



The Planning Inspectorate

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# Report to North West Leicestershire District Council

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date 12 October 2017

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## Report on the Examination of the North West Leicestershire Local Plan

The Plan was submitted for examination on 4 October 2016

The Examination hearings were held between 5 and 16 January and 21-22 March 2017

File Ref: PINS/G2435/429/4

## Abbreviations

[xx]	Reference to Document xx in the Examination Library
2004 Act	Planning & Compulsory Purchase Act 2004 (as amended)
AMR	Annual Monitoring Report
AoS	Area of Separation
DCLG	Department for Communities and Local Government
DCS	Developer Contribution Scheme
dpa	dwelling per annum
DPD	Development Plan Document
DtC	Duty to Co-operate
EA	Environment Agency
EMG	East Midlands Gateway
FEMA	Functional Economic Market Area
5YHLS	Five Year Housing Land Supply
GVA	Gross Value Added
ha	hectare(s)
HEDNA	Housing and Economic Development Needs Assessment
HMA	Housing Market Area
HWP	Housing White Paper
KSC	Key Service Centre
LEP	Local Enterprise Partnership
LGS	Local Green Space
LPEG	Local Plans Expert Group
LSC	Local Service Centre
MM	Main Modification
MoU	Memorandum of Understanding
NE	Natural England
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
NWL	North West Leicestershire
OAN	Objectively Assessed Need
OBR	Office of Budget Responsibility
ONS	Office for National Statistics
PACEC	Public and Corporate Economic Consultants
PDL	previously developed land
Plan	North West Leicestershire Local Plan
PPG	Planning Practice Guidance
Regulations	Town and Country Planning (Local Planning)(England) Regulations 2012)
SAC	Special Area of Conservation
SDSS	Strategic Distribution Sector Study
SEA	Strategic Environmental Assessment
SRFI	Strategic Rail Freight Interchange
SGP	Strategic Growth Plan
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
sqm	square metres
SoS	Secretary of State
STWL	Severn Trent Water Limited
WQMP	Water Quality Management Plan

## Summary

This Report concludes that the North West Leicestershire Local Plan (the Plan) provides an appropriate basis for the planning of the District, provided that a number of Main Modifications [MMs] are made to it. North West Leicestershire District Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the Examination Hearings. Following the Hearings, the Council prepared a Schedule of Proposed Main Modifications and carried out a Sustainability Appraisal of them. The MMs were subject to public consultation over a six-week period, together with additional evidence in support of the Plan as now recommended to be modified, in particular the Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA). In some cases I have amended the detailed wording of the MMs. I have recommended the inclusion of the MMs in the Plan after considering all the representations made in response to consultation upon them.

The **Main Modifications** are summarised as follows:

- Commitment to early review of the Plan by **Policy S1** on Future Housing and Economic Development Needs to accommodate any unmet needs identified by agreement within the Housing Market Area according to the future Strategic Growth Plan and to reconsider the adequacy of land supply for housing and employment (**MMs1-9**);
- Clarification of provisions by **Policies S2 and S3** on Settlement Hierarchy and Countryside in favour of sustainable transport and the re-use of previously developed land including outside settlements (**MMs10-12**);
- Update **Policies H1 and H2** and supporting text on Housing Provision (**MMs13-20**);
- Update **Policy H3** and supporting text on new Housing Site Allocations and to:

increase the housing allocation at Money Hill, Ashby de la Zouch, by **Policy H3a** from 1,750 to 2,050 dwellings, together with detailed amendments to development criteria and the preparation of a comprehensive Masterplan, and

make alternative and additional provisions for housing sites at Measham and at Kegworth by **Policy H3c** and **new Policy H3d** in response to uncertainty regarding the route of the proposed HS2 rail line,

(**MMs21-29**);

- Amendments to **Policy H4** and supporting text on Affordable Housing to clarify the thresholds and levels of contributions towards affordable housing required from new residential development on both brownfield and greenfield sites. (**MM30-31**);
- Update **Policy Ec1** and supporting text on Employment Provision (**MMs32-39**);
- Amendment to **Policy Ec2** and supporting text on New Employment Sites to include detailed amendments to development criteria and the preparation of a comprehensive Masterplan for Money Hill, Ashby de la Zouch and broad criteria for the consideration of development of unallocated employment sites with good, sustainable access to the strategic highway network where need exists (**MM40-41**); and
- A range of other detailed amendments to policy wording, mainly to ensure consistency with national policy with respect to the protection of the natural and historic environment and for climate change (**MMs42 and 44-46 including 44A**).

## Introduction

1. This Report contains my assessment of the North West Leicestershire Local Plan (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers first whether the preparation of the Plan has complied with the Duty to Co-operate (DtC). It then considers whether the Plan is sound and whether it is compliant with legal requirements. The National Planning Policy Framework (NPPF) makes clear at paragraph 182 that, in order to be sound, the Plan should be positively prepared, justified, effective and consistent with national policy. At paragraph 153, the NPPF specifies that the Plan should be able to be reviewed, in whole or in part, to respond flexibly to changing circumstances.
2. The starting point for the Examination is the assumption that the Council, as local planning authority, has submitted a Plan for examination which it considers to be sound. The North West Leicestershire Local Plan, submitted in October 2016 is the basis for my Examination. It is the same document as was published for consultation in July 2016 [LP/01; LP/19#10].

## Main Modifications

3. In accordance with section 20(7C) of the Act, the Council requested that I should recommend any Main Modifications [MMs] necessary to rectify matters that make the Plan unsound and /or not legally compliant and thus incapable of being adopted. My Report explains why the recommended MMs, all of which relate to matters that were discussed at the Examination Hearings, are necessary. The MMs are referenced in bold text (**MM1** etc), and are set out in full in the **Appendix** to the Report.
4. Following the Examination Hearings, the Council prepared a proposed Schedule of MMs [EX/101] and undertook a Sustainability Appraisal (SA) upon them [EX/102]. The Schedule of MMs was subject to public consultation for six weeks from 12 June to 24 July 2017, together with additional evidence in support of the Plan, as now recommended to be modified, in particular the Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA) [EX/65-67]. I have taken account of the consultation responses, where relevant to the MMs and to soundness, in coming to my conclusions in this Report and made some amendments to the detailed wording of the MMs. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and SA that has been undertaken. Where necessary, I have highlighted these amendments in the Report text.

## Policies Map

5. The Council must maintain an adopted Policies Map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a Submission Policies Map showing the changes to the adopted Policies Map that would result from the proposals in the submitted Plan. In this case, the Submission Policies Map comprises the set of plans identified as the North West Leicestershire Local Plan Publication Policies Maps June 2016. [LP/02; LP/13].

6. The Policies Map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the policies of the Plan require further corresponding changes to be made to the Policies Map. These further changes were published for consultation alongside the MMs [EX/103a-d].
7. When the Plan is adopted, in order to comply with the legislation and give effect to the policies of the Plan, the Council will need to update the adopted Policies Map to include all the changes proposed, together with the further changes (minor modifications) published alongside the MMs.

## **Background Matters**

### ***Plan Preparation***

8. The Plan was drafted in 2015 with reference to the Leicester and Leicestershire Strategic Housing Market Assessment of 2014 (SHMA) and accompanying Memorandum of Understanding (MoU) between the eight local authorities of the Leicester and Leicestershire Housing Market Area (HMA) [HO/03-04]. The MoU concluded that each authority of the HMA would meet its own identified need for additional housing.
9. The housing requirement of the draft Plan was set substantially in excess of the objectively assessed need (OAN) for the District identified in the 2014 County-wide SHMA. This was to recognise an increasing rate of dwelling completions in the District between 2012 and 2016 as well as the approval by the Secretary of State (SoS) of the East Midlands Gateway (EMG) Strategic Rail Freight Interchange (SRFI) within the District at Roxhill, giving rise to significant increased employment and potential housing demand.
10. Following failure at appeal in early 2016 [EX/13] to demonstrate a five year housing land supply (5YHLS), as required by the NPPF, the Council commissioned a North West Leicestershire (NWL) Review of Housing Requirements [HO/01]. This Review expressly did not supersede the SHMA but sought to substantiate the Plan housing requirement within NWL.
11. The HMA authorities had by then commissioned a new Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA). However, after discussing its options with the other HMA authorities, as well as the Department of Communities and Local Government, specialist planning consultants and the Planning Inspectorate, and having taken legal advice, the Council decided to proceed with the publication and submission of the Plan on the basis of the internal Review [EX/05-08].

### ***Priority for Adoption and Potential for Early Review***

12. The NPPF and the national Planning Policy Guidance (PPG) together place local plans at the heart of the planning system, making it essential that they are in place and kept up to date. Consistent with a Written Ministerial Statement (WMS) of 21 July 2015, the PPG advises that consideration should be given to the option of the Council making a commitment to review the Plan, or particular policies in the Plan, within an agreed period, where this would enable the Inspector to conclude that the Plan is sound and meets the other

legal requirements. The WMS of 2015 expressly sought the production of local plans by early 2017.

13. The Council proceeded on the basis that early review of the Plan should be triggered if the findings of the HEDNA required increased development land requirements or if a new MoU were to result in unmet need from other authorities being accommodated in NWL.
14. The decision of the Council to proceed with the submission of the Plan in October 2016 was reached taking into account the Government priority for adopted local plans to be in place by early 2017 and with the approach that it was not tenable to await the new HEDNA and a new MoU on the distribution of development when it was already anticipated that the advent of the SRFI would require an increase in housing requirement over the SHMA figure.

### ***Timeframe***

15. The NPPF states that local plans should be drawn up preferably with a 15-year time horizon. The submitted Plan has a timeframe and related evidence base of 20 years from 2011-31. This leaves only 14 years from the projected adoption date of the Plan, later in 2017. However, it would be impractical, and against the imperative for local plans to be put in place, to delay the Plan in order to re-establish its evidence base over an extended timescale.
16. Moreover, it is to be expected that, in order to comply with the national policy requirement that the Plan should be kept up to date, the Plan will be reviewed several times, in any event, within the reduced 14-year time frame following its initial adoption.

