

**NORTH WEST LEICESTERSHIRE LOCAL PLAN EXAMINATION
POSITION STATEMENT OF NORTH WEST LEICESTERSHIRE DISTRICT
COUNCIL**

MATTER 1– LEGAL COMPLIANCE AND FUTURE PLAN REVIEW



Matter 1a(i) : Is the Local Plan legally compliant with respect to the Local Development Scheme:

- 1 The Local Development Scheme (LDS) (LP/15) provides a timetable for the production of the Local Plan and includes a timetable detailing the processes involved in its preparation, production and consultation, including key milestones.
- 2 Throughout the preparation of the Local Plan the LDS has been revised in order to provide the most up to date timetable and the versions of the LDS that have been published throughout the preparation of the Local Plan are detailed below:-

The Local Development Scheme 2015-2018 (July 2015)

- 3 The table below details its published timetable for the Local Pan and the dates these stages were undertaken.

Local Plan Preparation Stage	Dates in the LDS	Actual Date of Stage
Evidence gathering	Commence February 2014	February 2014 with initial Local Plan Advisory Committee in March 2014
Initial Regulation 18 consultation	Dates June/September 2014	20 June 2014 – 19 September 2014 (Whole Plan) and 17 November 2014 – 9 January 2015 (Draft Limits to Development and Town Centre Boundaries)
Draft Plan consultation	September - November 2015	29 September 2015 – 30 November 2015.
Council agrees publication version of Local Plan	March 2016	N/A
Publication of Local Plan	April 2016	N/A
Submission	June 2016	N/A
Examination	September 2016	N/A
Adoption	September 2017	N/A

Table 1: LDS 2015 and Local Plan Preparation

The current Local Development Scheme 2016-2019 (May 2016) (LP/15).

- 4 Prior to the consultation on the publication Plan, a revised LDS (dated May 2016) was prepared and published in order to allow for a timetable relating to the later stages in the plan prepared to be updated. The table below is the

published timetable for the Local Plan and the dates these stages were undertaken:-

Local Plan Preparation Stage	Dates in the LDS	Actual Date of Stage
Council agrees publication version of Local Plan	June 2016	28 June 2016
Publication of Local Plan	July 2016	4 July 2016 – 15 August 2016 (Publication version of the Local Plan made available and notice given)
Submission	September 2016	4 October 2016
Examination	December 2016	January 2017
Adoption	June 2017	N/A

Table 2: LDS 2016 and Local Plan Preparation

- 5 The Council considers that it has met the legal requirements in respect of the LDS and that it has had full regard to the Local Development Scheme (LDS) as part of the preparation of the Local Plan. The Local Development Scheme has been reviewed and revised as necessary in order to ensure that information on the timetable for the production of the Local Plan is as up to date as possible.
- 6 The progress against the current LDS has been set out in the Annual Monitoring Report for the period 2015/2016 (December 2016) produced by the Council. (xx)

Matter 1a (ii): Is the Local Plan legally compliant with respect to the Statement of Community Involvement:

- 7 The Statement of Community Involvement (SCI) sets out the Council's approach to engaging the community, business and other organisations in the planning system.
- 8 At the time the preparation of the Local Plan commenced the SCI was that approved in October 2006. (xx). This was prepared under the provisions of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Development Plans) (England) Regulations 2004. This guided the earlier stages of consultation undertaken prior to the preparation of a new SCI.
- 9 The subsequent 2015 SCI (LP/16) has guided the remainder of the consultation on the Local Plan. This SCI was prepared to take account of several changes to planning legislation and regulations with respect to local plan preparation, as well as the introduction of the Duty to Co-operate and Neighbourhood Plans. Developments in technology to engage with communities also fed into the new SCI. This SCI was adopted in January 2015 following consultation in June-September of 2014.
- 10 Each Local Plan Stage has been prepared in accordance with the SCI adopted at the time. A Statement of Consultation (LP/19) required by Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, has been prepared which sets out how the Council has complied with its SCI. The Statement of Consultation provides further details on the consultation and

community engagement at each stage of the Local Plan. A summary is provided in Table 3 below.

