

Gladman Developments Ltd
North West Leicestershire Local Plan Examination

Matter 1
Legal Compliance and Future Plan Review



December 2016

1 LEGAL COMPLIANCE AND FUTURE PLAN REVIEW

1.1 Is the Plan legally compliant with respect to:.....

(v) the provision of the 2004 Act and Local Plan Regulations 2012 (as amended) for the preparation of the Plan

(vi) national policy (subject also to consideration under further matters below)?

- 1.1.1 Gladman has a fundamental concern with the North West Leicestershire Local Plan as it is considered to be in direct conflict with the National Planning Policy Framework (hereafter 'The Framework').
- 1.1.2 Paragraph 14 of the Framework states that Local Plans should meet objectively assessed needs with sufficient flexibility to adapt to rapid change, whilst the Core Planning Principles set out at paragraph 17 clearly outline that every effort should be made to objectively identify and then meet the housing, business and other development needs of an area.
- 1.1.3 In addition, paragraph 158 of the Framework states that each Local Planning Authority (LPA) should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects for their area.
- 1.1.4 It is clear, with reference to the above, that the current North West Leicestershire Local Plan is not in compliance with the Framework as it is based on out-of-date evidence contained in the 2014 Strategic Housing Market Assessment (SHMA) which itself utilises the 2012-based Subnational Population Projections and 2012 DCLG Household Projections.
- 1.1.5 This is a critical failing of the Plan is that North West Leicestershire have taken the conscious decision to submit a Plan for Examination which they know is out-of-date. The Joint Statement by the Leicester and Leicestershire Authorities – October 2016 (EX/04) states that the Leicestershire partner organisations all recognise the need to have up-to-date Local Plans in place. However, the approach North West Leicestershire has taken in progressing a Plan based on out-of-date evidence, is completely contrary to the agreed joint statement.
- 1.1.6 The Council have been aware of the inadequacy of their current housing needs evidence and the need to update this for a considerable amount of time. Gladman provided detailed evidence on housing needs to the Council in representations to the Draft Local Plan in November 2015. In addition, a Decision Letter (DL) for Land south of Greenhill Road, Coalville (APP/G2435/W/15/3005052) was issued in January 2016 which contained a detailed consideration of the very same evidence on Full Objective Assessment of Need (FOAN) in North West Leicestershire in paragraphs 11 to 33 (EX/13). In the DL, the Inspector comes to the conclusion that for the purposes of the Inquiry, he considered the FOAN to be 637 dwellings per annum (dpa),

considerably above the Council's housing requirement being forwarded in the Local Plan of 520dpa.

- 1.1.7 In coming to his conclusion, the Inspector also found the following flaws with the 2014 SHMA:
- a. The 2014 SHMA is not the FOAN and does not adequately address the economic forecasts now relied upon by the Council (para 25);
 - b. The 2014 SHMA is therefore out-of-date and should be recalculated to take account of the latest economic projections (para 26);
 - c. The figure of 535 dwellings per annum (now 520 dpa) has not been robustly derived; (para 26);
 - d. The appellants FOAN analysis is reasonable and robust and in the absence of clarity on the Council's FOAN it must be preferred (para 28);
 - e. The adjustment made to the household projections is justified because of worsening affordability and the level of concealed households (para 29);
 - f. The 10-year migration analysis is not unreasonable as it represents a more stable long term view (para 30); and
 - g. An adjustment is required to the FOAN to take account of jobs growth identified in the Public and Corporate Economic Consultants Leicester and Leicestershire Employment Land Study 2013 and the East Midlands Gateway (EMG) which would raise the average annual housing need to 534-739 dwellings per annum;
- 1.1.8 The Council has subsequently ignored both the representations made to them and the ratification of that assessment through the appeal, instead choosing to continue their reliance on the out of date SHMA and to pursue a housing requirement of 520 dpa. On the clear conclusions of the Inspector as set out above and the fact that the current SHMA evidence is fundamentally flawed, it is considered that the examination into the North West Leicestershire Local Plan should be suspended until the findings of the updated SHMA (HEDNA) are known.
- 1.1.9 In addition to the above, the jointly commissioned HEDNA was, according to the Duty to Co-operate Background Paper – September 2016, was due for publication in September 2016.
- 1.1.10 This timeframe has now slipped considerably with the Joint Statement - October 2016 (EX/04) confirming that the publication of the HEDNA is now not anticipated until the end 2016/early 2017. A replacement Memorandum of Understanding (MoU) between the Leicester and Leicestershire authorities will then be required, although there is no agreed date by which this MoU will be completed. The reasons for this slippage are unknown however, given the length of time this work has been in progress it is somewhat surprising that no formal agreement has been reached and it has not been possible to publish the final version of the HEDNA.

- 1.1.11 It is considered that the Council has had ample time to complete the HEDNA assessment and therefore take account of the findings within the current North West Leicestershire Local Plan, thus avoiding the need for an early review of the plan which will, in itself, cause significant delay in delivering any additional housing need identified in the updated HEDNA. The inability of Leicester and Leicestershire authorities to prepare this evidence in an expedient and timely manner (the HEDNA was commissioned in February 2016), despite the authorities considering this to be a priority, is disappointing.
- 1.1.12 This has left the Inspector in a difficult position. The current evidence base for housing and economic need is clearly out-of-date and its appropriateness as the basis of the North West Leicestershire Local Plan has been further called into doubt through the findings of the Inspector in respect of the Greenhill Road, Coalville appeal (APP/G2435/W/15/3005052). The only conclusion to draw from this, is that there is no clear evidence of the up-to-date housing and economic needs within the Leicester and Leicestershire Housing Market Area or North West Leicestershire District.
- 1.1.13 Barton Willmore have updated the evidence that was considered at the Greenhill Road, Coalville appeal which is set out in detail in our response to Matter 3. The outcome of this update is that the Full OAN for North West Leicestershire is **between 687 and 727 dwellings per annum** (2011 to 2031).
- 1.1.14 The Submitted Plan is contrary to guidance contained in the Framework and renders the current Plan 'unsound' as it is not positively prepared, justified or consistent with national policy.

