



NORTH WEST LEICESTERSHIRE LOCAL PLAN EXAMINATION

STATEMENT ON BEHALF OF WILLIAM DAVIS LIMITED

MATTERS 1B AND 1C – LEGAL COMPLIANCE ON FUTURE PLAN REVIEW

Introduction

This statement provides further written evidence to be discussed at the Local Plan Examination commencing on 5 January on behalf of William Davis Limited relating to matters 1B and 1C in the schedule of matters for discussion. They build upon the views expressed in the representations letter dated 10 August 2016 and respond to more up to date material produced by the Council, particularly the recent proposed modification to Policy S1.

The issues of legal compliance in William Davis' view also relate to the position the Council takes in relation to Policy En5 – the subject of matter 8 in the examination programme. A separate statement has been submitted on certain aspects of Policy En5 by DEFINE which should be read alongside those parts of this statement that deal with the issue of soundness with particular regard to Policy S1 and how that affects the allocation of areas of separation in the context of the housing land requirements and supply position.

Recent Modification to Policy S1

The main criticism which William Davis made of the Plan on these issues in its August 2016 letter was that the Plan was neither soundly based nor complied with the duty to co-operate over cross boundary issues because the housing land requirements calculations have not reflected the up to date Housing and Employment Needs Assessment (HEDNA) being prepared by the Leicester and Leicestershire HMA authorities. William Davis is not suggesting there has not been co-operation but the authorities concerned should have ensured that the report was made available in the finalisation of particularly the housing land requirements in the North West Leicestershire Local Plan. We understand that the report may be completed in draft form but its results have not been made available. There is no reason in our view why the draft conclusions should not be made known.

The modification to Policy S1 suggests that in effect there is a 'policy' to potentially carry out an early review of the Local Plan should the results of the HEDNA justify it. William Davis, like others in the development sector, is concerned that this policy gives the Council the ability to decide whether it needs to do a Local Plan review or not. There is no requirement for that to be done.

Given the imminent nature of the results of the HEDNA for reasons set out below, William Davis considers that the Inspector should consider recommending two options:

1. That the Council provides as soon as possible a position statement relating to the results of the HEDNA which are considered by the Inspector and other parties who have made representations. The Inspector then makes a recommendation as to whether the Plan in its current form is further modified to reflect up to date housing requirements. This process is not unusual where Local Plans are found unsound and Councils are asked to consider identifying additional housing sites which are then put forward as modifications. It may be the case in any event that the Inspector may conclude the Council needs to increase its housing requirement figures which would also give time for the HEDNA conclusions to be known and factored in.

2. The Inspector retained modified Policy S1 but inserted a number of definitive criteria that would require the Council to review the Local Plan in certain circumstances – particularly relating to the level of additional housing requirement in the HMA that may come forward through the HEDNA. The principle of identifying such criteria has recently been put forward in Birmingham. However, the concern would still be that the Council would not have a legal requirement to review the Plan.

Whatever the decision on policy S1 the Inspector is in any event recommended not to confirm proposals for the area of separation between Coalville and Whitwick as this policy relates to the supply of housing. If additional housing needs are required policy En5 as worded would prevent additional housing land being allocated between Coalville and Whitwick. This would not be in accordance with the NPPF and the approach in the Richborough case.

Matter 1B

As set out above with specific regard to matter 1B, William Davis sees no reason why further co-operation on the matter of the publication of the results of the HEDNA should not be made known to inquiry parties and indeed to the public. In the time period that remains of the Local Plan process it will be possible to take the results of the HEDNA into account and as a minimum do not confirm the area of separation Policy En5.

The Inspector should also consider a situation where the authorities concerned may not agree with the implications or the provision of additional housing land through the HEDNA study. In this regard triggers may be put in place of a similar nature to those being recommended by the Inspector in a new policy (TP47 – see attached) – in the Birmingham plan. It is clear that criteria could be identified that would require a review of the plan in a similar way to the Birmingham situation. This could include matters such as the extent of additional housing requirement generated in North West Leicestershire and/or any disputes between authorities.

Matter 1C

William Davis does not consider that the modified Policy S1 makes either appropriate, justified or effective provision for an early review of the Plan as there is no obligation on the Council to do it nor a timeframe nor an outline of the circumstances in which a review would be carried out. If the Inspector was going to consider revising Policy S1 it will be useful to refer to the situation with Birmingham Core Strategy where certain parameters are proposed where a review would be carried out.

