

**NORTH WEST LEICESTERSHIRE LOCAL PLAN PARTIAL REVIEW EXAMINATION**

**Inspector's issues and questions in bold type.**

This Hearing Statement is made for and on behalf of the HBF which should be read in conjunction with our representations to the pre submission Local Plan Partial Review consultation dated 8<sup>th</sup> January 2020. This representation answers specific questions as set out in the Inspector's Matters, Issues & Questions document issued 13<sup>th</sup> March 2020.

**LEGAL REQUIREMENTS & PROCEDURAL MATTERS**

**Issue 1 : Have the relevant procedural and legal requirements been met including the Duty to Co-operate?**

**Q1. In respect of the Duty to Co-operate have the Council engaged constructively, actively and on an ongoing basis in the preparation of the Partial Review?**

There is a long history of on-going engagement between the Leicester & Leicestershire Housing Market Area (L&LHMA) authorities during Local Plan preparation including on the North West Leicestershire Local Plan Partial Review. Unfortunately, there is no conclusive outcome from this engagement in relation to the strategic cross-boundary matter of redistribution of unmet housing needs from Leicester City (see HBF answers to questions below), which indicates that this engagement is neither constructive nor active and forms a unsound basis for plan-making.

**Q1.a What are the key outcomes from the co-operation with neighbouring authorities?**

A key element of Local Plan Examination is ensuring that there is certainty through formal agreements that an effective strategy is in place to deal with strategic matters.

The L&LHMA authorities have always stated an intention to agree either a Memorandum of Understanding (MoU) or Statement of Common Ground (SoCG) to address unmet development needs arising across the L&LHMA for the period to 2036. Yet three years after the publication of the 2017 Housing and Economic Development Needs Assessment (HEDNA) and the initial highlighting of significant unmet housing need by Leicester City Council, this intention remains unachieved.

The previously signed MoU only committed the L&LHMA authorities to undertake further work and then agree on dealing with any unmet development needs. The SoCG published in support of the Partial Review outlines that the L&LHMA authorities are committed to joint working on long

term strategic planning for housing / economic growth including the redistribution of unmet housing needs from Leicester City (or any other authority declaring and quantifying an unmet need) and associated infrastructure required to support such growth. However, this SoCG still fails to address the critical issue as to how the unmet housing need arising in Leicester will be addressed within the L&LHMA. To date, no SoCG has included an agreement on how the housing needs of the L&LHMA are going to be met.

The National Planning Practice Guidance (NPPG) also sets out that the Council should ensure that its SoCG continues to reflect the most up-to-date position of joint working (ID : 61-020-20190315). The latest SoCG refers to Leicester's unmet housing need as unquantified, which is no longer correct. On 19 February 2020 at a Special Meeting of its Full Council, Leicester City Council published a unmet housing need of 7,813 dwellings under Agenda Item 2 – Draft Leicester Local Plan (2019 – 2036) – Public Consultation, which also identified that these dwellings need to be delivered by neighbouring L&LHMA authorities by 2036. This figure was also published in Leicester City Council Select Committee Report dated 28 November 2019 (before submission of the Partial Review for examination on 18 February 2020). North West Leicestershire Council and other L&LHMA authorities have failed to work co-operatively and effectively with Leicester City Council to ensure this unmet housing need figure is considered within the Partial Review.

This is not a positive outcome from engagement under the Duty to Co-operate. Without a meaningful SoCG, there remains a great deal of uncertainty. The SoCG accompanying the Partial Review fails to demonstrate that effective joint working on cross boundary strategic matters has been achieved and instead defers the issue of redistribution of unmet housing need to a later date contrary to 2019 NPPF (para 35c). Moreover as a draft SoCG in support of the Substantive Review does not presently exist, there can be no confidence (given the record to date) that redistributing Leicester's unmet housing needs will be effectively addressed or even agreed by all L&LHMA authorities.

## **POLICY S1**

### **Issue 2. Whether the proposed changes to Policy S1 are justified, effective and consistent with national policy and guidance?**

**Q1. Policy S1 as proposed refers to the submission of a replacement Local Plan, however the Council have started on the 'Substantive Review' of the Local Plan. Given this position, is the wording in the Policy S1 sufficiently clear and accurate?**

The wording of Policy S1 is not sufficiently clear or accurate. It is assumed that the replacement Local Plan means the Substantive Review.

