

**NORTH WEST LEICESTERSHIRE LOCAL PLAN PARTIAL REVIEW
EXAMINATION**

**POSITION STATEMENT OF NORTH WEST LEICESTERSHIRE DISTRICT
COUNCIL**

**ISSUE 2 - WHETHER THE PROPOSED CHANGES TO POLICY S1 ARE
JUSTIFIED, EFFECTIVE AND CONSISTENT WITH NATIONAL POLICY AND
GUIDANCE?**

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Q1. Policy S1 as proposed refers to the submission of a replacement Local Plan, however the Council have started on the 'Substantive Review' of the Local Plan. Given this position, is the wording in the Policy S1 sufficiently clear and accurate?

Yes. As outlined in the Topic Paper (LP/12) it was always intended that the review would be a partial review and not a wholesale 'substantive' review. The review as submitted is limited to only Policy S1, so is even more restricted (or partial) in content than initially envisaged. In order to try and minimise confusion the Council has used the words 'Substantive Review' in order to be able to distinguish, particularly for our local communities who perhaps do not have the same level of understanding regarding the Local Plan process, between the review the subject of this Examination (referred to as the Partial Review) and what will be a wider review which will, amongst matters, address housing and employment needs to 2039 and which was the initial focus of the Partial Review.

The 'Substantive Review' will be the replacement Local Plan referred to in Policy S1 (as proposed). The Council considers that the term 'replacement Local Plan' is clear and accurate. Once the Partial Review the subject of this Examination is completed it will not be necessary to draw any distinction and so what is referred to as the 'Substantive Review' will be referred to as the replacement Local Plan.

Q2. Taking account of all the changes in circumstances since the adoption of the Local Plan, including the publication of the 2019 National Planning Policy Framework, is the approach to the Partial Review justified?

Yes. For the reasons outlined in the Topic Paper (LP/12) and the report to the Council's Cabinet of 16 July 2019 (CR/01) the Council considers that the approach to the Partial Review is justified.

The changes in circumstance since the previous Inspector's Report are significant and could not have been anticipated at that time. It is important that the Local Plan remains up-to-date for the purposes of Development Management and this could not be done with a wider than Policy S1 review within the timescales required by Policy S1. However, the proposed approach maintains a commitment to submitting a replacement Local Plan within a specified timeframe, consistent with the approach required by the previous Inspector.

Q3. What are the implications of retaining Policy S1 in its current form (in the adopted Local Plan) for the whole Local Plan, and would this be consistent with national policy including the preparation and review of Local Plans?

If Policy S1 was retained in its current form (i.e. as per the adopted Local Plan) , the Local Plan in its entirety would, by virtue of the wording of the policy , be

deemed to be out-of-date. This would trigger the operation of the 'tilted balance' of paragraph 11(d) of the National Planning Policy Framework (NPPF) (NP/01) in all decisions on all planning applications which would leave the Council, and more particularly its communities, vulnerable to ad-hoc planning applications which the Council might find itself unable to resist having regard to the provisions of the NPPF and other material considerations.

The NPPF makes clear that "*The planning system should be genuinely plan-led*" (paragraph 15). Therefore, retaining Policy S1 in its current form would run counter to this.

Q4. What, if any, are the consequences of Leicester City Council having provided a very initial indication of unmet need for housing and employment?

The fact that Leicester City has been able to provide a figure for their unmet need for both housing and employment is clearly welcomed. However, these are not at this stage anything like confirmed figures, indeed the scale of unmet employment need was only formally confirmed to the other Leicestershire authorities at a meeting on 24 February 2020.

At this stage the consequences of Leicester City having provided a very initial indication of unmet need for housing and employment are very limited. The identification of the unmet need is only the beginning of the process. It will be appreciated that it is for those authorities declaring an unmet need to justify such declarations with evidence. Furthermore, there needs to be an opportunity for those authorities that may be required to assist with meeting any unmet need to be able to interrogate the evidence.

It is reasonable to assume that as part of any Examination of the Leicester City plan that an Inspector would want to be sure that the evidence of unmet need is robust. Only when the Examination is complete will it be possible to confirm once and for all what the unmet needs is.

