

North West Leicestershire District Council Local Plan Partial Review Examination

Hearing Statement on behalf of Gazeley UK
Limited in response to Inspector's Matters &
Issues (INS/02a)

April 2020

Turley

Contents

1.	Introduction	1
2.	Responses to Inspector's Questions	2

Our reference
GAZY3000

April 2020

1. Introduction

- 1.1 Turley is instructed to submit a Hearing Statement on behalf of Gazeley UK Ltd (“Gazeley”) in response to the Inspector’s “Matters and Issues for Examination” (INS/02a) on the North West Leicestershire Local Plan Partial Review.
- 1.2 Gazeley made representations to the Publication Consultation in January 2020, supporting the Council’s proposal to revise Policy S1 but highlighting concerns with the proposed detailed wording of the revised policy.
- 1.3 Gazeley now wishes to provide responses to certain questions raised by the Inspector and these are set out in Section 2.

2. Responses to Inspector's Questions

- 2.1 Gazeley's responses to specific questions raised in the Inspector's "Matters and Issues" paper are set out below.

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?

- 2.2 It would be clearer if Policy S1 referred to the "substantive review of the Local Plan" rather than a "replacement Local Plan".
- 2.3 In our representations to the Publication Consultation, we suggested that the second paragraph of Policy S1 be rewritten to refer to the commitment to undertake a "Substantive Review" of the Local Plan to align with the Publication Consultation Document (LP/01) and Local Development Scheme (LP/09).
- 2.4 The substantive review has commenced and is proposing to address longer term development needs (beyond 2031) which will comply with the requirements set out in national policy and guidance and which will be based on up-to-date assessments of housing and employment need. The broad scope of the substantive review should also be made explicit in Policy S1 for clarity.

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?

- 2.5 The Inspector appointed to examine the Local Plan reported that "...the Plan is sound with respect to its overall housing and employment land requirements, provided the Council is expressly committed by adopted policy, to early review of the Plan, within a stated period after any such unmet needs to be met within NWL are identified" (paragraph 135, LP/05) (emphasis added).
- 2.6 On the evidence available at the time of examination, the Inspector assumed that the Housing Market Area's (HMA) unmet needs would be quantified in the Strategic Growth Plan (SGP) "...in late 2017 or during 2018" (paragraph 92). This timeframe is reflected in Policy S1 with the "stated period" for Plan Review submission being required within two years from the commencement of the review.
- 2.7 Since adoption of the Local Plan in 2017 the SGP has been finalised but it does not indicate or determine the HMA's unmet needs or propose any form of redistribution strategy. Furthermore, there has been a delay in the preparation of the City of Leicester Local Plan which has, in turn, delayed confirmation of the City's unmet housing need. A Regulation 18 version of the Local Plan (2020-2036) was made available by the City Council in February 2020 although formal consultation scheduled for March 2020 has been postponed until further notice due to the Coronavirus

emergency. Nevertheless, this draft Local Plan indicated that the City's unmet housing need is 7,742 dwellings.

- 2.8 There has clearly been a major delay to the identification of unmet needs across the HMA compared to what was envisaged when Policy S1 was examined and adopted. The upshot is that the HMA authorities have been unable to agree the apportionment of the City's unmet housing need within the timeframe envisaged when the Local Plan was under examination. This delay has been beyond the control of the Council meaning the deadline in Policy S1 for commencing and submitting a review could not be met. In the meantime, there have been several other significant changes in national policy and guidance, as explained in LP/01, which affect the evidence required to underpin the substantive review.
- 2.9 The Council commenced the Local Plan review in February 2018 as required by Policy S1, but given that the wider HMA's unmet housing need was only indicated in February 2020, and is still to be agreed and apportioned between the other HMA authorities, it has clearly been impossible for the Council to complete the substantive review and achieve submission by February 2020. The Council is therefore seeking to revise Policy S1 so that the Local Plan is not rendered out-of-date whilst the substantive review, as required by the Local Plan Inspector, is properly completed. This is the same approach to review as provided in the Harborough and Oadby and Wigston Local Plans which were adopted in April 2019 (see below).
- 2.10 With the Local Plan being only two years old and providing for development requirements over the next decade (to 2031) it would not be proportionate to render the Local Plan completely out-of-date whilst the substantive review is being progressed.
- 2.11 The revision to Policy S1 to allow the Council to progress the "Substantive Review" when wider unmet housing and employment needs have been confirmed and agreed across the HMA and Functional Economic Market Area (FEMA) is therefore reasonable and justified.

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?

- 2.12 The final sentence of Policy S1 states that if the reviewed plan is not submitted within two years (i.e. February 2020) then the 2017 Local Plan will be deemed to be out of date. As explained in response to Question 2, this deadline was agreed by the appointed Inspector on the assumption that the unmet housing needs would have been identified in late 2017 or during 2018, whereas this milestone has been significantly delayed and is still to be agreed between the HMA authorities.
- 2.13 The partial review accords with Framework paragraph 33 which requires policies to be reviewed at least once every five years (from adoption) to take into account changing circumstances and changes in national policy. This is precisely what the Council is proposing through the partial review, in seeking to amend the wording of Policy S1 to ensure that the Local Plan is not rendered out of date whilst the substantive review, as required by the Local Plan Inspector, is properly completed in a manner which reflects changes in circumstances and national policy and guidance.

- 2.14 The principle of amending Policy S1 is consistent with the review mechanisms contained within the more recently adopted Harborough and Oadby and Wigston Local Plans (both adopted in April 2019) (Policies IMR1 and 47 respectively).
- 2.15 We reiterate that the Local Plan is only two years old and providing for development requirements over the next decade (to 2031), so it is important that it is not rendered out-of-date whilst the substantive review is underway. This would not be a proportionate approach. We note that Policy 47 of the Oadby and Wigston Local Plan states that only those policies under review will be deemed out of date (if submission does not occur within 24 months of a review having been commenced).