### ***Examination Process and Post-Submission Documentation***

17. After submission of the Plan, I issued guidance that no aspect of the Plan or its supporting documentation, as submitted, need delay the Examination. The Hearings would provide the proper opportunity to establish whether the DtC had been met and whether the evidence base then available robustly justified the housing and employment requirements set by the submitted Plan. It would then be possible for the Plan to be found sound, albeit subject to early review as a matter of policy, depending also on the findings of the HEDNA.
18. I made clear, and it was accepted by the Council and Representatives throughout the Examination, that nothing could detract from the overarching legal and policy requirements that, to be sound for adoption, the Plan must be judged to be positively prepared, justified, effective and consistent with national policy, as well as being able to respond flexibly to changing circumstances.
19. In the event, the HEDNA [EX/65-67] was published at the end of January 2017, shortly after the conclusion of the first programme of Hearings. Alongside the HEDNA, the HMA authorities published a Joint Statement of Co-operation [EX/68]. This includes the statement that the HEDNA would be tested via the local plan preparation process. That process had begun with the current Examination of the NWL Local Plan and all the other seven HMA authorities were yet to submit new or updated plans for examination, based on the new HEDNA.

20. It was generally accepted that the HEDNA must now constitute a material consideration in this Examination. It was therefore circulated to all Representors to the submitted Plan with an opportunity to respond by mid-February 2017.
21. In particular among its findings, the HEDNA concludes that the housing need for the HMA as a whole has risen, compared with the results of the 2014 SHMA, but that the individual housing requirement for NWL is lower than that calculated in the NWL Review. The Council proposes to adopt this HEDNA figure as the stated housing requirement of the Plan, whilst maintaining the original higher figures for flexibility in the allocation of sites.
22. This approach is challenged by some Representors on grounds that the HEDNA underestimates development needs and by others in terms that the housing allocations of the Plan should be reduced to the HEDNA figure, whilst several local planning authorities within the HMA foresee as yet unquantified housing needs falling upon neighbouring Districts. In the face of these representations, an additional opportunity was allowed for the submission of statements for a further two-day Hearing on 21-22 March 2017 where the implications of the HEDNA and a series of proposed MMs were discussed.
23. During the course of the Examination, in February 2017, before the further Hearing, the Government issued its Housing White Paper (HWP) entitled *Fixing Our Broken Housing Market*. This takes up certain of the recommendations of the Local Plans Expert Group (LPEG) in March 2016, including that the PPG should set out a standard common methodology for SHMAs and for establishing Objectively Assessed Need for housing. The Examination was conducted on the basis of current national policy and guidance. However, the Council and Representors were afforded the opportunity to comment upon the HWP during the further Hearings and all such comments are taken into account in this Report.
24. The final items of post-submission documentation were the Addendum Report on the SA carried out on the MMs, after the Hearings [EX/102], the proposed modifications to the Submission Policies Map consequent upon the MMs [EX/103a-d] and the representations on the MMs themselves with responses by the Council, as posted on the Council website.

### **Public Consultation**

25. Submissions were made that, in the interests of fairness, the Examination should not continue on the basis of the new HEDNA. However, by way of the six-week consultation on the MMs and the post-submission evidence contained in the HEDNA and certain other documentation provided after the Hearings, including the SA of the MMs, full public consultation was assured in practical terms. This was equivalent to that which was required prior to the original submission of the Plan under Regulations 19 and 22(3) of The Town and Country Planning (Local Planning)(England) Regulations 2012 (The Regulations).

### **Neighbourhood Plans**

26. Comments were made that the preparation of the Plan failed to have due regard to emerging neighbourhood plans (NPs), in particular that for Ashby de



la Zouch, which has suffered reversals in its preparation consequent upon the circumstances surrounding the Local Plan.

27. Under the Localism Act, a made NP is an important component of the statutory development plan and the PPG advises that the Council should liaise with those preparing NPs to avoid conflicts. However, there is no legal or policy requirement for the Local Plan to comply with an emerging NP, whereas it is a requirement that a NP is in general conformity with the Local Plan.
28. Consultation upon the NP is a matter between the District Council and those preparing the NP, whilst the Local Plan is itself open to public objection via this examination process. Local concern and frustration among those involved in formulating the NP is understandable. However, potential conflict between this Plan and NPs as yet unmade is not a matter for this Report.

## **Assessment of Compliance with the Duty to Co-operate**

### ***Legal Duty***

29. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council has complied with any duty imposed by section 33A of the 2004 Act in relation to the preparation of the Plan. In order to maximise the effectiveness of Plan preparation, Section 33A requires constructive, active and on-going engagement with local authorities and other prescribed bodies with respect to strategic matters affecting more than one planning area. Those bodies are prescribed by Article 4 of the Regulations. Relevant strategic issues are set down in the NPPF at paragraphs 156 and 178. It is necessary for the Council to demonstrate that the Plan, on submission, is compliant with the DtC.

### ***Engagement and Co-operation***

30. The Council submitted evidence in connection with the DtC by way of a Duty to Co-operate Statement [LP/14] and a Statement of Consultation [LP/19]. This demonstrates that, throughout the preparation of the Plan, the Council engaged with all the bodies prescribed, as applicable. These included the other seven district authorities of the HMA, Leicestershire County Council and those non-Leicestershire authorities which adjoin NWL.
31. It is not substantively disputed that NWL lies within a HMA and Functional Economic Market Area (FEMA), both of which comprise the administrative County of Leicestershire, as discussed in the Assessment of Soundness below. It is clear that there was wide-ranging co-operation between the Council and its HMA and FEMA partner authorities, with reference to the needs for and availability of market and affordable housing and economic development land. This co-operation culminated in the commissioning of the HEDNA, subsequently published in January 2017.
32. Co-operation also extended to consideration of the needs for transport infrastructure, gypsy and traveller accommodation and retail development. Parish and Town Councils were also involved in discussions on settlement boundaries within the spatial strategy.
33. Co-operation with the Environment Agency (EA), Severn Trent Water Limited (STWL), together with neighbouring local authorities, resulted in the outcome

that a Developer Contribution Scheme (DCS) evolved and was adopted by the Council with the aim to ensure that development will not harm the integrity of the River Mease Special Area of Conservation (SAC). Developer contributions support a range of mitigation measures identified in a Water Quality Management Plan (WQMP) prepared by the EA.

34. Other subjects of cross-boundary co-operation included the National Forest and Charnwood Forest as well as statutory agencies, resulting in the inclusion of protective policies within the Plan.
35. The internal NWL Review of housing need, taking account of the SRFI, was shared across and outside the HMA.
36. NWL is located at the heart of the national motorway network and in an area of high demand for industrial development, and especially large-scale, Class B8 storage and distribution land. These circumstances have evidently attracted the SRFI at Roxhill in the north of the District, where its employment generation potential will affect housing needs, including outside the HMA. The compliance of the preparation of the Plan with the DtC is questioned with respect to known high demand for new employment sites outside the County, as the defined HMA.
37. Representations were also made that the well-known unmet housing needs of Birmingham and Coventry and the functional relationships between NWL and those conurbations, as well as Derby, Nottingham and other neighbouring Districts, should influence the provisions of this Plan. Other representations included proposals that the Plan should facilitate opportunities for developments where they would relate to substantial settlements outside NWL but close to its borders, for example at Albert Village, near Swadlincote.
38. Significantly, however, despite ongoing engagement and co-operation, up to the time of the submission of the Plan, no other local authority, either within or outside the HMA and FEMA, relied upon NWL to meet any unmet housing or employment needs.
39. Arguments remain as to the amounts, types and distribution of housing and employment development for which the Plan should provide. However, these are primarily matters of soundness, related to the spatial strategy of the Plan, its housing and employment land requirements and to land supply, rather than to the DtC. Such matters are considered in the Assessment of Soundness below.
40. It is evident that there has been further co-operation between the Council and its partner HMA authorities since the Plan was submitted for examination, in particular with respect to the HEDNA and Statement of Co-operation, published in January 2017. Although the DtC strictly applies only to the preparation of the Plan, up to the time of submission for examination, this factor is germane to the consideration of the HEDNA, as an addition to the evidence base of the Plan, as now proposed to be modified.
41. The Plan has faced objection from other HMA authorities on grounds that it should not proceed to adoption until the full implications of the HEDNA and a projected Leicester and Leicestershire Strategic Growth Plan (SGP) are known, especially with regard to unmet needs from elsewhere in the HMA. However,

the DtC neither includes, nor implies, any obligation to agree. The question of whether the Plan should proceed to adoption is more properly related to its justification and effectiveness in relation to the soundness of the Plan.

42. Overall, I am satisfied that the Council has engaged constructively, actively and on an on-going basis with all prescribed bodies, as appropriate, and that the DtC is properly to be regarded as having been met in the preparation of the Plan.

## **Assessment of Soundness**

### **Main Issues**

43. Taking account of all the representations, the written evidence and the discussions that took place at the Examination Hearings, I have identified six Main Issues upon which the soundness of the Plan depends. In respect of each Main Issue, my Report focusses principally on the matters of soundness arising and any MMs required, rather than responding to every point raised by Representors. The issues considered in this Report do not necessarily follow the order of the matters discussed during the Hearings.

### **Main Issue 1 – Strategy**

***Does the Plan set down a justified and effective Strategy for the distribution of development, based upon an appropriate Vision, set of Objectives, Settlement Hierarchy and Limits to Development?***

#### ***Vision and Objectives***

44. The Plan sets an overall Vision to continue the transformation of the District from its past as a coalfield area to a 21<sup>st</sup> Century place to live, work and relax, attracting businesses to locate and grow in the District. The Vision recognises the SRFI, East Midlands Airport and Donington Park as destinations in their own right, centrally located close to major road and rail networks, in the context of a strongly performing economy. The Vision highlights the attractions of the maturing National Forest, Charnwood Forest and Ashby Canal, as well as a range of heritage assets. Coalville is identified as the growing main town, with Ashby de la Zouch and Castle Donington as other centres. A total of fifteen objectives include the promotion of economic growth, new homes, sustainable transport and local distinctiveness.
45. There is no argument that the Vision and Objectives of the Plan are inappropriate or incomplete. They appear to provide a sound basis for the Plan. Criticism focusses upon whether the Plan properly implements its Vision and Objectives in its spatial strategy, policies and site allocations.

