

Advice Note to North West Leicestershire Council

This note deals with questions raised regarding the timing of the submission of the Local Plan (LP) for North West Leicestershire. The relevant background is that the Council wish to minimise the risks of their LP being found unsound or premature given the experience of the Core Strategy which was withdrawn in October 2013. A significant factor in that withdrawal was the concern expressed by the Inspector that the Core strategy was not based on an up-to-date Strategic Housing Market Assessment (SHMA). The SHMA at that time dated from 2007/8 and was prepared in the context of an extant regional strategy for the East Midlands and was more concerned with the need for affordable housing than with overall housing requirements. At the time this was reasonable given the regional strategy but it was inadequate in 2013 in the light of the abolition of regional strategies.

A revised SHMA for the Leicester and Leicestershire Housing Market Area (HMA) was agreed by the authorities in the HMA in 2014. This SHMA identified a need for 350 dwellings per annum in NW Leicestershire over the period from 2011 – 2031. Unfortunately this SHMA is also out-of-date as it is based on the 2011 Sub National Population Projections (SNPP) which have now been overtaken by the 2012 projections. The Councils in the HMA are seeking to address this through the preparation of a Housing and Economic Development Needs Assessment (HEDNA) which is scheduled for completion in October 2016. The aim is to address both the need to take into account the latest demographic data and to link the assessments of housing and economic development needs.

A complicating factor is the proposed Strategic Rail Freight Interchange (SRFI) in the area. In the view of the Council this will have a significant impact on the need for housing in the area given that it is expected to generate around 7,300 jobs. Logically the Council considered that it should take this important factor into account in setting its housing requirement for the District. Consequently the draft LP consultation version of the LP (September 2015) included a proposed housing requirement for 535 dwellings pa (2013 – 2031). This figure was based on internal work by the Council officers but it is noted that there are now doubts about the reliability of this work.

Broadly speaking therefore there are doubts about the current SHMA figure because it is based on out-of-date SNPP and doubts about the uplift in housing numbers proposed in the September consultation document because of the reliability of the work done internally. To help resolve these doubts the Council has commissioned work by an independent consultant (Justin Gardner) to review the SHMA figure in the light of the 2012 SNPP and to reassess the housing implications of the SRFI. This work is incomplete but early indications are that the recommendation will be a housing requirement figure that is slightly less than the 535 dwellings pa put forward in the 2015 consultation document.

Timing options for the submission of the LP for examination are:

- 1) September 2016 following publication in June. This is currently the preferred approach presumably based on a housing requirement that is derived from the work currently being done by Justin Gardner
- 2) Delay until the HEDNA work has been completed – currently scheduled for October 2016
- 3) Delay until the HEDNA work has been completed and a MOU has been agreed by all of the authorities in the HMA - possibly in early 2017 but unfortunately with considerable potential for protracted discussions about how the growth in the HMA should be distributed

The Council is reluctant to delay because of the vulnerability on appeal of authorities without a plan in place and the Government's deadline of April 2017 for the submission of plans. However the Council is also conscious of the need to cooperate with other authorities in the HMA and there is the prospect of other authorities objecting to a LP submitted in advance of an agreed position based on the HEDNA.

The general context for the decision that the Council has to make is the Government's imperative to get plans in place as quickly as possible. Hence any decision to delay needs to be very fully justified. Clearly the safest approach is to delay until the HEDNA is completed and the authorities in the HMA have reached agreement about both the quantum of growth and how it is to be distributed. However this may take some time, possibly well into 2017. At best it will involve delaying publication of the LP until early 2017 with submission after April 2017. Given that the LP is close to being ready for publication and in the light of the urgent need to get a plan in place it is recommended that the Council should proceed with its proposed timetable for publication and submission.

Turning to the question of the risks involved I believe that these relate to the housing requirement set in the LP and the response to this requirement from other authorities in the HMA. In terms of the housing requirement there are two elements to consider. First the impact of using the latest SNPP. Technically this should be relatively uncomplicated and the Council can reasonably expect that the work now being done by Justin Gardner to be uncontroversial or at least not a significant problem for the other authorities in the HMA. Second the implications of the SFRI. This additional "policy on" element of the housing requirement is likely to be where problems arise if indeed they do arise. Adding an element of housing need on account of the SFRI is a reasonable approach. Quantifying this element will be challenging and there is no clearly established methodology for doing so. Consequently this is the area that is most vulnerable to challenge from other authorities. To try to mitigate this potential difficulty it is recommended that the Council should make every effort it can to get agreement with other authorities in the HMA about this element of the housing requirement before the LP is submitted for examination.

In the absence of agreement the Council will need to assess how significant the differences of opinion are and how robust it believes its case to be. A difference of opinion need not jeopardise the Council's intended timetable provided the Council considers that it has an arguable case to put to the examination. This case should be based on the two points. One, that the Council has done all it reasonably can to get agreement on this matter from other authorities, that it has shared its evidence with the other authorities and it has kept the other authorities fully informed throughout. In other words the Council has done all that can reasonably be expected of it in terms of the Duty to Cooperate. Two that there is no definitive answer to the implications for housing of the SFRI job creation and that the Council's assessment of the situation is at least as justified as anyone else's.

In summary my advice in relation to the bullet points in the Background Information note are as follows.

- Follow the course of action being suggested by publishing the LP in the middle of the year and submitting it for examination in the autumn.
- The Council should provide the Examination with a clear narrative of why it has proceeded in advance of the HEDNA. In my view the LP is unlikely to be found unsound on the grounds

that it should have been delayed to await the HEDRA provided this narrative is convincing and, importantly, provided the HEDNA (assuming it is available in October) does not result in significantly different figures for North West Leicestershire than those on which the LP is based. If there is a significant difference the Council will need to consider withdrawing the LP or run the risk of the Inspector either finding the LP unsound or adjourning the examination for the differences to be resolved if possible.

- There is little risk of the LP being found unsound on Duty grounds provided the advice above relating to working with other authorities in the HMA is followed.
- Delaying to seek a commitment appears reasonable but there must be doubt about the effectiveness of such an approach. The delay, even if minimised, is likely to result in the submission of the LP missing the April 2017 deadline. Furthermore it is hard to see how an agreed date can be established given the difficulties there may be in reaching a MOU. Having said that, such an approach would reduce the likelihood of the LP being found unsound in the event of the Council proceeding in circumstances where the agreed timetable is not met

Keith Holland
31/03/2016