

Gladman Developments Ltd
North West Leicestershire Local Plan Examination

Matters 9 and 10



December 2016

9 ENVIRONMENTAL AND HERITAGE

a. Do Policies En1-4, En6 and He1-2 make appropriate provisions for the protection of recognised environmental, ecological and heritage interests in accordance with national policy? [BP/10, BP/11]

9.1.1 Gladman have specific concerns regarding whether policies En6 and He1 make appropriate provision for the protection of recognised environmental, ecological and heritage interests in accordance with national policy.

Policy En6 – Land and Air Quality

9.1.2 Gladman do not consider that Policy En6 makes appropriate provision for the protection of recognised environmental interests in accordance with national policy.

9.1.3 The policy as worded covers a wide range of issues that should be dealt with in separate policies.

9.1.4 A policy should be included in the Local Plan on Air Quality and this should be drafted based on Paragraph 124 of the Framework. This requires planning decisions to ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan. This is not outlined in the policy.

9.1.5 At part b) the policy states;

“Appropriate mitigation measures are identified which avoid any adverse impacts upon the site or adjacent areas, including groundwater quality.”

9.1.6 Similarly, the policy text follows on to read;

“Development should avoid any adverse impact upon soils of high environmental value (for example wetland and other specific soils) and ensure that soil resources are conserved and managed in a sustainable way.”

9.1.7 At paragraph 109 of the Framework, there is a requirement to prevent both new and existing development from contributing to or being put at *“unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability”*.

9.1.8 The prevention of “unacceptable risk” is not the same as avoiding “any adverse impact”. It is clear that a policy which seeks to avoid any adverse impact on air quality or soil or noise pollution cannot be framework compliant and is inconsistent with national policy. As the text is drafted in this manner, it is considered to be unsound and therefore cannot be considered to make appropriate provision for the protection of environmental interests.

- 9.1.9 Gladman consider there should also be separate policies including in the Local Plan on Land Quality and Noise, the latter of which is commented upon in the supporting text at paragraph 10.49 and within the policy but is not mentioned in the policy text title.

Policy He1 – Conservation and enhancement of North West Leicestershire’s historic environment

- 9.1.10 Gladman do not consider that Policy He1 makes appropriate provision for the protection of recognised heritage interests in accordance with national policy.

- 9.1.11 Policy He1 part d states;

“Demonstrate a clear understanding of the significance of the heritage asset and of the wider context in which the heritage asset sits, and that it would not result in harm to the heritage asset or its setting;

Where harm results a clear convincing justification for any works is required.”

- 9.1.12 This is not in accordance with national policy. The Framework considers different approaches are required dependent upon the level of harm.

- 9.1.13 Paragraph 133 outlines that where a proposed development will lead to substantial harm or a total loss of significance of a designated heritage asset, LPAs should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Whereas paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits, including securing its optimum viable use.

- 9.1.14 It is considered that Policy He1 should make a distinction between the two tests included in the Framework for designated heritage assets to ensure it is sound. Part 2 of Policy He1 adequately covers the different policy balances when considering the level of harm to designated heritage assets therefore part d is not required and should be deleted.

- 9.1.15 Part 4 of Policy He1 relates to non-designated heritage assets and should reflect the guidance given in paragraph 135 of the Framework. This states that a “balanced judgement” will be required having regard to the scale of any harm or loss and the significance of the non-designated heritage asset. Gladman consider that as worded this part of Policy He1 is not in accordance with national policy and consequently does not make appropriate provision for the protection of non-designated heritage assets.

Additional Comments

- 9.1.16 To ensure that the Local Plan is in accordance with national policy, some amendments to wording of the supporting text for certain policies is also required.

- 9.1.17 Paragraph 10.5 outlines that;

“The Government has declared its intention to give local communities the power to designate green spaces valued by local people, local green spaces are a way to provide special protection against development.”

- 9.1.18 Whilst this is technically true, to be consistent with paragraph 76 of the Framework, this statement should finish with the statement “other than in very special circumstances”. This ensures that the wording mirrors that of the Framework and doesn’t emphasise a protectionist approach.
- 9.1.19 Further to aid the clarity of Policy En2, it would be useful for the supporting text to reference the meaning of integrity of the River Mease Special Area of Conservation. This is outlined in Background Paper 11 at 5.1 as; *“The high levels of phosphorous were identified as representing a threat to the ability of the river to support its internationally important features in a sustainable way (referred to as the “integrity” of the SAC in the Regulations).”*
- 9.1.20 Integrity is not defined in the glossary of the Local Plan or within the supporting text, however a reference to its definition would aid in understanding of the policy. This could be as simple as a line outlining that it is defined in the Regulations.

