



NORTH WEST LEICESTERSHIRE LOCAL PLAN PARTIAL REVIEW EXAMINATION MATTERS AND ISSUES FOR EXAMINATION DAVIDSONS DEVELOPMENTS LIMITED



North West Leicestershire Local Plan Partial Review Examination Matters and Issues for Examination

Hearing Statement

Davidsons Developments Limited

Legal Requirements and Procedural Matters

Introduction

- 1.1 These responses to the Inspectors' Matters and Issues Questions have been prepared by Bidwells LLP on behalf of Davidsons Developments Limited who are promoting land interests in Ibstock, Leicestershire.
- 1.2 For the avoidance of doubt, we have only included responses to questions that are relevant to the representations previously made by Davidsons Developments Limited. We have not responded to issues and questions that do not relate to our clients' land interests. Issues 1 and 2 are both contained within this Statement.
- 1.3 Our client objects to the partial review as it fails to address the shortcomings of the Local Plan. Furthermore, the proposed amendments to Policy S1 would result in there being no consequence for failing to prepare the Substantive Review. Measures must be put in place to ensure that sufficient provision is made for the economic and social growth of North West Leicestershire. Our client also objects to the wording of the policy which states that the trigger for the Substantive Review is the 'agreed' Statement of Common Ground. Not only is the use of the word 'agreed' ambiguous, it means that NWL would be solely reliant on third parties. We suggest that the wording is amended to include the introduction of the revised Standard Methodology as well as a 'backstop' time limit to ensure that the Substantive Review can still progress if the Statement of Common Ground fails to materialise.
- 1.4 We welcome this opportunity to comment and commend the Inspector for continuing the Local Plan Partial Review under difficult and unprecedented circumstances.

Issue 1 – Have the relevant procedural and legal requirements been met, including the duty to co-operate?

Question 1: 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

- 1.6 There is an established connection between the Leicester and Leicestershire Housing Market Area (L&LHMA) and the authorities have worked collaboratively on the Leicestershire Growth Plan and the Housing and Economic Development Needs Assessment (HEDNA) (2017). Despite this longstanding relationship none of the authorities within the L&LHMA are able to fully identify their housing numbers because the split of the Leicester City unmet need is yet to be divided between the HMA. The HEDNA was published some 3 years ago and as such sufficient time has passed to identify and distribute the housing requirement for the HMA. It is therefore not possible to say that the engagement has been constructive in the preparation of the Partial Review.
- 1.7 To fully meet the legal requirements of the Duty to Co-operate, the Council must engage on a constructive, active and on-going basis with the other local authorities within the HMA to maximise the effectiveness of plan making. A key element of a Local Plan Examination is ensuring that there is certainty, through formal agreements, that an effective strategy is in place to deal with strategic matters. At present, the Plan review would not fulfil this criterion as it fails to demonstrate that effective joint working on cross boundary strategic matters has been achieved and instead defers the issues to a later date. This is contrary to the National Planning Practice Guidance (NPPG) (ID 61-020-20190315) which advises local authorities to have a Statement of Common Ground (SoCG) available on their website by the time the Draft Plan is published to ensure there is transparency on the position of joint working with other LPAs. The SoCG is not signed or up to date as it fails to acknowledge the Leicester City unmet need.

Question 1a: What are the key outcomes from the co-operation with neighbouring authorities?

- 1.8 There has been very little outcome from the co-operation with neighbouring authorities. The SoCG is dated November 2019 but fails to include the Leicester City numbers that were released in the Leicester City Council Select Committee Report dated 28 November 2019. The NPPG states that a Statement of Common Ground (SoCG) needs to be updated to reflect the current situation (ID: 61-020-20190315). The SoCG has clearly not been updated. The SoCG should be a meaningful document that reflects the current position and provides certainty to all of the participating authorities, in its current state it fails to do this.

Question 2: Is the Sustainability Appraisal of the Partial Review suitably comprehensive, and has it sufficiently evaluated reasonable alternatives?

- 1.9 This issue was not discussed in the Regulation 19 consultation.

Question 3: Has the Partial Review been prepared to comply with the adopted Statement of Community Involvement, and meeting the minimum consultation requirements set out in the Regulations?

- 1.10 This issue was not discussed in the Regulation 19 consultation.

Question 4: Has the Partial Review been prepared in accordance with the Local Development Scheme?

- 1.11 This issue was not discussed in the Regulation 19 consultation.

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

Question 1: 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?

- 1.12 The Inspector of the North West Leicestershire Local Plan (NWLLP) clearly stated that policy S1 is required to make the Local Plan sound. It was put in place to address the uncertainty of the housing and employment requirements at the time of the original examination. It stated that the review of the Local Plan should be submitted for examination by February 2020, it is also clear that this should be a substantive review rather than a partial review.
- 1.13 While it is acknowledged that the delays in the Substantive Review are partly out of the control of the Council, the approach taken within the Partial Review does not meet the Inspectors requirements for a full review of the Local Plan as set out in Policy S1. The Partial Review simply proposes to remove the critical text within Policy S1 which requires submission of a Local Plan Review by February 2020 to prevent the adopted Plan being deemed out of date.
- 1.14 The text within the revised Policy S1 is ambiguous as there is no agreed timetable or backstop date proposed. Linking the timetable to the SoCG also means that it is at risk of further delay if the L&LHMA are unable to reach an agreement on how the Leicester City unmet need is distributed.