Q6. Is the Statement of Common Ground 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?

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?

Q6b. What would be the implications if the Statement of Common Ground is not agreed, given that the timetable for the Substantive Review has already been fixed?

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

- 2.16 The Council's proposed text states that the replacement Local Plan will be submitted within 18 months of a Statement of Common Ground (SoCG) being "agreed".
- 2.17 This will be ineffective because it is open-ended and does not provide a firm commitment to undertake the substantive review against a clear programme. Indeed, it is possible that a SoCG may never be "agreed" or adopted by all of the relevant authorities. A specific requirement of the Local Plan Inspector was that an early review must be undertaken "within a stated period" (Inspector's Report, paragraph 135).
- 2.18 In order to be effective and consistent with national planning policy, Policy S1 must provide a clear programme with specific triggers and deadlines for the substantive review – this is a specific requirement of the Framework which states that policies should be clearly written and unambiguous (paragraph 16d).
- 2.19 It is unclear why the Council considers an 18 month period to be appropriate to submit the substantive review for examination (from agreement/adoption of the SoCG). The review has commenced and can be undertaken concurrently with the drafting of the SoCG. As such, we consider that submission should be achievable within 12 months of SoCG adoption/agreement.
- 2.20 It is recognised that agreement needs to be reached across the HMA/FEMA in terms of distribution of unmet needs, but NWLDC has adopted a Local Development Scheme (LP/09) which provides a timetable for the substantive review so this should be reflected in the revised Policy S1 as the backstop date (i.e. submission during autumn 2021).

- 2.21 There are other, and more recently adopted, Local Plans across the HMA which include policy review mechanisms with more definitive triggers and deadlines for submission:
- Policy IMR1 of the Harborough Local Plan (April 2019) includes a trigger for review within 6 months of adoption of a memorandum of understanding or SoCG or, as a “fall-back” position, within 12 months from the publication of a Regulation 19 version of the City of Leicester Local Plan. Submission is required within 30 months of the review being commenced.
 - Policy 47 of the Oadby and Wigston Local Plan (April 2019) requires submission of a review within 2 years of the review having been commenced.
- 2.22 Similar triggers and deadlines can be applied to Policy S1 to ensure a consistent approach to local plan reviews across the HMA/FEMA, although the backstop date must be submission for examination during autumn 2021 to align with the Local Development Scheme.
- 2.23 To conclude, whilst Gazeley support the principle of the partial review, the revised wording will be ineffective and inconsistent with national policy and is therefore unsound. Revised wording is required to ensure an effective and clear commitment to the substantive review.

Paragraph 5.8

Issue 3. Whether the proposed changes to paragraph 5.8 are justified, effective and consistent with national policy and guidance?

Q2. Will paragraph 5.8 be effective having regard to the other employment policies in the Local Plan and will there be any effect on the flexibility of Policy Ec2 (2)?

- 2.24 The Inspector appointed to examine the Local Plan recommended specific amendments to certain policies, including Ec1 and Ec2(2), providing flexibility to allow unallocated land to be delivered where there is demonstrable evidence of need and demand for employment development (which is sustainable).
- 2.25 These policies will ensure that strategic sites, such as Gazeley’s “Former Lounge Disposal Point” (“G-Park Ashby”) which represents a planning permission identified under Policy Ec1, can be delivered as soon as possible to satisfy market demand. This development is identified as a commitment in the Council’s Appendix 1 to NWL/01 (ref. 07/01372/FUL) although a hybrid application for an alternative form of B8 development, which allows for HS2 Phase 2b, is currently pending determination (ref. 19/00652/FULM). This should have been included under the table entitled “Undetermined Applications at March 2020”.
- 2.26 It is critical that these flexible policies remain in force whilst assessments of strategic and local employment need are undertaken through the substantive review. We do not see any conflict between these policies and the revised wording in paragraph 5.8.

Q3. What would be the implications for the delivery of strategic warehousing/logistics within the area as a result of the proposed changes to Policy S1 and supporting text?

- 2.27 The Council has stated that the employment land shortfall has significantly diminished since the Local Plan was adopted. However, this is not relevant to strategic B8 development.
- 2.28 As stated in paragraph 5.5 of the Local Plan, the Leicester and Leicestershire Strategic Distribution Study (SDSS) (2016) identified the need for 361ha of strategic B8 uses across the FEMA in the period to 2031 but it did not articulate the distribution for each district. Paragraph 8.26 refers to the potential need for North West Leicestershire to accommodate additional employment land which might be redistributed from elsewhere, with this to be addressed through the review process and/or through Policy Ec2(2).
- 2.29 GL Hearn was commissioned in early 2020 by Harborough District Council (on behalf of the relevant authorities across the FEMA) to prepare a study to better understand warehousing and logistics requirements. This study will replace the 2014 and 2016 SDSS, and will identify the need/requirements to 2041 and 2050, to inform plan-making and supplement the Strategic Growth Study. We understand that this study is due to be published in summer 2020 and will provide an important piece of evidence for the substantive review. We therefore suggest that this piece of evidence be explicitly referenced in the revised Policy S1 wording.
- 2.30 Given that the Local Plan does not provide a requirement for strategic B8 uses, it is critical that Policies Ec1 and Ec2 remain in force to allow B8 market requirements to be delivered whilst assessments of strategic and local employment need and supply are undertaken through the substantive review.

Turley