However, it would not be reasonable to await this outcome, particularly as the consultation on the draft Leicester City plan has now been delayed once again, this time due to the Covid-19 situation. This will delay the later stages of the plan making process, including the Examination. Therefore, as outlined in Section 5 of the Topic Paper (LP/12) the Leicester and Leicestershire authorities have put in place provisions via the Planning Advisory Service for an independent assessment of the evidence provided by Leicester City. Once this has been completed, options for redistributing the unmet needs will be assessed through the Sustainability Appraisal process which will inform a final decision about how the unmet will be redistributed. It is also intended to try and build in flexibility through testing different scenarios to reflect the possibility that the unmet need figures may change, for example when the 2018-based household projections are produced later in 2020.

Once this process is completed it will then be necessary for each authority to sign off its agreement to the redistribution. Therefore, even if the "initial indications" were regarded as being suitable for plan-making purposes, the 'share' that this Council should be expected to meet is not yet clear.

A meeting was scheduled for 24 March 2020 with the advisor appointed to undertake the independent assessment, but due to the current Covid-19 situation this had to be cancelled. The authorities are currently exploring ways of being able to take forward this work as quickly as possible, the current circumstances notwithstanding.

Q5. Is Policy S1 as proposed, consistent with other policies in the Local Plan and are there any other consequential changes to other policies or the supporting text needed?

Policy S1 as proposed seeks to amend the timing for the submission of the replacement Local Plan, and also the mechanism by which this will be done. It does not seek to change the plan period or any other provisions of the plan.

Having reviewed the adopted Local Plan, the Council has been able to identify two changes to the text which would be appropriate. Both paragraphs 7.24 and 8.26 refer to "the review of the Plan". It would be more appropriate and consistent with Policy S1 as submitted to refer, instead, to "the replacement Local Plan". This could be achieved through a minor modification.

STATEMENT OF COMMON GROUND AND TIMING OF SUBMISSION OF A REPLACEMENT LOCAL PLAN

Q6. Is the Statement of Common Ground with the Leicestershire authorities an appropriate trigger for the submission of a replacement Local Plan and will it be effective? What other approaches or triggers for submission of the replacement Local Plan would be appropriate?

Yes. As outlined in response to Question 2, the approach in the proposed Policy S1 seeks to maintain consistency with that of the adopted Local Plan in that it maintains a commitment to submitting a replacement Local Plan within a specified timeframe. However, it goes further than the policy in the adopted Local Plan as it includes a mechanism for how the redistribution of unmet need is to be determined; in this instance through a Statement of Common Ground to be agreed by the Leicester and Leicestershire authorities.

It is considered that the Statement of Common Ground is an appropriate trigger for the submission of the replacement Local Plan. This is because it provides a commitment from all of the Leicester and Leicestershire authorities to continue working together. Furthermore, it provides certainty that a suitably proportionate process will be followed to ensure that the housing and employment land needs of Leicester and Leicestershire are met within the area, including any redistribution of unmet needs. Finally, it also includes a time limit after which the replacement Local Plan must be submitted. Therefore, it is an effective trigger.

Q6a. What is meant by 'agreed' in the wording of Policy s1, and is it sufficiently clear what is meant by it within the policy?

The process for how the Leicester and Leicestershire authorities work together is outlined in Section 5 of the Statement of Common Ground submitted as part of the Partial Review (LP/08).

This states that the redistribution of unmet need from Leicester City will be *"agreed through the established joint working mechanism outlined at Section 5 above"*. Paragraph 5.3 then outlines that such redistribution will be *"subject to ratification at individual authority level"*.

Therefore, in the context of Policy S1, the word "agree" means when the Statement of Common Ground is ratified by each local authority.

Some representors have suggested that the policy should refer to being "agreed and signed" by each local authority. However, this would represent a potential issue in the event that one or more authority did not, for whatever reason, sign the Statement of Common Ground agreed at officer level. Whilst there is no suggestion at this time that this will happen, it has to be recognised that it could. If it did the remaining authorities would have to agree how to proceed and if the policy referred to signed as well it could represent an issue at future Examinations whereby some might seek to argue that the policy was not being complied with, because not everybody had signed. For this reason, it is considered that it is appropriate to use the word 'agreed' as this provides some flexibility, should it be required.

Q6b. What would be the implications if the Statement of Common Ground is not agreed, given that the timetable for the Substantive Review has already been fixed?

