviewed almost immediately upon adoption. This would certainly be the case if the new MOU required a higher provision than that currently envisaged or if other new evidence was to be forthcoming. A clear and unequivocal commitment to such a review should therefore, be included in the Local Plan.