#### ***Overall Strategy***

46. Section 5 of the Plan is devoted to its Strategy, in terms of Policy S1 on Future Housing and Economic Development Needs, Policy S2 on the Settlement Hierarchy and Policy S3 on Countryside.
47. Policy S1, as submitted, provides for a minimum of 10,400 dwellings, 96 hectares (ha) of employment land and 7,300 square metres (sqm) for shopping and also includes reference to early review of the Plan, if the HEDNA

indicates additional needs. Following the publication of the HEDNA, the Council proposes MMs, reducing the housing requirement to 9,620 dwellings and the employment land requirement, net of strategic sites, to 66ha. These figures are discussed below, in connection with Main Issue 2.

48. Policy S2 classifies Coalville as the Principal Town and Ashby de la Zouch and Castle Donington as Key Service Centres (KSCs). Ibstock, Kegworth and Measham are classified as Local Service Centres (LSCs), whilst other settlements are classified as Sustainable Villages, Small Villages or Hamlets.
49. Policy S3 protects the Countryside, outside settlements, as defined by Limits to Development, for the sake of its intrinsic character and beauty and the diversity of its landscapes, heritage, wildlife and natural resources. At the same time, Policy S3 supports development for specified uses in the designated Countryside, including development at East Midlands Airport and Donington Park Racetrack, subject to a range of development management criteria.
50. Significantly, at paragraph 5.15, the Plan acknowledges the core principle of the NPPF that the Settlement Hierarchy of the Plan is to guide future development to sustainable locations but highlights that 'the scale and location of most new development that is needed is already committed'. This statement was consistently repeated by the Council during the Examination in terms that "We are where we are!". It is also borne out by the allocation of only a small number of new housing and employment sites by Policies H3 and Ec2, to provide for the originally stated, net residual requirements of 800 dwellings and 6ha of employment land. That is, as compared with the large number of sites already with planning permission, or Council resolutions to grant approval, nominated in Policies H1-2 and Ec1. It has to be accepted that the essential focus of this Report must be upon future provision.
51. The Council considered, and subjected to SA, five alternative development distribution options to focus the majority of the additional housing required on Coalville (Alternative A) or Ashby de la Zouch (B) or proportionately across the Principal Town, KSCs and LSCs (C) or dispersed among LSCs and Sustainable Villages (D) or split between Coalville and Ashby de la Zouch (E).
52. Other housing alternatives considered included a new settlement but this was rejected as an 'unreasonable alternative' on grounds that the amounts of identified residual requirements for new development do not justify such a proposal. A focus of new housing development on the northern part of the District, at Castle Donington close to the projected SRFI, was also considered but rejected as an 'unreasonable alternative', in the absence of sufficient, suitable, available land.
53. Option B was chosen, to focus the majority of new development on Ashby de la Zouch, as a KSC and the second largest town in the Settlement Hierarchy. This was due to its limited recent growth and continuing development commitments, compared with Coalville, Castle Donington and Kegworth, and the relatively more buoyant housing market in Ashby de la Zouch. The more dispersed options B, C and E were subject to greater planning constraints than either Options A or B.

54. For the residual employment land requirement, the allocation of the Money Hill site at Ashby de la Zouch, allocated by Policy H3a, was chosen among a range of available alternatives, in preference to placing additional employment in Coalville or Castle Donington. New employment land in the northern part of Ashby de la Zouch will redress an imbalance caused by the approval of the SRFI alongside a significant amount of employment land already available in Castle Donington.
55. That choice of the strategic Money Hill combined housing and employment allocation was made despite relatively low SA scores in respect of flood risk, ecology, heritage and loss of agricultural land. However, over the approximately 140ha allocation, as a whole, the view of the Council that there is scope for mitigation appears to be reasonable.
56. In terms of the broad spatial distribution of new development between the defined settlements and Countryside of the District, the Settlement Hierarchy and Limits to Development promulgated by the Plan appear broadly justified by the evidence, including the SA.

### ***Other Considerations of Development Location***

57. However, before reaching any conclusion as to the soundness of the Strategy of the Plan, it is necessary to consider, in more detail, a number of other matters having a bearing upon the spatial distribution and location of new development.

#### *M42 corridor*

58. Representations were made that the Plan Strategy fails to accord appropriate importance to opportunities for employment development with access via Motorway junctions along the M42 corridor, as a component of the national transportation network. This is a matter related directly to the adequacy of the supply of employment land, considered under Main Issue 5 below.

#### *Previously Developed Land*

59. Some concern is expressed that the Plan fails to prioritise the redevelopment of brownfield land over greenfield sites in accordance with national policy. Notably however, the strategic mixed allocation at Money Hill, under Policy H3a, includes the former Arla Dairy land, whilst a number of the housing sites listed under Policies H1 and H2 are also previously developed land (PDL). Historically, between 2006 and 2010, some 81 to 95 per cent of development in the District took place on PDL, reducing substantially to 21 per cent in 2012-13 but rising again to 46 per cent in 2015-16.
60. The Council explains the reduction after 2010 partly in terms of the changed definition of PDL to exclude garden land and the recovery as a result of recent residential redevelopment employment sites. Other PDL identified in the Strategic Housing Land Availability Assessment (SHLAA) is evidently still in use for other purposes or otherwise not available or viable. Remaining PDL without planning permission in the SHLAA would not meet identified requirements in any event. In general terms, the Plan effectively prioritises the redevelopment of PDL, where practical.

61. However, as submitted, Policies S2 on the Settlement Hierarchy and S3 on the Countryside are fairly criticised for restricting the redevelopment of certain brownfield sites, which lie outside the Limits to Development defined in the Strategy but which are related to nearby settlements and could provide for sustainable redevelopment. To make Policies S2 and S3 and their supporting text sound, it is necessary to introduce provisions to support the redevelopment of suitable sites where this would be well-related to a defined settlement and served by sustainable transport. This is achieved by **MMs10-12**.

#### *Sustainable Transport*

62. The Settlement Hierarchy is questioned as to whether it fosters the use of sustainable means of transport. In the largely rural District of NWL, the main sustainable alternative to car travel is the local bus services. However, in directing development to the hierarchy of settlements established by the Strategy, it follows from the assessment of the community facilities present that new development would also be located closest to such public transport services as are available.
63. The encouragement of sustainable transport options is also a matter for the provision of infrastructure under Main Issue 6 below.

#### *Ravenstone and Ellistown*

64. Representations are made that Ravenstone and Ellistown, both designated by Policy S2 as Sustainable Villages, should be included as integral parts of the urban area of Coalville, as the Principal Town of the District.
65. There is no doubt that Ellistown, to the south, and Ravenstone, to the west-south-west, both enjoy a functional relationship with Coalville, being located in relatively close proximity to the town centre. However, both appear to maintain an individual identity and character, with substantial separation from Coalville by intervening open Countryside, designated by Policy S3.
66. In the case of Ellistown, that separation will ultimately be eroded to a considerable extent by the extensive, committed residential and employment development of the South East Coalville Urban Extension. However, that can rightly be seen as a further reason to preserve its village identity. Moreover, the western part of Ellistown will continue to be distinguished from urban Coalville by an area of designated Countryside and National Forest running north to Hugglescote.
67. Notwithstanding that the Coalville Limit of Settlement is, in practice, drawn on the Submission Policies Map as encompassing Ellistown, there is no evident reason to alter the designated status of either Ravenstone or Ellistown as Sustainable Villages within the Settlement Hierarchy of Policy S2.

#### *Sustainable Villages*

68. It is argued that, notwithstanding the justified Settlement Hierarchy, Policy S2 is too restrictive of development within Sustainable Villages, permitting only a limited amount of growth, with no specific land allocations. However, the Limits to Development are drawn to include property curtilages and some

agricultural buildings. In addition, some of the sites identified in Policies H1 and H2 include land adjoining settlements.

69. Certain settlements designated as Sustainable Villages by Policy S2 lie closer to larger settlements in neighbouring districts than to those within NWL. The Sustainable Villages of Albert Village and Blackfordby are cited as being closely related to Swadlincote and Woodville in South Derbyshire. Concern is raised that the Strategy does not recognise this relationship. It is argued that the close proximity of these settlements to the community facilities offered just across the artificial District boundary warrants the allocation of land for sustainable development within such settlements and that the provisions of the Plan are neither justified nor effective without them.
70. Questions of whether the District boundary is logically drawn might be for the respective local authorities to address but they are beyond the scope of this Report. There is merit in the contention that new development in villages close to the boundary would be sustainably located with respect to larger settlements outside the District. However, the Sustainable Villages concerned are clearly identified as independent settlements in their own right. Moreover, they have been categorised within the NWL Settlement Hierarchy according to their level of community facilities. Furthermore, there is no suggestion from neighbouring authorities, outside the HMA and FEMA, that such allocations are required to meet their own unmet development needs.
71. On balance, if the development requirements of the Plan can be met in compliance with its defined Settlement Hierarchy, the absence of specific allocations for new development in Sustainable Villages, including those close to larger settlements outside the District, does not mean that the Plan is unsound.

#### *Areas of Separation between Coalville and Whitwick*

72. Policy En5 of the submitted Plan designates two Areas of Separation (AoSs), respectively north west and south east of Hermitage Road, within which only rural and recreational uses will be allowed. This provision evolved from a review of a Green Wedge policy in a former Structure Plan. The purpose of Policy En5 is to prevent the coalescence of Coalville with Whitwick. The Submission Policies Map includes the whole of Whitwick and the two AoSs, within the defined Limits to Development for Coalville. The AoSs are not therefore designated Countryside and are not subject to Policy S3. According to the evidence of the Council, the reason for this is that Whitwick is joined to Coalville by three bands of development, at New Swannington and Thornborough to the west, centrally along Hermitage Road and along Broom Leys Road to the south east.
73. In contrast with the surrounding built up areas, the AoSs are distinctly semi-rural or settlement fringe in character. West of Hermitage Road, the AoS incorporates sports and leisure facilities and a lake, and serves to maintain separation between north eastern Coalville and the development at Thornborough, New Swannington and north western Whitwick. East of Hermitage Road, the AoS is essentially open or wooded and separates Coalville and south eastern Whitwick. The latter area has been, and remains, under strong development pressure.