Question 2: 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?

- 1.15 Paragraph 35 of the National Planning Policy Framework (NPPF) states that to be found sound, Plans must be positively prepared. To be positively prepared, as a minimum, they should seek to meet the area's objectively assessed needs (OAN) (as set out in paragraph 60 of the Framework). The OAN should be informed by agreements with other authorities. This is not the case for NWLDC. The SoCG has not been completed or agreed.
- 1.16 The Local Plan was adopted on the 21 November 2017. Policy S1 states that NWLDC will commence a review of the Local Plan within 3 months of the plan being adopted and it will be submitted for adoption within two years from the commencement of the review, i.e. February 2020. The review was required due to the uncertainty over the level of development required to meet the needs of the L&LHMA. It is important to note that the HEDNA was published during the Local Plan examination and although the Inspector held additional sessions on its impact, the Local Plan was not prepared with consideration to HEDNA. Policy S1 was introduced as a way for the Inspector to find the plan sound while ensuring that it was reviewed almost immediately to

fully consider the HMA requirements. It therefore follows that the Local Plan should not be consisted up to date if a full review of the Local Plan is not submitted by February 2020. This partial review does not deal with the fundamental shortcomings of the Local Plan and fails to fully address the housing requirements for the district, as such the Local Plan can not be considered up to date.

- 1.17 Since the adoption of the Local Plan, the Standard Methodology for calculating housing requirements has been introduced. In the NWLDC report to Cabinet held on 16 July 2019, the Council states that the outcomes from the 2016 household projections results in a higher housing requirement of 529 dwellings rather than 379 dwellings when using the 2014-household projections. The next household projections will be published in autumn 2020 based on the 2018 household projections. The report to cabinet therefore concludes that:

"It is reasonable to assume, therefore, that the housing requirement (irrespective of any unmet need from Leicester City) will be higher than those derived from the 2014-household projections, but it is not clear as to what this is likely to be."

- 1.18 Paragraph 33 of the NPPF notes that the early review of a Plan is required if "local housing need is expected to change significantly in the near future". With no amendment of the OAN, it brings into question whether this review has been positively prepared and whether it fails to provide a strategy which will meet the areas OAN and the unmet need from neighbouring areas.
- 1.19 As such, without amendment, the Local Plan is not sufficient to meet the requirements of the inspector when applying Policy S1 nor is the Local Plan considered to be sound because it has not been positively prepared. In order to address the uncertainty in the housing requirements for the L&LHMA, a more cautious approach should be taken as a minimum.

Question 3: 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?

- 1.20 If Policy S1 was retained in its current form the Local Plan would be considered out of date. The Inspector for the examination for the Local Plan made it clear that a Substantial Review would be required. The partial review takes a materially different approach to that outlined by the inspector as well as the premise of the previous consultation stages. The review was required because the Local Plan was effectively out of date as soon as it was adopted because it failed to plan effectively for the district's development needs. The Partial Review acts only as a buffer and therefore temporarily shields the district from the consequences of the out of date plan. As such the Local Plan Partial Review cannot be seen to be planning positively for growth and as such it cannot be considered to be sound.
- 1.21 Notwithstanding this, many of the Local Plan policies are consistent with the NPPF and should therefore be retained.

Question 4: What, if any, are the consequences of Leicester City Council having provided a very initial indication of unmet need for housing and employment?

- 1.22 The provision of the indicative housing numbers for the Leicester City Council are helpful in terms of understanding the quantum of housing that is required, however this does not provide any indication of the number of houses that NWLDC would need to provide. It is impossible to understand how much development each of the councils in the HMA are able to take. The housing numbers are therefore only indicative and the SoCG is required to see the full picture of housing requirements in the HMA. Work should have already started in earnest to ascertain the impact on each authority in the HMA area and this should be clearly established in the SoCG.

Question 5: 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?

- 1.23 Policy S1 is not consistent with other policies in the Local Plan because it fails to plan positively for the required development in the L&LHMA. For the reasons outlined above, the housing numbers need to be increased. This will allow for the unmet housing numbers of Leicester City and any change that will result from the Standard Methodology calculations.

Statement of Common Ground and Timing of Submission of a Replacement Local Plan

Question 6: 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?