As it currently stands the position with regard to housing provision in the Local Plan before the Examination does not comply with the requirements of the NPPF in that the key requirements in paragraph 47 are not achieved by the Local Plan. Thus the points made in the August 2016 letter of representations to the Plan remain valid in that:

- The Plan does not meet full objectively assessed needs for market and affordable housing with particular regard to the post 2028 period and also because the 2014 SHMA is out of date and the more recent OAHN exercise is not based on the housing market area including North West Leicestershire as a whole.
- Without identifying an appropriate OAHN figure the Council cannot in the context of paragraph 49 demonstrate an up to date set of policies for the supply of housing.

In this latter regard the relevant sections of the Richborough case quoted in the position statement on matter 8 confirms that the policy for areas of separation is a policy relating to housing. Without an up to date OAHN figure it will be completely wrong for the Council to define areas of separation relating to one of the major settlements in the district as this would potentially prevent any new housing needs arising being accommodated on what would otherwise be a suitable housing site. The Council's response to the identification of the site in the SHLAA was that apart from the area of separation issue the site put forward at Stephenson's Green by William Davis would be suitable for housing.

William Davis also repeats its position that the OAHN figure in Policy S1 does not take account of how housing land supply should be calculated in relation to the NPPG guidance (see matter 3).

Reference	Page	Policy/ Section	Main Modification
			<p><u>10.12 Planning Obligations - such obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) will continue to be used as a mechanism to make development proposals acceptable in planning terms, that would not otherwise be acceptable. Section 106 agreements will continue to be used to secure affordable housing, and on site public open space in residential development, ensure the development or use of land occurs in specific ways; and require specified operations or activities to be carried out.</u></p> <p><u>10.13 Community Infrastructure Levy - the Community Infrastructure Levy (CIL) came into force in April 2010 and allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The CIL is a set levy based upon the type of use and floorspace proposed and provides a standardised method for calculating contributions. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres. The City Council is putting in place a CIL to support the delivery of the sustainable growth agenda set out in the BDP.</u></p>
MM84	144	Monitoring	<p>Add additional policy as follows:</p> <p><u>“Policy TP47 Monitoring and promoting the achievement of growth targets</u></p> <p><u>The City Council will monitor progress annually towards the achievement of the key targets for growth (housing, including affordable housing, employment, offices and retail) set out in policy PG1. In the event that the supply of land falls significantly behind that required to achieve these targets, the Council will undertake a full or partial review of the Plan in order to address the reasons for this.</u></p> <p><u>Key indicators which would trigger a review are:</u></p>

Reference	Page	Policy/ Section	Main Modification
			<ul style="list-style-type: none"> • <u>A failure to provide a 5 year housing land supply in any monitoring year with the following two monitoring years indicating no recovery in the position.</u> • <u>Housing completions fall more than 10% beneath the targets in the housing trajectory over any rolling three-year period.</u> • <u>A failure in any monitoring year to provide the minimum reservoir of best quality employment land with the following two monitoring years indicating no recovery in the position.</u> • <u>An inadequate supply of sites for offices to meet the targets set in the Plan.</u> • <u>An inadequate supply of retail sites to meet the targets set in the Plan.</u> <p><u>The Council will also play an active role in promoting, and monitor progress in, the provision and delivery of the 37,900 homes required elsewhere in the Greater Birmingham Housing Market Area to meet the shortfall in the city. This will focus on:</u></p> <ul style="list-style-type: none"> • <u>the progress of neighbouring Councils in undertaking Local Plan reviews to deliver housing growth to meet Birmingham’s needs.</u> • <u>the progress of neighbouring Councils in delivering the housing targets set in their plans.</u> • <u>the extent to which a 5-year housing land supply is maintained in neighbouring areas.</u> <p><u>If it becomes clear that progress is falling short of the level required, the Council will undertake a review of the reasons for this, and if this indicates that it is necessary to</u></p>

Reference	Page	Policy/ Section	Main Modification
			<p><u>reassess the capacity for housing provision in Birmingham, a full or partial review of this Plan will be undertaken.</u></p> <p><u>Key indicators which would trigger this are:</u></p> <ul style="list-style-type: none"> • <u>Failure of a relevant Council to submit a replacement or revised Local Plan, providing an appropriate contribution towards Birmingham’s housing needs, for examination within three years of the adoption of this Plan.</u> • <u>Failure of Councils within the Greater Birmingham Housing Market Area to maintain a 5 year housing land supply in any monitoring year with the following two monitoring years indicating no recovery in the position.</u> • <u>Housing completions within the Greater Birmingham Housing Market Area fall more than 10% beneath the planned targets in housing trajectories over any rolling three-year period.”</u> <p>Amend the following monitoring indicators:</p> <ul style="list-style-type: none"> • Policy PG1: “Net/gross dwelling completions <u>in the City Council area.</u> <u>Net/gross dwelling completions in other Council areas that contribute to meeting the City’s housing needs.”</u> • Policy PG3: <u>“No specific indicators – See indicators TP12 and TP29.”</u>