

# NORTH WEST LEICESTERSHIRE CORE STRATEGY (CS) EXAMINATION

## NOTE OF EXPLORATORY MEETING

Held on Wednesday 25 September 2013 at 10.00am  
at Snibston Discovery Centre, Ashby Road, Coalville, LE67 3LN

### 1. Inspector's Introduction & Purpose of Meeting

- 1.1 The Inspector, Michael Hetherington, introduced himself and the Programme Officer, **Mr Ian Kemp**. He explained that Mr Kemp is acting as an impartial officer, under the Inspector's direction. He is the point of contact for queries about the examination.
- 1.2 The **Council's** team introduced themselves to the meeting: **Mr Steve Bambrick** (Director of Services), **Mr Ian Nelson** (Planning Policy Team Manager) and **Mr Colin Wilkinson** (Planning Policy Team).
- 1.3 The Inspector explained that he has undertaken a preliminary assessment of the Core Strategy (CS) and other submitted material and has identified a number of potentially serious concerns relating to the soundness of the document. These have been set out in letters to the Council dated 9 July 2013 and 25 July 2013 (available on the examination website). While these are not the full list of questions that he would wish to raise about the CS, they relate to matters that are particularly serious and threaten the soundness of the Plan as a whole.
- 1.4 As such, the Exploratory Meeting (EM) has been called in order to establish the best way forward. Part of the aim of the EM is to avoid the wasted time, effort and expense of all parties in continuing with the Examination as planned if it is likely that the Plan would subsequently be found unsound. However, this does not mean that the Inspector has determined the Plan to be unsound at this point. The Inspector clarified that the EM is not an opportunity to test the Council's evidence in detail or hear discussion of individual representations. Such matters are properly addressed in hearing sessions, should the examination proceed to that stage.
- 1.5 The Inspector ran through the possible outcomes of an EM, as follows:
  - where serious concerns appear unable to be rectified, the Inspector may invite the Council to withdraw the Plan;
  - the concerns are resolved at the Meeting and the Examination continues;
  - the Examination is temporarily suspended to enable further work to be carried out on the Plan; or
  - the concerns are not resolved but the Examination continues in order to examine issues in more detail, for example by holding one or more hearing sessions. This could potentially result in the Inspector inviting the Council to withdraw the Local Plan at a later stage or the issuing of a report stating that the Plan is unsound.In the present case the Inspector explained that he has already invited the Council to consider withdrawing the Core Strategy.

### 2. Inspector's Summary of Main Concerns

#### a. Assessing Housing Needs

- 2.1 The Inspector explained that the starting point in respect of this matter is the National Planning Policy Framework. Paragraph 47 of the Framework states to boost

significantly the supply of housing, local planning authorities should (among other matters) use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. Paragraph 159 requires that a Strategic Housing Market Assessment is prepared of the housing market area. Paragraph 182 includes the requirement that Local Plans should be positively prepared – i.e. based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