10 IMPLEMENTATION AND MONITORING

b. Does the Plan make appropriate provision for the monitoring of its implementation?

- 10.1.1 Whilst the Local Plan does include a policy which outlines the approach to monitoring alongside a monitoring framework (Appendix 5 of the Local Plan), Gladman consider that the policy does not offer an appropriate mechanism for monitoring the Plan’s implementation or appropriately define the actions required based on the results of the monitoring.

Policy IM1: Implementation and monitoring of the Local Plan

Criterion 1

- 10.1.2 Policy IM1 criterion 1 includes reference to; *“the preparation of Supplementary Planning Documents as required to provide additional guidance in respect of specific policies in the Local Plan”*. Gladman wish to emphasise that paragraph 153 of the Framework states that;

“Supplementary planning documents should be used where they can help applicants make successful applications or aid in infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.”

- 10.1.3 Therefore, the Council should keep this in mind when creating their SPDs to ensure that their implementation is appropriate.

Criterion 2

- 10.1.4 Criterion 2 of Policy IM1 states that;

“The Council will monitor the policies of this Local Plan annually (as at 31st March of each year). An Annual Monitoring Report (AMR) will be published by 31 December of each year.”

- 10.1.5 The supporting text states that *“the majority of indicators will be monitored annually”*. This contradicts the policy text. Gladman consider that to ensure consistency, it would be appropriate to amend the policy text to reflect that some indicators will be monitored once the relevant data is made available.

Criterion 3

- 10.1.6 Gladman consider that Policy IM1 criterion 3 should be amended to include triggers which set out specifically when the Council consider delivery rates to be falling short. This would improve the clarity of the policy and help to ensure it is effective in providing an appropriate and specific monitoring criterion.

- 10.1.7 At present, there is no indication in the policy of what level of shortfall is required before actions to remedy the issue are taken.

- 10.1.8 The types of triggers that could be incorporated include stipulating that where delivery in any one year falls to below 80% of the housing requirement or where the housing land supply situation falls to below 5.25 years, then the Council would seek to take action based on the bullet points under criterion 3. These types of triggers would allow the Council to address any potential shortfall in housing delivery early, before the housing land supply drops below 5 years and the LPA loses an element of control over development as a result of the engagement of Paragraph 14 of the Framework.

- 10.1.9 The current wording of criterion 3 does not make appropriate provision for monitoring the implementation of the Local Plan with regard to considering the Council’s housing land supply position and the subsequently required actions.

Criterion 4

- 10.1.10 Criterion 4 of Policy IM1 outlines that where additional housing sites need to be brought forward *“initial priority will be given to those sites identified within the most recent Strategic Housing Land Availability Assessment (SHLAA) and having regard to the settlement hierarchy set out in Policy S3.”* This essentially introduces a sequential element to bringing sites forward when additional housing sites are needed to meet or exceed the housing requirement.

- 10.1.11 There is no indication within the Local Plan about whether the SHLAA is intended to be updated on a regular basis to ensure that the information remains up-to-date and includes a review of all the sustainable sites in North West Leicestershire.

- 10.1.12 The sequential approach is further defined with text stating; *“Sites not included in the SHLAA will only be supported where there are no sites within the SHLAA which are capable of contributing to supply in the next 5 year period and which accord with the settlement hierarchy.”* This clearly restricts the ability of sustainable development, which may not have been assessed in the SHLAA to come forward. This

approach is clearly inconsistent with the Framework which promotes sustainable development and requires LPAs to “boost significantly the supply of housing” and is therefore not appropriate.

- 10.1.13 Furthermore, introducing a sequential test may add a significant delay to addressing the housing shortfall as sites that are included in the SHLAA may not be available at that particular time. This further restricts the ability of the Council to identify and maintain a five year housing land supply and thus is inconsistent with the requirements of the Framework.
- 10.1.14 Therefore, Gladman consider all reference to the SHLAA should be removed from Policy IM1 to allow for an appropriate mechanism to be actioned where there is a housing shortfall.