74. The boundaries of the AoSs were assessed in detail in a Settlement Fringe Analysis (SFA) [SFA/01, 04, 10] in 2010, since when little has changed in their overall character. The SFA gave consideration to the landscape and visual value of the areas comprising the AoSs and the potential for any development impacts upon them to be mitigated.
75. With respect to the western AoS, the SFA concluded that the character of the area was common to many urban fringes but recognised its importance to the separation of Whitwick, New Swannington, Thornborough and Coalville, despite surrounding built development.
76. With respect to the eastern AoS, the SFA recommended the retention of woodland and the enhancement of gateway rural views between Whitwick and Coalville. At the same time, the SFA did not rule out some level of development, with potential for mitigation.
77. There is very strong local support within Whitwick for the designation of the AoS in the interests of maintaining settlement identity. This approach has previously received qualified support at appeal. The evidence of the Council, in defence of Policy En5, is based on its judgements that the SFA strongly suggests that development opportunities in the western AoS are extremely limited and that, in the eastern AoS, landscape harm would exceed development benefit.
78. On the other hand, the AoS designation is equally strongly opposed by those with development interests, particularly in the eastern area. These objections are linked to representations, discussed in connection with Main Issue 2 below, that the development requirements of the Plan are insufficient and the Strategy ineffective, in not allocating additional sites in Coalville. However, these objections also address the quality of the evidence on which the boundaries of the AoSs and the constraints of Policy En5 are based.
79. With reference to national policy, AoS is not recognised as a protective designation by the NPPF. However, core principles of the NPPF are that planning should take account of the different roles and characteristics of different areas with reference to their relative environmental value, should deliver conservation of the natural landscape and should identify where development would be inappropriate. The AoSs are different from surrounding areas in their level of built development, topography and landscape and are of recognised local value in avoiding the coalescence of distinct built up areas.
80. Read in isolation, Policy En5 is restrictive and inflexible. However, in permitting rural and recreational land uses, it does not impose a complete ban on development. Nor does it impede development required to meet the housing and employment requirements of the Plan, where these can be accommodated elsewhere within the scope of the Plan Strategy. In the context of the Plan as whole, Policy En5 is justified in its terms, provided the defined boundaries of the AoSs, to which it relates, are also justified on robust evidence.
81. Land within the SFA has been considered for development in previous studies in connection with the former draft Core Strategy, which was withdrawn in 2013. Moreover, whilst the conclusions of the SFA appear robust, they are



notably equivocal as to the value of all of the land comprising the AoSs now designated by Policy En5. The local support is plainly heartfelt and genuine. However, this support, and the Council evidence in favour of the designation of the AoSs, is clearly subjective. Moreover, previous appeal decisions and High Court judgments favouring the AoSs are essentially site-specific and do not provide a direct, strategic comparison.

82. It is concluded above that the spatial distribution of new development by the Plan across the Settlement Hierarchy is broadly justified. On balance, I consider there to be overriding merit in the judgement of the Council that the AoSs, as designated, are justified for the life of this Plan, especially taking into account the established commitment to the extensive South East Coalville Urban Extension. Given the AoS designation is justified for the purpose of this Plan, there is no inconsistency between Policy En5 and the aspects of national policy, summarised above, recognising local differences.
83. Importantly though, on the evidence provided to this Examination, there is scope for reconsideration of the detailed boundaries and land uses of the AoSs, in the event that it becomes necessary, at any time in the future, for the Plan to be reviewed in the light of increased development needs.

### ***Conclusion on Strategy***

84. Overall, subject to MMs 10-12 to Policies S2 and S3, I conclude that the Strategy of the Plan in spatial terms is justified, potentially effective and sound as submitted.
85. However, that conclusion is subject to the housing and employment land requirements of the Plan also being justified, on the latest evidence of the HEDNA, and the allocated sites being both the most suitable in planning terms, and practically deliverable when needed, to implement the Strategy. These are all matters for consideration in relation to Main Issues 2 to 5 below, including the potential need for commitment to early review of the Plan.

### **Main Issue 2 – Housing and Employment Land Requirements**

***Are the overall requirements of the Plan for Housing and Employment development justified by a robust evidence base, subject to early review of the Plan according to future circumstances?***

#### ***Housing Market Area and Functional Economic Market Area.***

86. There is no substantive dispute that both the HMA and the FEMA are, as defined in the HEDNA and the previous SHMA, practically co-incident with the administrative area of Leicester City and the County of Leicestershire. The HMA reflects a high level of self-containment in terms of migration, housing costs and commuting flows, with Leicester City attracting workers from across the County, whilst the FEMA also relates to a wider Midlands market area based around the motorway network, especially in regard to the logistics and distribution sectors.

### ***Evidence of Needs***

87. On submission, the Plan was supported by evidence of housing and employment needs comprising essentially the County-wide SHMA, the NWL Review of Housing Requirements, the Leicester and Leicestershire Strategic Distribution Sector Study (SDSS) [EC/02] and Employment Land Study (the PACEC study) [EC/04].
88. Together, these studies identify the overall requirements, set down in Policy S1, as submitted, for 10,400 dwellings and a total of 96ha of employment land.
89. The housing figure of 10,400 units is equivalent to 520 dwellings per annum (dpa) for each of the twenty years of the Plan period 2011-31. This figure is derived by the NWL Review, in excess of the OAN calculated by SHMA of 320dpa, and includes an estimate of the effect of the approved SRFI on housing need within NWL.
90. However, it is accepted that the primary source of evidence of development need is now the County-wide HEDNA of January 2017. This develops housing and employment need figures, district by district across the HMA and FEMA for two timeframes of 2011 to 2031 and 2011 to 2036. These are related to the respective time horizons of the several local plans which the HEDNA is intended to inform. The HEDNA is also intended to inform a non-statutory Strategic Growth Plan (SGP) for Leicester and Leicestershire as well as the Strategic Economic Plan of the Leicestershire Local Enterprise Partnership (LEP). It is the figures for the period 2011 to 2031 which are relevant to the NWL Plan, as confirmed in the consideration of the timeframe of the Plan under Background Matters above.
91. For the HMA as a whole, the HEDNA concludes that the overall OAN for housing to 2031 is 96,580 dwellings, significantly higher than the 2014 SHMA upper figure of 71,655. That is compared with a theoretical total housing land availability capacity equivalent to 206,908 units. However, the assessed ability of individual authorities to accommodate their individual OAN varies widely.
92. Subject to further testing via the plan preparation process, all the HMA authorities are assessed as able to meet their own OAN except for Leicester City and Oadby and Wigston Borough, both of whom now declare unmet housing needs consequent upon increased OAN figures. However, these unmet needs remain to be quantified in the SGP in late 2017 or during 2018.
93. In contrast, for NWL the HEDNA identifies an overall OAN for housing of 9,620 new dwellings, compared with theoretical capacity of 26,301 units. This OAN figure is equivalent to 481dpa to 2031. The figure is inclusive of student housing need within NWL. The HEDNA also identifies a need for 66ha of employment land within NWL, excluding Class B8 storage and distribution uses over 9,000sqm.
94. Significantly, the housing figure is lower than that predicted by the earlier studies and contained in the submitted Plan. However, it tends to bear out the results of the internal NWL Review of Housing Requirements and imply that they are conservative.

95. The Council therefore proposes to modify the overall requirements of the Plan in line with the lower figures of the HEDNA and to defer consideration of accommodating any unmet needs from other HMA authorities to an early review of the Plan, depending on whether, and to what extent, the future SGP shows this to be necessary.
96. This approach is supported locally, especially by representatives of residents of Ashby de la Zouch, concerned at the amount of development the Plan allocates there. However, the methodology and results of the HEDNA are strongly opposed, in particular by developers, who maintain their previously expressed view that even the higher quantitative housing and employment provisions of the Plan, as submitted, are substantially below what is needed in practice.

### ***Objective Assessment of Need for Housing***

97. It is a fundamental tenet of national policy and guidance that there is no single precise means of predicting housing need. The HWP proposes the introduction of a standard common methodology of calculating OAN, as recommended by LPEG, but under policy and guidance currently applicable, there is no such recognised common approach. It is for this Report to consider whether the HEDNA provides a robust basis for the OAN for housing in NWL, rather than to judge between several competing higher assessments put forward by Representors.
98. The HEDNA follows the PPG in taking, as its starting point, the latest official Government Household Projections published in July 2016. These are based upon the 2014-based Sub National Population Projections (SNPP) published by the Office for National Statistics (ONS). The HEDNA then takes into account the market signals and factors such as migration, economic growth, and affordable housing need identified in the PPG as influential upon the OAN figure, which excludes consideration of land supply with respect to land availability and planning constraints.
99. The HEDNA calculates the demographic housing need for NWL to be 386dpa, based on extended 10 year migration trends, and concludes that this figure should be increased to 425dpa by a 10 per cent affordability allowance regarded as realistically deliverable. There is no clear evidence available for or against any further increase for unattributed population change, such as underestimated emigration due to erroneous historic census.
100. The OAN figure of 481 is, in any event, led by a Planned Growth Scenario derived from economic structure and performance data and is considered by the HEDNA to deliver the additional market and affordable housing required.
101. However, the OAN for housing put forward by the HEDNA is challenged in other respects, in particular its approach to economic activity rates, commuting patterns and headship rates, as well as affordable housing provision.

### ***Economic Activity Rates***

102. The Planned Growth Scenario assumed for the HEDNA inflates the baseline growth assumption of 10,900 jobs to 16,700 jobs from 2011-2031, including

those expected to be generated by the SRFI. This Scenario is little questioned in itself. It is differing views of the economic activity rates of certain population age groups which give rise to claims that the OAN should be increased, due to its sensitivity to this factor.