- 2.2 As set out in his previous notes to the Council, the Inspector raised concern that the 2007/8 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) does not appear to reflect recent market conditions and does not cover the full Plan period to 2031. In the absence of an up-to-date SHMA, it would be difficult to conclude that the CS meets the Framework's soundness requirements that a Plan should be justified and consistent with national planning policy. Indeed, such a finding is implied by the Council's acceptance (and suggested rewording of policy CS1) that a SHMA will now be prepared. Nevertheless, the Inspector emphasised that this is the wrong way round: the Plan should follow from the evidence.
- 2.3 The Inspector then briefly summarised the other concerns that he has raised on this matter
- While the Leicester and Leicestershire Housing Requirements Study (LLHRS) has informed the Plan's housing target figure it is on its own terms only one of a number of factors to be considered in setting a housing target.
  - The LLHRS suggested an overall target for the housing market area that was similar to (or higher than) the previous East Midlands Regional Plan (RS) requirement. Yet the Core Strategy is planning for a markedly lower rate of housing delivery than the RS. Taken together, these factors suggest concern that there may be a shortfall of provision in the housing market area as a whole.
  - This concern has been raised by a number of other planning authorities in the housing market area.
  - The Council's view in its response to the Inspector's first letter suggests that any shortfall should be accommodated 'elsewhere in the housing market area' (para 3.32). However, there is no agreement with other Councils on that point. It is therefore difficult to properly assess how the CS's housing proposals relate to the housing market area as a whole.
- 2.4 The **Council** drew the Inspector's attention to the significant changes in the planning policy environment since the Framework has been issued. Different Councils within the housing market area are at different stages in their plan preparation process: for example, the Blaby CS had been adopted earlier in 2013. While it is recognised that the projections upon which the Regional Plan was based are now out of date, the LLHRS was prepared in order to provide an updated, common and consistent evidence base within the housing market area. That document had been given significant weight in recent Section 78 planning appeals and by the Inspector in the Melton Core Strategy<sup>1</sup>. Nevertheless, an updated SHMA has been commissioned: the housing requirements elements of this will be available in February 2014, with the remainder in April 2014.
- 2.5 The Inspector commented that, in other examinations, it has proved possible to agree a temporary suspension in order to enable work to be carried out to update a SHMA. In principle, he would wish to take a pragmatic stance in order to enable an examination to proceed. However, such suspensions depend upon the particular

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<sup>1</sup> Reference was made to that Inspector's Preliminary Conclusions dated 11 April 2013.

circumstances of the Plan concerned. In the case of the present examination, the absence of an up-to-date SHMA should be seen in the context of his other concerns about the submitted CS.

**b. Housing Supply**

- 2.6 The Inspector noted that while the Council is experiencing a substantial shortfall in housing land supply<sup>2</sup>, no sites are allocated to address this. He suggested that this appeared contrary to the principle of a plan-led system set out in the Framework. The expectation is that Local Plans should seek to meet objectively assessed needs – that is what the Framework means by positive planning (para 182). If there is a shortfall of sites then the Council should consider allocating new ones.
- 2.7 The Inspector explained that the absence of provision for an adequate future supply of housing represents a major flaw in the Plan as submitted. It is difficult to see how this could be remedied in the context of the present Examination. The addition of specific site allocations at this late stage would, first, represent a substantial change from the submitted Plan and, second would require to be supported by relevant and robust evidence. These are not changes that can be made retrospectively. Indeed, these are decisions that should be made locally rather than coming forward as Inspector-led recommendations. The Inspector added that this concern was raised by his colleague who met with the Council on an advisory visit in August 2012.
- 2.8 The **Council** accepted that there was a housing land supply shortfall (its calculation was that it had 4.2 years supply available). The Inspector responded that the level of any shortfall would be a matter for discussion at any hearing sessions.
- 2.9 The **Council** pointed to the provision within the National Planning Policy Framework (paragraph 157) to identify broad locations for development. In its view, the Framework does not require allocations to be made. In the present case broad locations have been identified in order to provide certainty to developers. A substantial proportion of the Plan's housing requirement is accommodated within the identified broad locations. Significant progress has been made in bringing forward development within broad locations – both in terms of planning permissions granted and schemes currently in development (notably South East Coalville). Taking this into account, the scale of uncommitted development (estimated at some 750-800 dwellings) is comparatively small. As such, the broad locations are doing their job.
- 2.10 The Inspector commented that, on the evidence, the housing land supply shortfall remains: while this is the case, the Framework states (paragraph 49) that relevant policies for the supply of housing should not be considered up-to-date. It would be difficult to conclude that the CS was sound in such circumstances. Furthermore, in some cases the Council had not been able to resist development on sites outside identified broad locations (for example the Ashby appeal decision already referred to). Allocating specific sites would provide greater certainty for all parties.
- 2.11 The **Council** queried whether broad locations could be included within a five year housing land supply figure. The Inspector responded that this would depend on whether the site met the deliverability criteria set out in the Framework (paragraph 47, footnote 11). However, he felt that if a site needed to be brought forward in a subsequent allocations plan then this would (on grounds of timing and certainty) make it difficult to be considered within the five year land supply figure.
- 2.12 **Mr Tandy** (for Ashby Civic Society) raised concern about the position in Ashby. Over 500 unplanned houses had either been approved or were coming forward. This