Consultation Stage	Date	Who was consulted and how
Local Plan Consultation – My Say (Regulation 18)	20 June 2014 to 19 September 2014	<p>Specific and general and consultation bodies, together with residents and businesses in the district.</p> <p>Paper copies of the document were made available</p> <p>Local Plan consultation Council web page</p> <p>Attendance at Community events.</p> <p>Press releases</p>
Draft Limits to Development and Town Centre Boundary Consultation (Regulation 18)	20 June 2014 to 19 September 2014	<p>Council members workshop</p> <p>Targeted consultation with Town and Parish Councils - who were also asked to facilitate engagement.</p> <p>Neighbourhood Plan groups</p> <p>Local Plan consultation Council web page</p> <p>Parish Liaison Meetings</p> <p>Public Drop-in sessions</p> <p>Coalville Town Team and Ashby Town Team.</p>
Draft Local Plan Consultation (Regulation 18)	29 September 2015 to 30 November 2015	<p>Specific and general and consultation bodies, together with residents and businesses in the district.</p>

		<p>Contacts on the Business Focus Database</p> <p>Contact made with Secondary Schools</p> <p>Paper copies of the document were made available</p> <p>Local Plan consultation Council web page</p> <p>Press release and social media</p> <p>Letters sent to landowners and developers as well as infrastructure providers</p> <p>Chamber of Commerce, Coalville Town Team and Ashby Town Team.</p> <p>Public Drop-in events.</p>
<p>Publication Local Plan Consultation (Regulation 19)</p>	<p>4 July 2016 to 15 August 2016</p>	<p>Specific and general and consultation bodies, together with residents and businesses in the district via Statement of Representations Procedure</p> <p>Paper copies of the documents were made available.</p> <p>Local Plan consultation Council web page</p> <p>Press Releases</p>

Table 3: SCI and Local Plan Preparation

- 11 The Council has met the public consultation process outlined within both the 2006 and 2015 SCIS.

Matter 1a (iii): Is the Local Plan legally compliant with respect to Sustainability Appraisal:

- 12 Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a Local Plan during its preparation. Sustainability Appraisals must also incorporate the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004, often referred to as the ‘Strategic Environmental Assessment Regulations.’
- 13 The Sustainability Appraisals that have been undertaken as an integral part of the preparation and development of the Local Plan, meet the requirements of the above regulations.
- 14 From the outset of the Local Plan preparation, and through the subsequent processes, a series of iterative appraisals have been published and consulted upon. At each stage, comments were considered and, where appropriate, resulted in changes to the Plans. Throughout the plan preparation, the Council have produced and consulted the following sustainability appraisal documents:

Sustainability Appraisal Stage	Date Published
A refresh to the Scoping Report (LP/06) used to inform the withdrawn Core Strategy was commissioned in May 2014 and was subject to consultation with the Environmental bodies in September 2014. This report collects baseline information and information on the aims and objectives of plans, policies and programmes.	February 2015
A SA Report (LP/08) was published and consulted alongside the draft Local Plan and included consideration of alternatives and explanations as to why the preferred options had been chosen. Alternatives were also considered and possible mitigation measures identified.	July 2015
A SA Report (LP/05) was published and consulted on alongside the publication Local Plan and included consideration of alternatives and explanations as to why the preferred options had been chosen. Alternatives were also considered and possible mitigation measures and a monitoring framework	June 2016

identified.	
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Table 4: SA and Local Plan Preparation

- 15 The Council is satisfied that it has met the requirements of the Sustainability Appraisal Regulations and Strategic Environmental Assessment.

Matter 1a (iv): Is the Local Plan legally compliant with respect to the Habitats Regulations and any requirement for appropriate assessment:

- 16 A Habitat Regulations assessment identifies whether a plan is likely to have a significant effect on a European site, either alone, or in combination with other plans or projects. It is a requirement of the Conservation of Habitats and Species Regulation 2010. The assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information.
- 17 Throughout the plan preparation, the Council have produced the following Habitat Regulations Assessments as an integral part of the plan preparation process:

Document	Date Published
A Habitats Regulations Assessment of the draft Local Plan (LP/12)	June 2015
A Habitats Regulations Assessment of the Publication Local Plan (LP/11)	June 2016

Table 5: Habitat Regulations and Local Plan Preparation

- 18 These assessments have focused on the likely significant effects of the Plan on the nature conservation interests of European-protected areas in and around the district, and seek to establish whether or not there will be any adverse effect on the ecological integrity of the European sites as a result of the proposals in the Plan.
- 19 The European sites identified as being at a credible risk from the Local Plan are River Mease Special Area of Conservation (SAC), part of which lies within the district and Cannock Chase (SAC), the entirety of which lies outside the district. Having considered the potential effects of these two SACs, the assessments concluded that the Local Plan will have no likely significant effects, either alone or in combination with other plan and projects, upon any European Sites.
- 20 The Council has met the requirements of the Habitat Regulations.