103. However, the HEDNA has regard to three accepted data sources of the Office of Budget Responsibility (OBR) as well as Experian and Oxford Economics forecasting models, basing its conclusions on the mid-range results provided by Experian, as compared with other available forecasting models.
104. In relation to the effect of employment trends on housing need assessments, the PPG states that, where the supply of economically active residents is less than job growth, this could result in unsustainable commuting patterns.
105. The HEDNA recounts that the OBR estimates the growth in residents in employment nationally between 2014 and 2035 to be 2.5 million, significantly lower than the other forecasts, which are in excess of 4 million. The OBR figure is derived according to changes in state pension age and a range of migration and age structure scenarios, suggesting a reduction in employment rates for key 20 to 50 year old groups and overall participation rates of 76.5 per cent up to age 65 and 13.7 per cent thereafter. These results are related to fiscal sustainability and, according to the HEDNA, are contrary to known trends and therefore appear cautious.
106. In contrast, Experian provides a direct labour market forecast, with higher participation rates for the 16-65 year age group of up to 80 per cent and 16.7 per cent for those over 65. The HEDNA then compares the Experian-based HEDNA figures for economic activity and population growth rates with those predicted by Oxford Economics, concluding that they are below the OE results but equivalent in terms of population growth and related housing need. The HEDNA therefore prefers the higher Experian estimate as representing a more appropriately robust approach.
107. The HEDNA analysis of the OBR results is described as misleading by Representors, who point out that the lower activity rates it predicts could alone result in additional housing need in NWL of some 138dpa, when input to accepted forecasting models. Notably, the OBR approach is broadly favoured in the LPEG report as well as in several previous local plan examinations, whilst being rejected in a number of appeal decisions which favoured other forecasts.
108. On its own merits, the approach of the HEDNA to economic activity rates is logical and robust but remains to be considered alongside factors that affect modelling input data.

### *Commuting Patterns*

109. The issue of commuting patterns is highlighted by the advent of the SRFI, predicted to attract some 7,000 employees, including many from outside the District.
110. The HEDNA, nevertheless, adopts the commuting assumptions of the Oxford Economics Model, as unchanging throughout the Plan period from the 2011 census data on which they are based. However, it also takes account of the

relative, expected economic growth performance of the different areas outside the District where a proportion of employees are likely to live, including those with jobs at the SRFI.

111. NWL is expected to see a compound annual employment growth rate of 1.2 per cent between 2015 and 2031. That is twice the rate of the HMA as a whole and more than twice that of the wider East Midlands. It is expected to increase in-commuting by some 4,500 employees from the several related travel to work areas bounding the northern part of the HMA. This is in contrast with Leicester City, with a lower expected annual growth of 0.3 per cent, compared with immediately neighbouring districts, and a commensurately reducing level of in-commuting.
112. Such a relatively high in-commuting level to NWL has to be considered in the context of the relationship of the major employment areas in the north of the District to surrounding travel to work areas and to the strategic transport network. The potential for the SRFI to alter commuting patterns but without leading to substantial additional local housing requirements was noted by the SoS in granting approval for the SRFI.
113. In the circumstances, the commuting patterns for NWL predicted by the HEDNA appear acceptable and robust, such that no further increase in the OAN is necessary in this connection.

#### *Headship Rates*

114. OAN is also sensitive to headship rates. A temporary fall in younger, and particularly ethnic minority household formation, evident due to the recession between the 2001 and 2011 censuses, could lead to a long-term under-prediction of household formation, if carried forward inappropriately in the OAN calculation for the Plan period. It is suggested that the OAN could be underestimated by around 50dpa due to this factor alone.
115. Importantly, the HEDNA takes its household formation assumptions from Government predictions based on census results since 1971. Unlike later Government data sets, these figures do not anticipate the more recent recessionary fall in younger household formation. Moreover, a recorded increase in the ethnic minority proportion of the NWL District population, coupled with increases in tuition fees and reductions in state benefits, make a return to pre-recession headship rates unlikely.
116. Finally, for clarity in relation to economic growth, it is noted the HEDNA only models economic-led housing need forwards from 2015. However, this is because it relies upon actual performance data for the first four years of the Plan period from 2011 to 2015.
117. On balance, there is no justification for increasing the OAN in response to headship rate predictions.

#### *Affordable Housing Provision*

118. The HEDNA identifies an affordable housing need across the HMA of twice the total demographic housing need. For NWL the notional figure is 727dpa, some 90 per cent over the demographic need of 386dpa. If, as found above,

the OAN of 481dpa is justified on the evidence, it is common sense that these amounts of affordable housing are plainly undeliverable. It is equally common sense that an increase in market housing supply over the OAN would tend to suppress prices and improve affordability. It is necessary to find an appropriate balance.

119. The HEDNA, in its analysis of market signals, finds that NWL already has the lowest land values in the HMA, being 40 per cent below national levels outside London, and the lowest house prices in the HMA outside the City of Leicester. The lower quartile house price ratio and rental affordability are both consistent with the national averages. Moreover, unlike the calculation of OAN, the modelling of affordable need includes supply side factors unrelated to OAN, including existing households releasing market dwellings on removal of occupants to an affordable home.
120. The HEDNA nevertheless reaches the reasonable conclusion that there is an evidential basis for a HMA-wide uplift in the demographic housing need to cater for affordable need. For NWL a 10 per cent adjustment on the demographic need figure would result in an addition of 38 units and a total of 424dpa. This factor seems arbitrarily derived. However, there is no evidence in the representations to provide an alternative basis for determining a realistic adjustment. Furthermore, in practice, the economic-led OAN of 481dpa represents a much greater increase of nearly 25 per cent over the demographic need figure, which would necessarily contribute also to affordability.
121. The approach of the HEDNA to the provision of affordable housing as part of the OAN is reasonable on balance and no further adjustment to the OAN is required in this connection. The viability of providing an affordable element within new housing developments remains to be considered in relation to Main Issue 4 below.

#### *Conclusion on OAN for Housing*

122. Several Representors put forward extensive alternative assessments of OAN, deriving higher figures for the OAN for housing than the 481calculated by the HEDNA, ranging between 619dpa and 744dpa, based on future economic growth, commuting, headship and affordability assumptions. There is no doubt that accepted statistical modelling methodology is highly sensitive to input data variations related to lower rates of in-commuting, household formation and economic activity, in turn supporting improved affordability.
123. On balance however, the judgements made within the HEDNA for NWL, in particular upon headship rates and the crucial commuting ratio, are justified in support of the OAN of 481dpa, notwithstanding this is reduced from the 520dpa on which the submitted Plan was based, in response to the internal NWL Review of Housing Requirements. On the latest evidence, the reduction in the OAN now proposed would not, in itself, impinge adversely upon the effectiveness of the Plan. That does remain, nevertheless, subject to consideration of other factors, especially unmet needs from elsewhere in the HMA.

### ***District Need for Employment Land***

124. The 96ha employment land requirement of the Plan, as submitted, covers Classes B1, commercial, B2, industry and B8, distribution.
125. The HEDNA accords with the PPG in taking account of econometric forecasts of need for, and long-term past take-up rates of employment land. Based on the Planned Growth Scenario, the HEDNA concludes that there is a need in NWL for a lesser total of 66 ha of employment land overall, but this comprises 49ha Classes B1-2 industry and a further 16.8ha limited to small-scale Class B8 distribution sites under 9,000sqm.
126. The evidence of take-up of Class B1-2 sites draws on recognised commercial transaction databases. Alternative evidence from the Valuation Office Agency (VOA) is either not comparable, as it includes Class B8 sites, or is dated from before the time frame studied by the HEDNA.
127. The HEDNA recognises the contribution of renascent manufacturing in gross value added (GVA) terms, as shown by Oxford Economics, albeit coupled with some decline in employment due to improving productivity. Recognised Government data on floorspace compared with GVA data from Experian shows no correlation between floorspace demand and change in GVA.
128. In reaching its conclusions on the need for Class B8 land, the HEDNA, read with the updated SSDS, considers both future growth and replacement of storage and distribution uses, with reference to take up and availability of sites. This is viewed over the wider area of the Midlands Golden Triangle, extending to Birmingham, Nottingham and Milton Keynes and including the part of the M42/A42 corridor within NWL. The HEDNA records an increase in large-scale, online retail demand for Class B8 floor space in the Midlands.
129. For larger, Class B8 use, categorised as strategic, the HEDNA repeats the conclusion drawn from the Strategic Distribution Sector Study, as now updated [EX93], that there is a need for a total of 361ha of replacement and new strategic Class B8 land for the County as a whole up to 2031 but attempts no subdivision by district.
130. It is widely accepted that the distribution of such development is properly for consideration on a FEMA-wide basis due to cross-boundary demand and that a simplistic pro rata distribution between FEMA authorities would not be appropriate.
131. With regard to employment land needs overall, there is no effective challenge to the findings of the HEDNA in themselves.
132. Objections on grounds that the Plan is nevertheless unsound in relation to employment land provision are essentially reserved for questions of the adequacy of supply by type and location, including the replacement of employment land lost to other uses. These matters are considered below in connection with Main Issue 5.

***Overall Consideration of Housing and Employment Land Requirements, Unmet Needs and Early Plan Review***

133. For the above reasons, the OAN for housing of 481dpa and the overall need for employment land of 66ha identified by the HEDNA provide a robustly justified basis for the stated housing and employment land requirements of the Plan, before the application of planning constraints or other policy considerations.
134. The outstanding concern, in terms of requirements, is whether NWL should accommodate the unmet needs of the City of Leicester and the Borough of Oadby and Wigston. These unmet needs will not be clarified until the SGP is finalised at some time in the future.
135. In terms of ministerial policy and national guidance, it can properly be concluded that the Plan is sound with respect to its overall housing and employment land requirements, provided the Council is expressly committed, by adopted policy, to early review of the Plan, within a stated period after any such unmet needs to be met within NWL are identified.
136. Such early review is secured by **MM9** to Policy S1, together with amendments to its numerical requirements to accord with the foregoing findings on housing and employment needs. **MMs 1-8** are also necessary for consistency of the Plan text with the modification to Policy S1.
137. With those modifications in place, the overall requirements of the Plan for housing and employment development are justified by robust evidence. Whether the Plan is effective and sound overall is for further consideration below in relation to Main Issues 3-6 regarding the several aspects of land supply.