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<sup>2</sup> Reference was made to an appeal decision at Land south of Moira Road, Ashby (ref APP/G2435/A/13/2192131).

resulted in a position where the reality of development was out of step with the aims of the Core Strategy. The Council responded that substantial housing developments (such as between Coalville and Whitwick) have been resisted on the basis of the approach set out in the CS.

- 2.13 **Ms Gosling** (local resident) accused the Inspector of bullying the Council. She raised concern about the scale of recent and proposed development: devastation has occurred and more fields will be destroyed. She invited the Inspector to view the areas concerned.
- 2.14 **Ms Granger** (for Ibstock Parish Council) agreed. In Ibstock, the Parish Council has tried to implement the aims of the Localism Act, but the District Council has not listened to them.
- 2.15 **Councillor de Lacy** (District Councillor for Ibstock and Heather) stated that Ibstock had already exceeded its planned figure for housing development. He feared a developer's 'free for all'.
- 2.16 **Mr Lees** (Pegasus Planning, acting for developers at South East Coalville) agreed that the CS should have made adequate provision for site allocations. However, we are where we are. The CS has already provided some focus and certainty for the South East Coalville proposals, which will deliver significant levels of development and infrastructure. If the Plan is abandoned, the housing land shortfall will continue. In his clients' view the Plan should not therefore be withdrawn.
- 2.17 The **Council** queried whether a shortfall from the District's overall housing needs assessment would require the allocation of sites. The Inspector's response was 'not necessarily': it was important to distinguish between the ongoing five year land supply and the broader issue of meeting objectively assessed housing needs through the Local Plan process. In summary, the latter exercise determines what housing target is set in the Local Plan – which then forms the basis for calculating the five year land supply figure. Paragraph 47 of the Framework requires that needs are met as far as is consistent with the policies set out in the Framework. It is therefore open to a Council to argue that there are valid reasons (consistent with the Framework) why local needs could not be met locally, although this would require to be demonstrated during the examination (where such assumptions might be challenged). Similarly, agreement might be reached for some local needs to be met in a different local planning authority area.
- 2.18 **Mr Pendle** (for Charnwood Borough Council) referred to PAS advice about identifying broad locations. He clarified that Charnwood BC's concern with the present CS relates to the issue of meeting objectively assessed needs: an objection has not been raised under the Duty of Co-operate.
- 2.19 **Mr Baxter** (local resident) raised concern about over-building in Ibstock. He queried how housing numbers were calculated locally in such circumstances. The Council clarified that completions and permissions were included in housing land supply figures.
- 2.20 **Mr Smith** (local resident) asked whether any written record existed of the advice emerging from the Planning Inspectorate's Advisory Visit in August 2012. Mr Nelson of the District Council explained that he wasn't sure but would endeavour to check.

**c. Duty to Co-operate (DTC)**

- 2.21 The Inspector recognised that while other Councils have raised concerns about the Plan's provision for new housing, they have not objected on the grounds of the DTC.

However, he still needs to consider whether the Council has satisfied this duty. It should be noted that this requires engagement to be constructive, active and on an ongoing basis. While the actions undertaken in the Council's DTC topic paper are understood, it is clear that a strategic approach to meeting housing needs within the market area is not in place. Indeed, substantial differences remain between the Council and several other authorities. As previously advised, failure to satisfy the legal DTC cannot be remedied. If the examination were to progress, the Inspector would start by holding a session on this matter: if that test is failed then there is little point in continuing further.