**Q2. Taking account of all the changes in circumstances since the adoption of the Local Plan, including the publication of the 2019**

## **National Planning Policy Framework, is the approach to the Partial Review justified?**

The Partial Review is not justified as it is not the full review envisaged by the examining Inspector of the adopted Local Plan. The North West Leicestershire Local Plan was submitted for examination in October 2016 and subsequently adopted in November 2017. During its examination, there was a conflict between wanting to have an up to date Local Plan for the District in place as soon as possible and on-going work to establish development needs across the wider L&LHMA including the redistribution of unmet housing need from Leicester City. The HEDNA was discussed at an Examination Hearing Session but its publication in January 2017 was post-submission, so it had not directly informed the Local Plan itself. At the time, there was also no formal declaration of the quantum of unmet needs. There was a significant risk of the Local Plan becoming out of date very soon after adoption. The examining Inspector concluded that the Local Plan could only be found sound with a policy commitment to an early review. This review was to begin within 3 months of the adoption of the Local Plan, or by the end of January 2018, whichever was later. The early review was so fundamental to the Inspector's decision to find the Local Plan sound, that the Local Plan should be considered out of date if the early review was not submitted within two years of commencing. Accordingly, the adopted Local Plan should be considered out of date if the reviewed Plan was not submitted by February 2020.

The early review envisaged by adopted Policy S1 was substantive and intended to address the serious shortcomings in the extent to which the adopted Local Plan was able to meet the development needs of the District and wider L&LHMA. The Council's Partial Review is not what was envisaged at the time of adoption. The Partial Review does not deal with the outdatedness of the adopted Local Plan. This does not accord with the recommendations of the examining Inspector. The Inspector's Report (para 168) was clear that the adopted Local Plan was deemed acceptable only in the context of being fully and quickly reviewed as a whole. The Partial Review does not meet the recommendations deliberately inserted into Policy S1 by the examining Inspector.

### **Q3. What are the implications of retaining Policy S1 in its current form (in the adopted Local Plan) for the whole Local Plan, and would this be consistent with national policy including the preparation and review of Local Plans?**

If adopted Policy S1 was retained, the whole adopted Local Plan should be deemed as out of date from February 2020. This is the consequence of the Council failing to meet the deadline for submission for examination of a fully reviewed Local Plan. The Partial Review wastes valuable time wherein the Substantive Review could have taken place.

It is acknowledged that irrespective of achieving or not achieving review timescales, many policies in the adopted Local Plan remain consistent with national planning policy. Therefore, it is relevant policies rather than the whole adopted Local Plan, which should be considered out of date.

**Q4. What, if any, are the consequences of Leicester City Council having provided a very initial indication of unmet need for housing and employment?**

Previously, the Council considered factors outside of its control prevented the Substantive Review from taking place but now Leicester City has published its unmet needs as 7,813 dwellings, there is an opportunity to begin work in earnest on the Substantive Review. Agenda Item 2 – Draft Leicester Local Plan (2019 – 2036) – Public Consultation to Leicester City Council’s Full Council Special Meeting on 19<sup>th</sup> February 2020 identified a housing need of 29,104 dwellings and a Housing Land Supply (HLS) of only 21,291 dwellings between 2019 - 2036. The resultant unmet housing need is 7,813 dwellings, which will be redistributed by agreement with neighbouring District Councils. This unmet need is based on of HLS of 21,291 dwellings, but the deliverability of this HLS has not yet been tested at examination. It is noted that City Council’s 2017 Strategic Housing & Employment Land Availability Assessment (SHELAA) identified a potential HLS of only 15,348 dwellings. Therefore, the quantum of unmet need to be met outside of the City may increase. Whatever the quantum, this unmet need in Leicester is arising now and should be addressed as a matter of urgency across the L&LHMA. There is no justification for any further delay to the Substantive Review.

**Q5. Is Policy S1 as proposed, consistent with other policies in the Local Plan and are there any other consequential changes to other policies or the supporting text needed?**

Other policies in the adopted Local Plan do not sufficiently plan for meeting unmet housing need from Leicester. There is a need for a higher annual housing requirement and the allocation of appropriate housing sites to meet this additional need.