1.2 Is the Plan and its preparation compliant with the Duty to Co-operate (DTC) with prescribed bodies regarding cross-boundary strategic matters, including housing requirements in particular?

- 1.2.1 Whilst it is considered that the legal requirements of the DTC are likely to have been met, there is significant concern that the outcomes associated with the DTC have led to fundamental flaws in the North West Leicestershire Local Plan.
- 1.2.2 As set out above in the response to Question 1a(vi), it is considered that the Leicester and Leicestershire authorities have not acted with sufficient expediency in preparing and agreeing the outcomes of the HEDNA report in order for it to inform the current round of local plan reviews. In addition, North West Leicestershire have taken the issue one step further by seeking to prepare a plan based on the out-of-date 2014 SHMA in full knowledge that the completed HEDNA update is to be published imminently, according to the Joint Statement (EX/04).
- 1.2.3 This updated joint evidence base (HEDNA) is a critical part of planning for the future growth of the Leicester and Leicestershire area and will require further cooperation between the authorities to ensure that the full housing need identified is delivered across the HMA. The Council has stated in the Plan (para 5.9) that they did not wish to delay the publication of their plan to await the findings of the new SHMA. However, given the short period between the Examination of this plan (January

2017) and the anticipated delivery date of the new HEDNA (late 2016/early 2017), the Council would have been better placed to delay the plan so that it could take account of the new evidence.

- 1.2.4 If the new HEDNA shows that there is an increase in North West Leicestershire's housing need, above the level included in the current Plan, then this should have been incorporated within the current plan to avoid additional delays in the delivery of much needed housing while a review of the current plan is undertaken.
- 1.2.5 In addition, as North West Leicestershire's Plan has jumped the gun somewhat, before the new full housing need for the HMA is known, it will be more difficult for them to accommodate any potential unmet need from Leicester, or the other Leicestershire authorities that are identified in the HEDNA through the Duty to Cooperate, without significant delay.
- 1.2.6 Once again, the only logical conclusion of this approach is for the examination into the North West Leicestershire Local Plan to be suspended until the findings of the updated SHMA (HEDNA) are known.

1.3 Does Policy S1 of the Plan, with the MM1 proposed by the Council, make appropriate, justified and effective provision in current circumstances for early review of the Plan to take into account the conclusions, yet to be published, of the joint Housing and Employment Needs Assessment (HEDNA) and/or other research?

- 1.3.1 For the reasons set out above in response to Questions 1a(vi) and 1b it is considered that the only recourse available to the Inspector, given the fact that the evidence base for housing and economic needs is out-of-date and deficient, is to suspend the Examination until the findings of the updated SHMA (HEDNA) are known. This will provide the most efficient and expedient way to deal with the updated housing and employment needs evidence across the wider HMA and the implications for North West Leicestershire and its new Local Plan.
- 1.3.2 Whilst this would represent a short pause in the plan making process, it would ensure that the Local Plan that is finally adopted is compliant with the Framework, is based on robust and up-to-date evidence and deals with up-to-date housing needs in the district including meeting any unmet need from surrounding authorities.
- 1.3.3 If an early review clause were to be incorporated into the Plan, then this could introduce significant additional delay in the Plan making process exacerbating the issue of addressing unmet housing needs.
- 1.3.4 In these circumstances, under the proposed review Policy suggested in MM1, following the publishing of the HEDNA, there could be a delay of up to 12 months before a Local Plan review is even commenced. There is of course no definition of the term 'commenced' which could, in its simplest terms, mean beginning the collection of evidence. With a fair wind, it would be at least 3 years before any Local Plan review would be adopted. Added to the potential 12 months for the

Council to commence a review, this could lead to a four year delay before any additional housing and employment needs are met. This would be significantly longer than any delay caused by pausing the Local Plan Examination until the outcomes of the HEDNA are known.

- 1.3.5 However, should the Inspector conclude that a review clause is the only option available to him to resolve the issue that the housing and employment needs evidence is out-of-date, it is suggested that the review mechanism is far more robust and set within a definitive timescale.
- 1.3.6 The current review policy simply states that a review will be commenced within 12 months. There is no end date set for when this review will be completed and therefore this could lead to a considerably lengthy local plan review process. This would mean significant delay in meeting any increased housing needs in the district. Any review clause should therefore be based upon an end date which is in the control of the LPA i.e. the date of submission of the Local Plan review.
- 1.3.7 This approach would provide certainty that any increase in housing or economic need identified by the HEDNA would be addressed in an expeditious manner. Review policies have to be treated with a degree of caution as there are examples of other authorities where, despite their Local Plans including review policies, significant delays associated with Local Plan progress have occurred. This has included Local Plans in the following locations as examples:
- (1) **Wiltshire Core Strategy (2015)** - the adopted Core Strategy states that a partial review will be adopted in 2016. No significant progress made to date.
 - (2) **Staffordshire Moorlands Core Strategy (2014)** - Policy SS2 states that the Council will undertake and complete an early and comprehensive review of the Core Strategy by 2016 – No significant progress has been made to date.
- 1.3.8 These examples go to highlight the importance of a suitably worded policy which compels the LPA to complete a review for submission by a specific timeframe. This will ensure that any unmet housing needs are addressed as quickly as possible in line with the Government's commitment to tackling the housing crisis.