**Main Issue 3 – Housing Land Supply**

***Does the Plan make effective provision in its policies and site allocations to ensure a five year supply of Housing Land and Gypsy and Traveller Sites throughout the Plan period, having regard to planning constraints, including the River Mease Special Area of Conservation and the route of the High Speed Two (HS2) rail line?***

***Capacity and Delivery***

138. There is no question that, as indicated by the HEDNA, NWL has the planning capacity to provide for the level of housing development needed to meet its stated minimum requirement of 481dpa.
139. It is concluded in connection with Main Issues 1 and 2 above that the Strategy of the Plan is essentially sound, subject only to MMs10-12, and that its overall housing requirement is justified.
140. It remains to be considered whether the housing sites identified and allocated by the Plan are the most suitable in planning terms and would deliver the requisite numbers of dwellings in a timescale to secure a 5YHLS throughout the Plan period, as required by the NPPF.



### ***Housing Sites – Policy H1, Permissions and Policy H2, Resolutions***

141. The planning circumstances of the sites nominated by Policies H1 and H2, as having approval or being subject to resolutions to grant permission, are naturally subject to change since the Plan was submitted. Many of the sites listed in Policy H1 are under construction or the subject of reserved matters applications. Others are blighted, in particular by the potential alternative routes of the HS2 rail line, as considered below. Several sites listed in Policy H2 now have planning permission.
142. Accordingly, the Council proposes to update Policies H1 and H2 and their supporting text by way of **MMs13-20**, which are needed for soundness. It would be for the Council to make such further minor factual amendments prior to adoption as it considers appropriate. It is important to note that the factual information as to housing commitment and capacity set out in Table 2 within the Plan text is not to be confused with any judgement as to practical delivery and supply during the Plan period. In particular, no more than about 1,375 of the 2,050 dwellings allocated at Money Hill, Ashby de la Zouch, are expected to come forward before 2031. The net predicted supply during the Plan period is some 9,000 dwellings, leaving at least 620 to be allocated on new sites.
143. In its calculation of housing land supply, the Council expressly excludes windfall sites which might come forward unexpectedly from unallocated areas of land. This is an appropriately conservative approach, given evidence in the SHLAA of a reducing rate of delivery of small windfall sites and a lack of information on which to base an estimate from large windfall sites.
144. The primary concern of soundness is whether the sites nominated in Policies H1 and H2, as modified, will, with the new allocations of Policy H3, deliver the requisite numbers of dwellings for the Plan housing requirement to be met and a 5YHLS to be provided throughout the Plan period.

### ***Housing Sites – Policy H3, New Allocations***

145. The introductory paragraph 7.13 to Policy H3 states the need for additional sites to meet the revised housing requirement of 9,620 dwellings, as confirmed by **MM21**.

#### *Money Hill (land North of Ashby de la Zouch) – Policy H3a*

146. The choice of this mixed residential and employment site as a major element of the Plan Strategy is discussed above in relation to Main Issue 1 on Strategy. In terms of housing land supply, the site is allocated for a total of 2,050 dwellings, increased from 1,750 in the consultation version of the Plan, with some 1,375 coming forward by 2031.
147. The site is evidently the most sustainable location to provide the scale of housing required to meet the Plan Strategy, as affecting Ashby de la Zouch. The only other comparable alternative, at Packington Nook, is detached from the town and a proposal for its development has also been rejected at appeal.
148. The chief remaining environmental constraint on Money Hill is the potential impact due to increased effluent from development on the River Mease SAC.

This raises matters related respectively to the rate of housing delivery and of environmental protection, discussed further below and as part of Main Issue 6.

149. Understandable local concerns regarding the distribution of development within such a large allocation justify a policy requirement to provide a comprehensive masterplan for the whole site area. This is introduced by **MMs22 and 25** to Policy H3a and related text, which also confirm the number of dwellings and are necessary for soundness. This is reaffirmed by a similar amendment to Policy Ec2, in relation to employment land provision, discussed below in connection with Main Issue 5.

*Land off Waterworks Road, Coalville – Policy H3b*

150. The chief concern regarding this Council-owned site for 95 dwellings relates to its deliverability with respect to access, which the Council is confident will be overcome. Its potential environmental impacts are less than those of alternatives considered in the AoS, including Broomleys Farm or on land South of Loughborough Road. The selection of the site appears consistent with the Plan Strategy.

*Land off Ashby Road/Leicester Road, Measham – Policy H3c  
and*

*Land South of Ashby Road, Kegworth*

151. In Policy H3c, as submitted, the allocation of the site off Ashby Road within Measham for 420 dwellings is qualified as a reserve provision against the development of land west of the High Street under Policy H2e being prohibited by the route of the HS2 rail line. The allocation is consistent with the Plan Strategy and the site is preferable to other local alternatives in terms of scale and the potential for environmental impact and its mitigation.
152. During the Examination, it emerged that the allocated site is itself now affected by an alteration to the HS2 route. Uncertainty remains over the final route of HS2 and its effect on housing developments in Measham. This has led the Council to introduce alternative proposals to provide flexibility of housing provision to meet this aspect of the Strategy.
153. In addition to the Measham land, it is proposed to include an additional contingency allocation on land south of Ashby Road, Kegworth, where other sites with permission, including that identified in Policy H1v, are also now affected by HS2. This site has since been subject to satisfactory SA.
154. The proposed qualified allocation of the Measham site for a reduced total from 420 to 300 dwellings, together with the additional allocation in Kegworth for 110 dwellings, by a new section d of Policy H3, is a logical approach in the circumstances. The necessary amendments are brought about by **MMs23-24 and 26-27**.
155. Overall, with those MMs in place, the allocated sites are the most suitable in planning terms to provide the housing development required in addition to the deliverable sites nominated by Policies H1 and H2 as already having approval or being subject to resolutions to be permitted.

***Deliverability - Housing Trajectory and Five Year Housing Land Supply***

156. Based on the latest available evidence and consultation with potential developers, the Council considers that the supply of housing land, including the sites identified and allocated by Policies H1-3, with the MMs proposed, would deliver some 10,590 dwellings by 2031, nearly 1,000 in excess of the overall requirement of 9,620 dwellings.
157. The Council further considers that the trajectory of housing delivery will secure a housing land supply in the order of either 6 or 7 years for the current five year period to 2021, depending on whether the 5 or 20 per cent supply buffer prescribed by the NPPF is applicable at any given year. That is calculated from the base requirement of 2,405 units (481dpa x 5) and an estimated supply of 3,591 units, net of any windfall contribution from small sites, with adjustments for shortfall and buffer.
158. These supply estimates are challenged with respect to a number of specific sites in terms both of their practical deliverability, as well as reasonable assumed build rates in dpa, once development commences. The main areas of dispute are as follows:
- i. Considering first the major strategic Money Hill allocation by Policy H3a, the developer confirms that dwelling completions should commence in late 2017 at 130dpa from two concurrent developments. This is credible, such that the Council estimate of 350dpa to 2021 is reasonable, even modest. There is no evidence of delivery being constrained in the early years by the need to protect the River Mease SAC.
  - ii. The site at Waterworks Road, Coalville appears to be subject to potential delay due to access difficulties but the Council, as site owner, is optimistic of delivering 50 dwellings by 2021, commencing in 2019. However, unresolved uncertainty justifies omitting this 50 units for the purpose of the current 5YHLS calculation.
  - iii. The Council is endeavouring, by MMs discussed above, to secure alternative sites at Measham (H3c-d) in the face of uncertainty created by the proposed HS2 route. In view of this uncertainty, a precautionary reduction of the Council five year estimate from 60 to zero is appropriate.
  - iv. The site at Holywell Spring Farm (H1d) might proceed at a slower rate than anticipated and deliver fewer than the 250 units assumed by the Council, having regard to disputed viability and constraint by the River Mease SAC. A precautionary reduction of the Council estimate by 100 units is appropriate.
  - v. The viability of land South of Park Lane, Castle Donington (H1i) is questioned. However, the development is permitted, subject to a viability assessment that a reduced 12 per cent affordable housing contribution is acceptable and no public highway funding is essential. The Council estimate of 140 units is reasonable in the circumstances.

- vi. For the Standard Hill site at Coalville (H1n), despite concerns over viability, the developer advises that development is to commence in 2018 at 30 to 40dpa. A precautionary halving of the Council estimate of 100 to 50 is appropriate in the circumstances.
  - vii. Within the large permitted Urban Extension of South East Coalville, land at Grange Road, Hugglescote (H1q and H2c) is evidently subject to issues of the affordable housing contribution, as well as infrastructure and utilities provision, such that Representors envisage a reduction of the Council five year delivery estimate of 435 dwellings to 120 units. The developer is more optimistic. In reality a figure between the two is more realistic, justifying a reduction of 150 in the five year delivery assumed.
  - viii. Similar comments apply to the site at Jackson Street, Coalville, where a conservative reduction of 30 in the Council five year estimate of 60 units is justified in view of viability issues.
159. Accepting that there is no certain basis for precise calculation, it is appropriately conservative to round the foregoing total reductions of 440 to 500 units in case of further reduced delivery. Applying that reduction to the five year supply to 2021, as estimated by the Council, the net 3,091 (3,591-500) would still deliver a housing land supply of approximately 5.3 years, including an increased 20 per cent buffer in recognition of persistent under-delivery in past years. The rate of delivery should improve on adoption of an up-to-date Plan, coupled with a degree of economic recovery.
160. Even on the most pessimistic challenge to the Council estimates put forward in the Examination, the 5YHLS would appear still to be just above the five year minimum.
161. To reflect the foregoing adjustments, suitable and necessary additional amendments to the supporting text are made by **MMs28-29**. The housing trajectory also demonstrates a 5YHLS throughout the Plan period on current evidence but the Plan is subject to review under modified Policy S1 in any event.