Matter 1a(v) : Is the Local Plan legally compliant with respect to the provisions of the 2004 Act and the Local Plan Regulations (as amended) for the preparation of the Plan:

- 21 The Council considers that it has legally complied with the following legislation, national policy and regulations as part of the preparation of the Local Plan:
- Planning and Compulsory Purchase Act 2004 (as Amended)
 - Localism Act 2011
 - Town and Country Planning (Local Planning) (England) Regulations 2012

- 22 The submitted Statement of Compliance with PINS Procedural Practice (EX/09B) identifies how the District Council has complied with the various requirements of the Act and Regulations.
- 23 The Statement of Consultation 2016 (LP/19) sets out how the district council has undertaken community consultation and stakeholder engagement in preparation of the Local Plan, in accordance with regulations and the Statement of Community Involvement.
- 24 The Council considers that the requirements for publicity have been met in accordance with the Regulation.

Matter 1a(vi) : Is the Local Plan legally compliant with respect to national policy:

- 25 It is the view of the Council that the policies in the Local Plan are consistent the National Planning Policy Framework and the Planning Policy for Traveller Sites. Reference is made to these throughout the document where appropriate, but in the interests of brevity wholesale repetition of the Framework has been avoided.

Matter 1b - Is the Plan and its preparation compliant with the statutory Duty to Co-operate (DTC) with prescribed bodies regarding cross-boundary strategic matters, including housing requirements in particular? (subject also to consideration under further matters below) [LP/14, EX/04, HO/4, CR/04]

- 26 The Duty to Cooperate Statement (LP/14) sets out the engagement that has been undertaken with the prescribed bodies. While it is the case that, for the purposes of the legal test for this local plan the Duty was discharged at the point of Submission of the plan to the Secretary of State, the process of engagement continues (for instance with respect to ongoing work on the HEDNA and MoU).
- 27 It is the case that North West Leicestershire does not rely on any other local authority to meet any of its development requirement. No other local authority, either within the HMA or external to it, has asked North West Leicestershire to assist in accommodating any of its development needs.
- 28 The Plan is therefore fully compliant with the Duty to Cooperate insofar as the strategic matters of housing and employment in particular are concerned.
- 29 The District benefits from an excellent location, at the heart of the motorway network, and the strategic benefits of this location have attracted the Strategic Rail Freight Interchange (known as the Roxhill scheme). We have been forward thinking, to positively plan to meet the anticipated housing requirement that will flow from the estimated 7,000 new jobs that will be created by the Roxhill development.
- 30 The JGC study (HO/01), which we commissioned to take account of the significant job creation that is discussed above, was shared with other local planning authorities both within and outwith the HMA, when we held workshops and a number of meetings to discuss the wider implications. None of the local authorities concerned consider that the Duty has not been discharged.

- 31 Objections have been made to the plan that it does not take sufficient account of the strong demand for new employment developments, and especially large scale B8. The representations seek additional flexibility, to facilitate support for speculative, large scale employment developments. While the Council has an excellent track record of supporting inward investment of this kind, it is noted that Matter 6 will investigate this issue in detail. It is not considered that the Council has failed to discharge the Duty to Cooperate, as has been asserted by some who promote such speculative schemes, not least because no other local authority that faces similar pressure to accommodate large scale B8 has sought assistance from the District in that regard. In fact, North Warwickshire's draft local plan, which is currently the subject of consultation, makes mention of North West Leicestershire as a fellow part of a wider area of strong demand for large scale speculative B8. While it is accepted that this is a strategic matter, the nature of new employment development makes forecasting of larger than local need particularly difficult. Notwithstanding this, it is considered that the local need is accommodated by the plan, and larger than local need is accommodated by the Roxhill scheme which is due to start on site during January 2017. Any additional strategic distribution developments that may come forward should be subject to thorough appraisal of their sustainability credentials.
- 32 It is worthy of note that the Leicester & Leicestershire Strategic Growth Plan is under preparation, and this will consider how best to accommodate ambitious longer term growth within the HMA. Consultants have already been commissioned to undertake SA/SEA and Habitats Regulations Assessment of the emerging Growth Plan, and this exercise will be undertaken when a draft plan is available during summer 2017.