The examining Inspector of the adopted Local Plan deemed it necessary to require an immediate review within 3 months of adoption because of the outdatedness of the Council’s evidence on which the Plan was prepared. A full re-assessment of housing needs is necessary. Any current uncertainty in the way that the Government’s standard methodology is going to be calculated in the future is not a valid reason for not pursuing the Substantive Review.

Until the Substantive Review is adopted, the Council should not assume that the difference of 102 dwellings per annum between the adopted housing requirement of 481 dwellings per annum and the Local Housing Need (LHN) of 379 dwellings per annum (based on the Government’s standard methodology using 2014-based SNHP, 2019 as the current year and 2018 affordability ratio) is sufficient to meet the District’s housing needs and make a significant contribution to unmet needs from elsewhere in the L&LHMA. This headroom is required to ensure the resilience of the adopted Local Plan. The most appropriate way of dealing with the matter of unmet housing need from Leicester City is the Substantive Review, which the Council should undertake as expeditiously as possible.

The Substantive Review remains a necessity not only to the now declared unmet housing need of Leicester, but also to ensure that the North West Leicestershire Local Plan supports the delivery of the Leicestershire Strategic Growth Plan (SGP), which identifies a key role for the District in the longer term economic and housing growth strategy for the County. The SGP identifies post-2036 significant growth at the Northern Gateway in both Charnwood and North West Leicestershire Districts. The SGP predicts as many as 11,000 dwellings could be delivered in this location, which may partly meet the needs of Leicester City. In this context, the wider Local Plan is not up to date.

### **STATEMENT of COMMON GROUND (SoCG) AND TIMING OF SUBMISSION OF A REPLACEMENT LOCAL PLAN**

**Q6. Is the SoCG with the Leicestershire authorities an appropriate trigger for the submission of a replacement Local Plan and will it be effective? What other approaches or triggers for submission of the replacement Local Plan would be appropriate?**

As submitted Policy S1 relies on all L&LHMA authorities agreeing a SoCG on the redistribution of unmet housing need from Leicester City and then North West Leicestershire Council submitting a replacement Local Plan within 18 months of that agreement. The Council's proposed approach shows some alignment with the review policies of other recently adopted Local Plans in the L&LHMA for Harborough (Policy IMR1), Melton (Policy SS6) and Oadby & Wigston (Policy 47) but without the setting out of further safeguards in Policy S1, the SoCG as a trigger for submission of the replacement Local Plan is inappropriate.

The main problem with the Council's approach is the exclusive reliance on the SoCG without any confirmed timescale as to when the SoCG is to be concluded or guarantee that the SoCG will be signed by all L&LHMA authorities. It has taken significant time for the quantum of Leicester's unmet housing need to be published however the City Council have now published their expected unmet housing need as 7,813 dwellings up to 2036. To date, there is no published SoCG on the redistribution of unmet housing needs across the neighbouring L&LHMA authorities. There is also no indication of a date when an agreed SoCG will be published. In the absence of any commitment to jointly sign the SoCG within a prescribed time period, there is no real commitment at all.

There is every possibility that reaching a consensus on meeting Leicester's unmet housing need across the remaining L&LHMA authorities will be a lengthy process. It is unlikely that all authorities will make contributions towards delivery of unmet need, for example, Oadby & Wigston have no capacity to deliver additional housing growth and may even add additional unmet need. In a recent Preferred Options consultation, Charnwood declared that it was not meeting any unmet needs from Leicester City. This forewarns of disharmony between the L&LHMA authorities about where Leicester City's unmet housing need of 7,813 dwellings up to 2036 should be distributed.

An agreed SoCG should confirm that :-

- Each authority will meet its own LHN and a defined amount of Leicester's unmet housing need (except Leicester City itself). This cumulative figure will be the housing requirement figure for each authority respectively ;
- An acknowledgement by the L&LHMA authorities that additionality in HLS may be required to ensure deliverability and flexibility ; and
- An agreement that if housing requirement figures materially change due to revisions to the Government's standard methodology for calculating LHN with a consequential impact on the quantum of unmet housing need, then a revised SoCG will be agreed within 6 months.