### ***Accommodation for Gypsies and Travellers and Travelling Showpeople***

162. Under Section 8 of the Housing Act 1985, as amended by Section 124 of the Housing and Planning Act 2016, the Council has a duty to consider the needs of all persons residing or resorting to the District with respect to the provision of sites on which caravans can be stationed. There is no longer a requirement for specific gypsy and traveller accommodation needs assessments (GTAAs), albeit existing GTAAs are still a recognised source of data.
163. Nevertheless, the national Planning Policy for Traveller Sites of August 2015 (PPTS) requires the Council to plan positively and collaboratively on robust evidence to set targets for caravan pitches, based upon an objective and up-to-date assessment of need. The Plan should contain a policy confirming pitch requirements for the full Plan period. The PPTS also states that any shortfall in the provision of sites should be met by allocations sufficient to achieve a deliverable five year supply of pitches, with developable sites or broad locations identified beyond that period.

164. Policy H7 provides reasonable criteria for the appraisal of any site-specific proposals that might come forward and sets down pitch requirements five-yearly throughout the Plan period on the basis of unchallenged evidence of the 2013 Refresh of the Leicestershire, Leicester and Rutland GTAA of 2007 [HO/07]. This evidence appears to be robustly based but dated. The Council, with other HMA authorities, has therefore commissioned a new GTAA. However, the identification of sites is expressly deferred by Policy H7 to a separate Gypsy and Traveller Site Allocations Development Plan Document (DPD).
165. In the preparation of the Gypsy and Traveller Site Allocations DPD, a call for sites failed to identify any new sites, leading to the assessment by the Council of some 500 potential sites in conjunction with statutory planning consultees and gypsy liaison groups. Once the updated needs assessment is complete, the Council proposes to publish the draft DPD, identifying specific sites.
166. By way of Policy H7 and its supporting text, the Plan complies as far as possible on the available evidence with national guidance and has attracted no objections, subject to the proposed continued joint working with other authorities and the preparation of the Site Allocations DPD.
167. The HEDNA merely touches upon the accommodation needs of gypsies and travellers as a specific group, relying upon the new GTAA commissioned by the HMA authorities. Meanwhile, the effectiveness of the Plan in this connection remains dependent upon a needs assessment and DPD preparation work yet to be completed.
168. However, given the clear undertaking that this further collaborative assessment is to be carried forward and the Site Allocations DPD published in the short term, coupled with the commitment by Policy S1, as amended by MM9, to early review of the Plan as whole, the provisions of the Plan for gypsy and traveller accommodation are justified and effective in the circumstances.
169. Finally in this regard, reference in current national guidance is to needs assessment of all people residing in or resorting to the District, rather than a specific GTAA. This may give rise to changes in the terminology of Policy H7 and its supporting text. However, such amendments would not affect the essential soundness of the Plan and would amount to minor modifications. These would be for the Council to consider and are not a matter for this Report.

### ***Overall Conclusion on Housing Land Supply***

170. It is concluded, on the evidence to this Examination, that the supply of housing sites identified and allocated by Policies H1-3 is approximately 10,590 dwellings. This is more than sufficient, by a margin of nearly 1,000 units, to meet the housing land requirement of 481dpa. Moreover, this can be delivered in a timescale to provide a 5YHLS throughout the Plan period to 2031, as indicated by the housing trajectory. That is even with the downward adjustment, set out above, to the current five year delivery estimates to 2021 put forward by the Council.
171. It is understandable that Representatives, concerned to protect their localities from development pressure, advocate limiting the housing supply

commensurate with the reduction in the requirement from 520dpa to 481dpa between the submitted Plan and the figure derived subsequently by the HEDNA.

172. There are a number significant planning factors militating against such a line of action. First, with only three newly allocated sites and a 5YHLS only just above the required level, the Plan lacks the flexibility to maintain housing supply at the required rate in the face of any significant , unforeseen delay in the delivery of individual sites. Second, the Plan is subject to early review by way of Policy S1 and MM9, in order to cater for, as yet unquantified, unmet housing need from Leicester and from Oadby and Wigston. Third, it is well established that the numerical planned housing requirement is not to be regarded as a ceiling but as a minimum.
173. On a balance of judgement in the circumstances, the housing supply created by the Plan, in excess of the minimum, is nevertheless to be regarded as appropriate.
174. Overall, subject to the foregoing MMs, the Plan makes effective provision to ensure a five year supply of Housing Land and for Gypsy and Traveller Sites throughout the Plan period.

#### **Main Issue 4 – Affordable Housing Contributions**

##### ***Does the Plan make adequate and effective provision for appropriate contributions to the supply of affordable housing from new development?***

175. The single issue of particular concern regarding the provisions of the Plan for affordable housing contributions relates to the distinction, in terms of viability, between greenfield and previously developed sites.
176. The viability of the Plan and its allocated sites, including their potential to contribute affordable housing, is assessed in a Viability Review of June 2016 [LP/09]. This forms the basis for Policy H4, as submitted, which sets minimum affordable housing contributions of between 20 and 30 per cent for all new housing developments by settlement. These apply to all sites above the 10-dwelling threshold promulgated by national guidance, except for the three largest towns where a threshold of 15 or more dwellings is stated. Policy H4 includes a provision for negotiation of a lower contribution on viability grounds.
177. The inputs and results of the modelling within the 2016 Viability Review are not challenged in themselves. However, the Council accepted, following discussion at the Examination Hearings, that Policy H4 over-simplifies the contribution requirements, in that it fails to distinguish between brownfield and greenfield developments. In addition, the specified threshold of 15 dwellings and above for larger settlements is an unexplained departure from the national norm. Given the generally higher cost of redeveloping brownfield sites, Policy H4, as submitted, thus places excessive reliance upon the option for negotiating alternative, lesser contributions and is consequently ineffective.
178. In response, the Council put forward an Addendum to the Viability Review dated March 2017 [EX/84]. This draws on the results of the original viability

modelling to tabulate deliverable affordable housing percentages for an 11-dwelling archetypal site, applied throughout the whole District, for both previously developed and greenfield land.

179. The Viability Addendum shows that a 30 per cent affordable contribution should be viable for all greenfield sites of 11 dwellings or 1,000sqm or more of floor space, except in the main Coalville urban area, where only 20 per cent is expected to be viable.
180. However, the Viability Addendum equally demonstrates that nowhere is a contribution of more than 15 per cent viable on brownfield sites, even for sites of up to 30 dwellings or below 1ha. This applies only to Ashby de la Zouch and Measham. In all other settlements, brownfield sites of that capacity could evidently only support up to a 5 per cent affordable contribution.
181. With those rates and thresholds in place, Policy H4 would provide a balanced and effective basis for securing appropriate affordable housing contributions, without undue recourse to costly and time-consuming, scheme-specific viability assessments and negotiations.
182. The revised figures need to be transposed into Policy H4, with commensurate revision to its supporting text, in order for the Plan to make adequate and effective provision for affordable housing contributions from new development. Further, the qualification in the table to Policy H4 that the percentage contributions are a minimum requirement is inappropriate and reduces the clarity of Policy H4 as a basis for negotiation when this does become necessary. These amendments are achieved by **MMs 30-31**, which are required for the Plan to be sound in this respect.

## **Main Issue 5 – Employment Land Supply**

### ***Does the Plan make effective provision for an adequate supply of Employment Land?***

183. It is concluded in connection with Main Issues 1 and 2 that the Strategy of the Plan is sound and its overall employment land requirement justified. The question of soundness to be addressed with respect to the supply of employment land is whether the Plan provides for the delivery of the requisite amount and appropriate type of employment sites to secure the land supply required for the Plan period.
184. The methodology and results of the HEDNA, compared with the evidence supporting the submitted Plan, caused the Council to review the numerical supply provisions of the Plan for employment sites, with reference to the respective needs for commercial and industrial Classes B1 and B2 sites and for small storage and distribution Class B8 sites, under 9,000sqm. In the HEDNA, the latter are distinguished from strategic Class B8 sites.
185. The revised evidence of the Council is that the current supply of land for Class B1, B2 and small B8 sites, including the 16ha Money Hill allocation, is some 53ha. This would indicate a shortfall of 13ha compared with the requirement identified by the HEDNA of 66ha.

186. The submitted plan included an allowance for loss of land in all employment Use Classes of 45ha. The Council revisits this figure with reference to its recorded actual losses of Class B1, B2 and small B8 land from 1991 to 2016 of some 1.28ha per year. Repeated over the remaining 15 years of the Plan period, this would add a further 19ha to the shortfall. At the same time, there is evidence that employment sites in those classes with remaining potential for non-employment use now total only about 10ha. On this basis, it would be reasonable to assume a likely shortfall of the order of 23ha and no more than 32ha in any event.
187. According to the Council, the total employment land supply of the Plan, including the SRFI, is 291ha, equivalent to 37 per cent of the total FEMA requirement identified by the HEDNA. Previous evidence supporting the submitted Plan excluded the SRFI from the supply but it is now appropriate to include it, in line with the approach of the HEDNA. Some 30ha is committed with planning consent and the new Money Hill allocation adds 16ha to the potential supply, with some flexibility of use between the several components of Use Class B.
188. This quantitative evidence is questioned by Representors, including with respect to the amounts of residual land remaining available on established employment sites. The figures are presented for all Class B uses and do not compare directly with the results of the HEDNA. However, it is claimed that there is some 50ha less employment land in the supply than the Council considers to be the case.
189. Of particular concern is the Lounge Disposal Site in Ashby de la Zouch where a potential 25ha of developable employment land could be reduced by the construction of HS2 rail line through its western part. Nevertheless, there is evidence of development interest in a substantial part of the site. The total loss of this site from the supply is therefore unlikely.
190. Another substantial site in question is at Sawley Crossroads, where some 14ha is subject to permission to extend storage use by the existing user. It appears reasonable to include this residual land in the total employment land supply.
191. Overall, the numerical evidence of the Council on the current employment land supply is robust.
192. However, Representors also question whether, irrespective of overall quantity, the Plan provides for a sufficient range of sites in size and location. These concerns are justified with respect to the degree of flexibility afforded by the Plan and the recognition of the strategic importance of the M42 corridor in relation to distribution across the wider transportation network.
193. The Council therefore now proposes **MMs40-41** to add a second clause to Policy Ec2 and expand its supporting text on New Employment Sites. This is to provide an appropriate level of flexibility in the choice and location of employment sites, including within the M42 corridor, in response to evidence of need or demand and subject to transport and amenity considerations. The Council also proposes, by way of **MMs32-39**, to revise the Plan text and Policy Ec1 on current Employment Provision and Permissions to reflect the foregoing circumstances. An additional amendment to Table 5 within the Plan



text is appropriate to clarify that the figure for committed employment sites now refers only to Class B8 sites up to 9,000sqm.