- 1.24 Linking the trigger of the Local Plan Review to the SoCG is consistent with other authorities in the L&LHMA including the Harborough Local Plan 2011-2031 (Policy IMR1), Melton Local Plan October 2018 (Policy SS6) and the Borough of Oadby and Wigston Local Plan (Policy 47) however each of these policies contain further ‘backstop’ guidance should no SoCG be achieved. Policy S1 would have too much uncertainty and ambiguity without being amended to ensure the timeframe for the substantial review is clearly outlined. This is certainly the case now that the unmet need for Leicester City has been identified.
- 1.25 There has already been significant delays in the identification of the Leicester City Housing numbers. Linking the Local Plan review solely to the SoCG means that NWLDC would be wholly reliant on all of the L&LHMA agreeing the SoCG, given the level of delay that has already been experienced this would lead to too much uncertainty in the process and on its own provides little reassurance that progress would be made on the revised Local Plan. Getting each authority to agree to additional development to meet the unmet need will be a lengthy and contentious process.
- 1.26 The NPPF states that standard methodology should be used to identify housing needs, it is however anticipated that the standard methodology test will be amended this year. Given the uncertainty over the Housing Delivery Test, this should also be seen as an appropriate trigger for the review of the Local Plan, and wording outlining this should be included within Policy S1 stating that the review should be triggered as soon as the revised standard methodology is introduced.

Question 6a: What is meant by ‘agreed’ in the wording of Policy S1, and is it sufficiently clear what is meant by it within the policy?

- 1.27 The word ‘agreed’ in Policy S1 is not clear as it can have many meanings. The wording should therefore be more explicit. To be considered sound, Policy S1 should be amended to clearly outline a definitive backstop date for the adoption of the Local Plan. Paragraph 16d of the NPPF (2019) states that policies should be clearly written and unambiguous, in its current form, we do not consider that this policy meets those requirements.
- 1.28 By retaining the text in Policy S1 referring to if the Local Plan becomes out of date, it would enable the timeframe of the Local Plan to be maintained and ensure NWLDC remain accountable for their Local Plan deadlines. This is similar to the approach taken by the Melton, Harborough and Oadby and Wigston authorities.

Question 6b: 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?

- 1.29 As discussed above, work on the substantive review should be undertaken as a matter of urgency and it should not solely rely on the SoCG.
- 1.30 Given the uncertainty in timings for the SoCG, it would be dangerous to rely solely on the agreement of the SoCG. Measures should be put in place to ensure that the Local Plan does not become out-of-date if Leicester City Council fail to progress their Local Plan in a timely manner or if the SoCG is not agreed by all of the authorities.
- 1.31 Notwithstanding the progress of the Substantive Review, in its current form, NWLDC would not face any consequences if there were further delays in the preparation of their Local Plan.
- 1.32 It would appear that there is some discrepancy between the proposed timescales for the Substantive Review and the wording in Policy S1. The proposed timetable for the Substantive Review of the Local Plan is submission by Autumn 2021 whereas Policy S1 currently states that it would be 18 months from the agreement of the SoCG. Leicester City have recently announced that due to the Coronavirus outbreak, there has been a delay to the preparation of their Local Plan and it would be unsurprising if other authorities had similar delays as resources are directed to more urgent matters. Even without the pandemic it would seem unrealistic that the SoCG would be agreed in the next couple of weeks and as such there is little chance that the Substantive Review will be submitted by Autumn 2021.

Question 6c. Is the timescale of 18 months for the submission of the replacement Local Plan justified, if not what would be an appropriate timeframe?

- 1.33 The Harborough Local Plan, Oadby and Wigston Local Plan and the Melton Local Plan all state that they will start their Local Plan reviews within 6 months from the adoption of a Memorandum of Understanding or SoCG. A timeframe of submission of the revised Local Plan within 18 months is therefore considered appropriate and in keeping with the neighbouring authorities. By aligning the NWLDC Plan with the neighbouring authorities, it will ensure that it remains in the interests of all of the L&LHMA authorities to ensure their plans are up-to-date and development within the area will not be unnecessarily delayed.
- 1.34 Work on the Substantial Review should be undertaken without delay and work should have already begun in earnest to ensure that the review is undertaken as quickly as possible while ensuring that the correct consultation process is undertaken. Notwithstanding this, it is vital that work on the evidence base continues to ensure no further delay.

Question 7: Are there any other emerging Local Plans or other plans such as the Strategic Growth Plan, which have the potential to impact on the Statement of Common Ground outcomes or the replacement Local Plan?

- 1.35 The Leicester and Leicestershire Strategic Growth Plan (SGP) is a non-statutory plan covering the period 2011-2050. 'The Gateway' is identified within the SGP as a large development of approximately 11,200 dwellings split between NWLDC and Charnwood District Council this would lead to around 5,200 dwellings in NWLDC. Given the plan period covered by the SGP, this development should be considered within the Local Plan, in as much as the Local Plan should not preclude the development coming forward, however no detailed provision is required at this point in time and as such this change in circumstance does not impact at this point in time. The SGP does however provide a useful collaboration between authorities and ensures that infrastructure requirements for the HMA are implemented. It is therefore an important consideration for the Local Plan. Notwithstanding this, should the weight of the SGP change, it would be appropriate to review the Local Plan and as such it may be prudent to include it within one of the trigger points for a Local Plan review within Policy S1.



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