- 2.22 The **Council** advised that it has had further dialogue with other local planning authorities in order to clarify their objections and to confirm that they have not raised concerns in respect of the DTC. Written responses had been received. The Inspector said that these would need to be added to the examination library if the examination progresses.
- 2.23 The Inspector mentioned current experience in Cambridgeshire and Peterborough where local planning authorities within a housing market area had agreed an apportionment of housing numbers amongst themselves. While the soundness and validity of that approach remained to be tested (he is currently examining one of the plans concerned), it seemed, as a matter of principle, a useful way of avoiding disputes between neighbouring authorities at the examination hearing stage. However, the details of any such agreed apportionment would need to be adequately justified. The **Council** asked whether such a formal agreement is a requirement. The Inspector responded that, in his view, it would be difficult in practice to insist on this.
- 2.24 **Mr McKim** (for LLEP) stated that the LEP is taking forward a series of discussions with local planning authorities about their growth plans. He stressed the need for these to be practical and flexible.
- 2.25 **Councillor Woodward** (District Councillor for Whitwick) raised concern about the implications of withdrawing the CS for land between Whitwick and Coalville. Previous levels of protection for this land could now be in jeopardy. The recent Secretary of State decision relating to this area is now subject to legal challenge.
- 2.26 **Mr Fargher** (for Ashby Town Council) stated that the town is experiencing a developers' 'feeding frenzy'. He raised concern about the validity of previous public consultation exercises in respect of the CS. The Inspector stated that he had read the Town Council's comments in respect of that matter: if the present examination were to continue this would be addressed at a hearing session. However, if the Plan is withdrawn then he hoped that the Council would take these comments into account when considering how to consult on its replacement.
- 2.27 **Mr Lees** (for Pegasus Planning) restated his wish that the Plan's problems be resolved through suspension rather than withdrawal. He noted that many Plans have such problems and that suspensions represent a pragmatic way forward.

### **3. Next Steps**

- 3.1 The Inspector advised that the concerns that he has raised have not been resolved at this meeting. The **Council** argued that a suspension should therefore be considered. The Inspector responded that he did not think that this was appropriate: the gaps in the evidence base (particularly in terms of assessing housing needs) and the need to address the housing land supply shortfall through site allocations are too fundamental. It is unfortunate that the Council did not take action on the latter matter when it was raised by the previous Inspector's advisory visit in August 2012.

- 3.2 The Inspector commented that updated practice guidance on Local Plan examinations is due to be released shortly: this is likely to restate the previous advice that suspensions longer than 6 months should be avoided – partly in order to avoid creating uncertainty for other parties. It is unlikely that the work required to remedy the concerns that he has identified could be undertaken in such a short time period. Furthermore, the resulting document (with a revised housing needs assessment and new site allocations) would differ substantially from the document that was subject to public consultation in 2012. Indeed the Council has already proposed a significant number of pre-submission alterations to the 2012 plan<sup>3</sup>. In fairness to all parties, these matters should be subject to public consultation in the form of a new Local Plan.
- 3.3 The Inspector stated that this left two options. The first of these was withdrawal. He had already invited the Council to do this and he repeated that invitation. The alternative would be to move to the hearings stage: this would involve considerable expense for all parties without any prospect of the concerns being addressed. He expressed regret at having to reach a negative outcome: however he advised that it was necessary to give an early and realistic assessment of the likely chances of the Plan being found to be sound.
- 3.4 The **Council** restated its wish for the Plan to be suspended. Nevertheless, it would carefully consider the Inspector's comments and respond formally in writing. This would require consideration by a meeting of Full Council on 29 October 2013.
- 3.5 The Inspector stated that he would await that decision and, in the meantime, would prepare a note of the EM to be placed on the website. He thanked everyone for attending the meeting, which closed at 1230pm.

Michael J Hetherington  
Inspector for the North West Leicestershire Core Strategy Examination  
September 2013

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<sup>3</sup> See Inspector's note dated 9 July 2013 and the Council's response.