194. These modifications are appropriate and necessary for soundness. With them in place, the employment land supply within NWL would appear, in broad terms to be such that the claim of the Council that there is no urgency to resolve the identified shortfall by way of specific allocations carries some merit.
195. On the other hand, the supply of Class B1, B2 and small B8 sites is strictly inadequate for the Plan period as a whole. However, the Plan proceeds on the justified premise, taking account of national guidance, that early review must take place in terms of Policy S1, as amended by MM9, in respect of unmet housing and employment needs from elsewhere in the HMA. MM41 makes a further appropriate textual cross-reference to early review. That being the case, it is acceptable to regard the provisions of the Plan for employment land as sound in their proposed modified form.
196. In a further addition to Policy Ec2, also included within **MM40**, again in response to justified representations, the Council proposes to require a Masterplan to be provided for the strategic Money Hill allocation, prior to the first development taking place. As in the case of the housing provision within this allocation, this is necessary to secure an appropriately comprehensive approach to the development of such a large site.
197. Finally, with respect to employment land, **MM42** makes a small but important amendment to Policy Ec4 by supporting growth of the East Midlands Airport, provided such development gives rise to a material increase in its capability, as opposed to its mere capacity, as currently stated.

## **Main Issue 6 – Other Policy Provisions**

### ***Environment, Heritage and Climate Change***

198. Policies En1-4 and 6, HE1-2 and CC1-3 provide a suite of protective measures related to the environment, heritage and climate change. These are broadly consistent with the NPPF, without inappropriately repeating national guidance, but give rise to specific areas of concern as follows:

#### *Areas of Separation and Local Green Space*

199. AoSs are considered in relation to Policy En5 above in connection with Main Issue 1, Strategy.
200. Local Green Space (LGS) is a protective designation, defined in paragraphs 76-78 of the NPPF, for local and neighbourhood plans to apply to open spaces that do not comprise extensive tracts of land and are special to local communities. The Council considers the identification and protection of valued LGS is best left to NPs. Meanwhile, Policies IF3 and S3 would provide protection from development to valued open spaces respectively within settlements and in countryside areas.
201. NP preparation has not progressed far in NWL and local Representatives are understandably concerned that the NP making process can be protracted.

However, the NPPF makes clear that the LGS designation is for limited use and is not appropriate for most green or open areas. There is no obligation for such areas to be identified in local plans.

202. It might be for a future review of the Plan, and not for this Report, to conduct a review of potential LGSs, where evidence of special local value might justify designation.
203. Nevertheless, the approach of the Council in deferring LGS designation to NPs does not render the Plan unsound as submitted.

#### *Land and Air Quality*

204. Policy En6 covers, briefly but effectively, an appropriate range of considerations regarding the effect of development on land and air quality. To be soundly consistent with the NPPF at paragraph 109, it should refer to avoiding 'any unacceptable adverse impact'. Its reference, as submitted, merely to 'any adverse impact', implies too high a test. **MM44A** is inserted, since the public consultation, to achieve this necessary amendment.

#### *River Mease Special Area of Conservation*

205. Policy En2 seeks to improve water quality in the River Mease SAC by constraining development that would discharge waste water into the catchment subject to headroom in water treatment capacity. Compliance is required with a Water Quality Action Plan, including water quality improvement by way of the established, two-phase Developer Contribution Scheme (DCS1-2). **MM44** introduces an additional criterion, necessary for soundness, to restrict development where there is no capacity in the DCS scheme in operation.
206. The historic evolution and means of implementation of the DCS are complex but, essentially, local Representors passionately maintain that the technical basis of assessing water quality, in particular phosphate levels, is erroneous and Policy En2 thus ineffective, rendering the Plan unsound in respect of this aspect of environmental protection.
207. There is conflicting evidence of assertion in this regard. The expert evidence of the Council is that DCS1 is correctly based on appropriate historic water quality data on the types of phosphate concerned. DCS2 also was reviewed by specialist consultants as well as the EA, STWL and the River Mease SAC Project Officer, without modification.
208. Ultimately, the effectiveness of DCS1-2 and of Policy En2 will be a matter for the Monitoring Framework of the Plan which includes a suitable set of criteria for Policy En2. With that safeguard in place and on a balance of probabilities, Policy En2 is properly to be regarded as sound and the DCS effective.

#### *Transport Infrastructure*

209. Policy IF4 deals with Transport Infrastructure and New Development. The Council proposes **MM43** to ensure that account is taken of the need to minimise the effects of transport modes on climate change, including with

reference to accessibility to non-car travel modes. This appropriately makes Policy IF4 effective in terms of national policy.

### *Protection of Heritage Assets*

210. By way of **MM25, MM40 and 46**, the Council proposes amendments to Policy H3a on Money Hill, Policy Ec2 on New Employment Allocations, and Policy Cc1 on Climate Change. These changes are all necessary and appropriate to clarify the protection of heritage assets in line with national policy.
211. However, proposed **MM45** to Policy He1, on the Historic Environment, requires different amendment from the published version to retain recognition of the separate ‘substantial’ and ‘less than substantial’ levels of harm to designated heritage assets defined in national policy as well as providing for the balance of judgement required between less than substantial harm and planning benefits. These further changes make Policy He1 consistent with NPPF paragraphs 133-135 and are needed for soundness.

### *Implementation and Monitoring*

212. Policy IM1, read with the Monitoring Framework at Appendix 5 to the Plan, provides a sufficient range of criteria for the monitoring of the future effectiveness of the Plan, in particular by way of the Annual Monitoring Report (AMR). Policy IM1 includes appropriate measures to address any identified shortfall from reserve sites or those listed in the SHLAA, subject to the Settlement Hierarchy of Policy S2.
213. Notwithstanding concerns expressed by Representors, Policy IM1 does not need to provide detailed triggers for remedial action further to the AMR, nor refer to windfall sites. If, at any time, the Council was unable to demonstrate sufficient land supplies, in particular for housing, the relevant policies of the Plan would be rendered out of date by the NPPF in any event.

### **Assessment of Legal Compliance**

#### ***Statement of Community Involvement***

214. Some concerns were expressed by Representors that public consultation was inadequate, for example with respect to the extent and content of the major land allocation at Money Hill, Ashby de la Zouch, which was subject to relatively late alteration, prior to the submission of the Plan. Such considerations are matters of evidence related to the soundness of the Plan, as considered above. There is nothing to indicate that the public consultation on the Plan failed to comply with the Statement of Community Involvement.

#### ***Sustainability Appraisal***

215. Various concerns were raised that the Sustainability Appraisal contained inconsistencies. However, the scope of the SA and the topics it covered were set with appropriate reference to Schedule 2 of the Strategic Environmental Assessment Regulations 2004 (SEA Regulations). The likely environmental effects of the policies and allocations of the Plan, and latterly the recommended MMs, were evaluated accordingly, with no finding of any unmitigated impact. The choice of options between reasonable alternatives is

ultimately a matter of judgement. There is no substantive indication that the SA is inadequate in terms of the SEA Regulations, notwithstanding any apparent detailed inconsistencies.

216. Further concerns were raised that the Sustainability Appraisal failed to consider reasonable alternative spatial strategies, in particular with respect to the AoS between the main settlement of Coalville and Whitwick, promulgated by Policy En5. In this connection, legal precedent was quoted in support of additional work on the SA to evaluate, on an equal basis, the likely environmental effects of alternative formulations of the AoS. Nevertheless, the designation by the Plan of the AoS, in substitution for a former Green Wedge, is primarily a matter of soundness considered above as part of the spatial strategy and is assessed as such in the SA. I do not consider further detailed analysis within the SA to be necessary or that the SA is inadequate with respect to the Strategic Environmental Assessment Regulations 2004.

**Conclusion on Legal Compliance**

217. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The Plan has been prepared in accordance with the North West Leicestershire Local Plan Local Development Scheme (LDS) [LP/15], save that, due to the extension of the Examination to accommodate the HEDNA and MM consultation, the projected adoption will be deferred beyond June 2017, as originally scheduled. The LDS should strictly be updated in this respect. However, at this stage, this discrepancy is of no practical consequence to any party and it is appropriate to regard the preparation of the Plan as compliant with the LDS.
Statement of Community Involvement (SCI) and relevant Regulations	The SCI was adopted in January 2015 [LP/16]. Consultation on the Local Plan and the MMs has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out on the Plan and the MMs and is adequate with reference to the Strategic Environmental Assessment Regulations 2004.
Habitats Regulations Assessment (HRA)	The Final Habitats Regulations Assessment June 2016 [LP/11] reaches an overall screening conclusion that the Plan will have no likely significant effects, either alone or in combination with other plans and projects, upon any European sites and that an Appropriate Assessment is not required.
National Policy	The Plan complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The Plan complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

218. For the reasons set out above, the Plan has a number of deficiencies in respect of soundness, explored in connection with the identified Main Issues. In accordance with Section 20(7A) of the 2004 Act, I therefore recommend non-adoption of the Plan, as submitted.
219. However, the Council has requested, under Section 20(7C) of the 2004 Act, that I recommend Main Modifications to make the Plan sound and capable of adoption. I accordingly recommend the Main Modifications, set out in the **Appendix** to this Report, whereby the North West Leicestershire Local Plan would satisfy the requirements of Section 20(5) of the 2004 Act and meet the criteria for soundness in the National Planning Policy Framework.

*B J Sims*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.