The Council needs to ensure that it has an up-to-date Local Plan in place at all times. There is a requirement to review Local Plans every 5-years. The current Local Plan was adopted in November 2017. At the very latest, therefore, the Council needs to have the replacement Local Plan (substantive review) in place by November 2022. It is this that has driven the current programme as set out in the Local Development scheme (LP/09) rather than the programme for the Statement of Common Ground, which is not something entirely within the Council's control.

The issue of the timescale for submission of the replacement Local Plan is addressed in the next question.

The advice regarding Statements of Common Ground in the Planning Practice Guidance does envisage that there may be circumstances in which agreement is not possible. Paragraph: 012 of the Plan Making section specifically states:

"What information will a statement of common ground be expected to contain about the distribution of identified development needs?"

When authorities are in a position to detail the distribution of identified needs in the defined area, the statement will be expected to set out information on:

.....

c. agreements (or disagreements) between strategic policy-making authorities about the extent to which these unmet needs are capable of being redistributed within the wider area covered by the statement."

This clearly envisages that there would still be some form of Statement of Common Ground, albeit without 100% agreement.

In the event that not all of the authorities ratify the Statement of Common Ground prepared at a Leicester and Leicestershire level, the replacement Local Plan would need to proceed on the basis of the Statement of Common Ground, as it relates to North West Leicestershire, including highlighting what is agreed and not agreed. It would then be for the appointed Inspector as part of the Examination to consider whether the Council has complied with the Duty to Cooperate, any disagreements notwithstanding, and whether the plan makes suitable provision for the development needs of the district taking in to account any unmet needs from elsewhere.

Therefore, it is considered that the Local Plan review can and will still move forward in the event that formal agreement is not reached on a Statement of Common Ground, not least for the reasons outlined above regarding the need to ensure an up-to-date plan is in place at all times. Essentially, the Council will have to make difficult decisions on the basis of the available information at that point in time, but such information will be more complete than has thus far been the case; there is some clarity regarding the scale of unmet need in Leicester City and new household forecasts and a revised Standard Methodology are anticipated later in 2020 providing greater certainty about the scale of growth to be planned for.

Q6c. Is the timescale of 18 months for the submission of the replacement Local Plan justified, if not what would be an appropriate timeframe?

In setting a timescale for submission, a balance needs to be struck between ensuring that it is ambitious whilst also realistic and achievable. It is considered that an 18-month period strikes such a balance.

Policy S1 of the adopted Local Plan provided for 2 years from the start of the required review to submission. As work on the review had already commenced at the time that the proposed wording for the Partial Review was being prepared, it was considered that 2-years would be too long. On the other hand, a 12-month period was considered to be unrealistic in the absence of sufficient information regarding the scale of unmet need in Leicester City (and an unmet need for employment land had not been declared) and also the likely scale of future housing and employment requirements, not least because the full scale of work involved is unclear.

Other more recently adopted Local Plans in Leicestershire had longer periods for submission (e.g. Harborough 30 months from commencement to submission) or none at all (e.g. Melton).

Q7. Are there any other emerging Local Plans or other plans such as the Strategic Growth Plan, which have the potential to impact on the Statement of Common Ground outcomes or the replacement Local Plan?

Other than the Partial Review, the only other Local Plan reviews across Leicester and Leicestershire which are further advanced are the Leicester City Local Plan and the Charnwood Local Plan. Both of these are planned for submission later in 2020. They will both need to be supported by a Statement of Common Ground. No doubt both these authorities will be keen to agree the level of unmet need from Leicester City and its redistribution before their plans are submitted.

At this time no other authority has indicated that it has an unmet housing or employment need other than Leicester City. Both of these plans will get to Examination before the replacement North West Leicestershire Local Plan. These Examinations will, no doubt, have included a thorough assessment and discussion of the Statement of Common Ground. It is not unfeasible that these may raise questions about the Statement of Common Ground which would result in it having to be revisited by the Leicester and Leicestershire authorities. However, the Planning Practice Guidance requires that "*Statements need be prepared and then maintained on an on-going basis throughout the plan making process*" (paragraph 20 Plan Making) and so such reviews would form part of the normal, ongoing process.

The Strategic Growth Plan has been agreed by all the Leicester and Leicestershire authorities. There are no plans to review it at this time, instead work is progressing to support its implementation.