If there is a significant time before an agreed SoCG is published, housing need will continue to be exasperated due to low housing requirements in currently adopted Local Plans in the L&LHMA. Furthermore, if the SoCG does not come forward, there is a very real scenario that the unmet housing need of Leicester will not be addressed.

So that Policy S1 is effective, safeguards should incorporate to ensure that the unmet housing needs of Leicester are dealt with in the event that an agreed SoCG is not forthcoming. With no agreed timetable or backstop date set out in Policy S1, the Council is not under any pressure to progress its Substantive Review because there is no effective consequences for failing to do so and unmet housing needs arising in Leicester will continue to be ignored. This level of ambiguity should be removed from Policy S1 by the insertion of a definitive backstop date beyond which submission of the Substantive Review cannot slide without relevant policies in the adopted Local Plan becoming out of date. It is critical that the threat of relevant policies in the adopted Local Plan becoming out of date is maintained to ensure the speedy submission of the Substantive Review.

In the absence of an agreed SoCG, the timescale for the Substantive Review could be aligned to the timescales of the emerging Leicester City Local Plan as applied in other L&LHMA Local Plan Review Policies.

Nevertheless to prevent the Council from not coming forward with the Substantive Review even if the SoCG is agreed and / or the Leicester City Local Plan is published, the threat that relevant policies in the adopted Local Plan will be deemed out of date should be retained.

**Q6a. What is meant by 'agreed' in the wording of Policy S1, and is it sufficiently clear what is meant by it within the policy?**

There is ambiguity about the meaning of agreed. The 2019 NPPF states that policies should be clearly written and unambiguous (para 16d).

**Q6b. What would be the implications if the SoCG is not agreed, given that the timetable for the Substantive Review has already been fixed?**

The Substantive Review should be pursued as a matter of urgency. The implications of not agreeing the SoCG are set out in the HBF's answer to Q6a above. It is noted that as submitted Policy S1 is not tied back to the timetable for preparation of the Substantive Review set out in the Council's latest published Local Development Scheme (LDS), which indicates submission for examination by Autumn 2021.

**Q6c. Is the timescale of 18 months for the submission of the replacement Local Plan justified, if not what would be an appropriate timeframe?**

A timescale of 18 months for the submission of the replacement Local Plan is justified. A timescale is necessary to secure the expedience of the review process in addressing unmet housing needs.

**Q7. Are there any other emerging Local Plans or other plans such as the Strategic Growth Plan (SGP), which have the potential to impact on the SoCG outcomes or the replacement Local Plan?**

The SGP is a non-statutory document, which has not been examined, and therefore should not be given the weight of a statutory Development Plan Document. The SGP is a broad informal framework, which focuses on guiding growth in the L&LHMA over the period 2031 to 2050. The SGP focuses development in strategic locations and reduces the amount of new development in existing towns, villages and rural areas. This new focus has not been tested by examination. New development on strategic development sites may be sustainable but it should not have a detrimental impact on supporting sustainable growth within or adjacent to existing settlements, where people already live and work.

It is noted that the SGP states "... an analysis of completions, planning permissions and allocations in adopted and emerging Local Plans ... concluded that sufficient provision has been, or will be, made in adopted or emerging Local Plans to accommodate the Objectively Assessed Housing Needs (OAHN) across the L&LHMA as a whole, for the period 2011-31. The unmet need arising in Leicester City will be accommodated in the remaining District Councils and this will be reflected in Local Plans as they progress, supported by an agreed statement or SoCG as appropriate". Whilst, the Joint Position Statement on Housing and Employment Land Supply accompanying the SGP sought to demonstrate that the housing need could be met across the L&LHMA in the period 2011-31. This HLS relies on an unevidenced allowance in excess of 5,500 dwellings for windfall development and an estimated supply for unpublished plans. It is also noted that the SGP refers to the OAHN rather than the housing requirement for each L&LHMA authority and no redistribution of unmet housing need from Leicester.

In conclusion, it is evident that emerging Local Plans will need to deliver unmet needs arising from Leicester. The SGP is not a SoCG, consequently each Local Plan will have to be supported by an agreed SoCG. Individual Local Plans in the L&LHMA will still have to be found sound by examination.