Matter 1c - Does Policy S1 of the Plan, with the MM1 proposed by the Council, make appropriate, justified and effective provision in current circumstances for early review of the Plan to take into account the conclusions, yet to be published, of the joint Housing and Employment Needs Assessment (HEDNA) and/or other research? (subject also to consideration under further matters below) [LP/14,LP/20,BP/01,EX/05-08]

- 33 The current circumstances are that the Leicester & Leicestershire HMA authorities await the final HEDNA, and continue to work together to agree a Memorandum of Understanding (MoU) to set out how the findings of the HEDNA will be managed across the HMA as a whole, ensuring the Full Objectively Assessed Need (FOAN) and employment land requirement are met within the HMA. Neither the HEDNA nor accompanying MoU have been finalised.
- 34 In order that the NWL Local Plan is sufficiently flexible to deal with changing circumstances, Policy S1 (as amended by MM1) sets out a mechanism to review the plan in whole or in part, if certain criteria are satisfied. The wording of the policy is the outcome of a HMA-wide working group, and has been formally agreed by the HMA authorities as a whole, at the Members Advisory Group (MAG) meeting of (date).
- 35 Policy S1 will work as follows: a trigger event will bring the policy into operation. That trigger event will not be simply the publication of the HEDNA. This is

because if each individual local planning authority within the HMA were able to accommodate its FOAN and employment land requirement, then no cross-boundary re-distribution would be required, and so there would be no need to review the local plan.

- 36 Similarly, if there were to be a cross-boundary re-distribution within the HMA to meet the total HMA wide FOAN and/or employment land requirement within the HMA as a whole, this would not automatically trigger a review of the local plan. This is because the re-distribution cannot be determined and agreed until the scale of the shortfall within the local planning authority that has declared that it cannot accommodate its entire FOAN and/or employment land requirement is known.
- 37 Because the re-distribution of housing and/or employment is a strategic matter, as set out by the NPPF, any re-distribution within the HMA would require an MoU between each of the HMA authorities.
- 38 It is also possible that the local plan already has sufficient flexibility to accommodate any re-distributed housing and/or employment that is agreed by an MoU to be accommodated within North West Leicestershire. Under that circumstance, with an agreed re-distribution of housing and/or employment land requirement from elsewhere within the HMA, there would still be no need to review the local plan.
- 39 The trigger for the review, either full or in part, is therefore a combination of there being an agreed unmet need within the HMA; and there is a formally agreed re-distribution within the HMA to accommodate the FOAN and employment land requirement as a whole in the form of an MoU; and the local planning authority concerned would need to make additional provision to meet its share of that agreed re-distributed unmet need over and above the local plan. In practical terms, that full or partial review would formally commence within 12 months of the MoU having been signed by all HMA partners.
- 40 Similarly, if the Strategic Growth plan sets out a scale and spatial distribution of development for North West Leicestershire that is significantly different to the local plan (and by significantly different we assume this to be an increase rather than a decrease, although that is not explicitly set out), then the same mechanism as described above will apply, including the condition that the local plan is unable to demonstrate sufficient flexibility to meet the additional requirement at that time.
- 41 It is considered that this is appropriate, because it provides certainty that a suitably proportionate process will be followed to ensure that the total FOAN and employment land requirements for the entire HMA are met within the HMA itself. The steps to be followed are logical (demonstrate unmet need; reach formal agreement to accommodate unmet need within HMA; ensure local plan is able to accommodate additional need and/or requirement; and formally commence local plan review within 12 months if not). The steps to be followed can be justified because they formalise a rational process, into a formal commitment in the form of a policy that has been developed collaboratively by the HMA authorities. In addition, the Policy includes a time limit of 12 months from the date the MoU is signed by all HMA authorities to formally commence a full or partial local plan review.

42 This is effective, because it sets out a timed commitment, to address a specific issue. The implication of failing to adhere to the mechanism outlined above with respect to housing is that a declared unmet need would call the five year supply into question, and NPPF paragraph 14 would be engaged as a result.

Matter 1d - Does the Plan give appropriate consideration to emerging Neighbourhood Plans:

i. Ashby de la Zouch

43 The Council has offered advice in respect of the Ashby Neighbourhood Plan (NP) and has worked with the Town Council to ensure consistency between the Submitted Plan and the published Ashby Neighbourhood Plan, including the allocation of the Money Hill site. The Neighbourhood Plan offers locally-specific, detailed policies to address issues of concern to the town, and the Local Plan does not either resist or preclude appropriate local context as set out in the Neighbourhood Plan.

ii. Other

44 The only other Neighbourhood Plan under preparation in the District relates to Ellistown and Battleflat, and which has not yet been published. In the event that it were to progress, the Neighbourhood Plan would need to be consistent with the Local Plan, including the South East Coalville urban extension. Given that proposal already benefits from planning permission, it would be remiss of the emerging Neighbourhood Plan not to take full account of it. To that end, we continue to liaise with and offer advice to the Parish Council.