



North West Leicestershire District Council
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SENT BY E-MAIL AND POST

15th August 2016

Dear Sir / Madam

NORTH WEST LEICESTERSHIRE LOCAL PLAN PRE SUBMISSION CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations and in due course attend the Local Plan Examination Hearing Sessions to discuss these matters in greater detail.

Duty to Co-operate

Under S110 of the Localism Act 2011 which introduced S33A into the 2004 Act the Council must co-operate with other prescribed bodies to maximise the effectiveness of plan making. The Duty to Co-operate requires the Council to "*engage constructively, actively and on an on-going basis*". The high level principles associated with the Duty are set out in the National Planning Policy Framework (NPPF) (paras 156, 178 – 181). In addition there are 23 paragraphs in the National Planning Practice Guidance (NPPG) concerning the Duty.

In considering if the Duty has been satisfied it is important to consider the outcomes arising from the process and the influence of these outcomes on the Plan. One required outcome is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in a housing market

area (HMA) as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (para 182).

In this context North West Leicestershire District Council forms part of the Leicester & Leicestershire HMA together with its neighbouring authorities of Charnwood and Hinckley & Bosworth. However North West Leicestershire District Council also adjoins four other authorities namely South Derbyshire, North Warwickshire, Erewash and Rushcliffe District Councils which are not part of the Leicester & Leicestershire HMA.

At this time it is understood that the Leicester & Leicestershire HMA authorities will be meeting full OAHN within their own respective administrative boundaries up to 2028 but post 2028 in Leicester there will be insufficient land capacity to continue to meet the city's own housing needs (see Memorandum of Understanding). A new Housing and Economic Development Needs Assessment has been commissioned by the Leicester & Leicestershire HMA authorities and this work will be completed by September 2016. On completion of this assessment the HBF may wish to comment further on any unmet housing needs occurring post 2028 across the HMA and consequential implications under the Duty. **Policy S1** proposes a review mechanism to deal with this matter however the policy is poorly worded and somewhat cumbersome. It is suggested that the Council amends this policy to provide more clarity including a specified timeline for the review.

As part of this consultation the Council has provided a Duty to Co-operate Background Paper dated June 2016 setting out its compliance with the requirements of the Duty. When the Local Plan is submitted for Examination the Council should provide an updated Statement of Co-operation (including any revised Memorandum of Understanding).

OAHN and the Housing Requirement

The Leicester & Leicestershire SHMA Final Report prepared by G L Hearn dated June 2014 identifies an OAHN for North West Leicestershire of 5,700 – 7,000 dwellings (285 - 350 dwellings per annum) for the period 2011 – 2031. At the Charnwood Local Plan Examination all the Leicester & Leicestershire HMA authorities accepted that OAHN was at the top end of the ranges identified in the case of North West Leicestershire 350 dwellings per annum. At the time of the Charnwood Local Plan Examination the HBF and other parties were critical of the assumptions used in this calculation of OAHN which was considered to under-estimate OAHN for the following reasons :-

- using 5 years migration trend rather than longer term migration trends ;
- exclusion of unattributable population change (UPC) ;
- using a mid-point household formation rate (HFR) from a partial return to trend model ;
- no upward adjustment for worsening trends in market signals ;
- no upward adjustment to help deliver affordable housing needs ;

- no alignment of housing and employment / economic growth policies with particular reference to the Leicestershire Local Enterprise Partnership (LEP) Strategic Economic Plan (SEP).

It is acknowledged that the Inspector examining the Charnwood Local Plan did not accept these criticisms. In his Final Report dated September 2015 (para 43) Mr Ward refers to the 2014 SHMA as “*an up to date and robust assessment*”. However since then in a more recent planning appeal (APP/G2435/W/15/3005052) (para 26) the Inspector said “*it is clear that the SHMA is out of date and should be re-calculated to take account of the latest economic projections ... the Council does not have a robust position on what its housing requirement should be*”. Therefore it is appropriate that the Council has undertaken further work as set out in Report for North West Leicestershire District Council Review of Housing Requirements (2011 – 31) by J G Consulting dated April 2016. This most recent work focusses on a partial update of the demographic projections in the 2014 SHMA using 2012 Sub National Population Projections (SNPP) and Sub National Household Projections (SNHP) together with economic growth forecasts in particular the impact of the East Midlands Gateway Rail Freight Interchange not previously taken account of in the 2014 SHMA.

The results of the Council’s further work demonstrate that our original concerns raised at the Charnwood Local Plan Examination were valid. Whilst generally supportive of the further work undertaken the HBF remain concerned that an under-estimation of OAHN may persist in relation to :-

- The up dated Report only covers North West Leicestershire rather than the whole Leicester & Leicestershire HMA. As recently stated by the Inspector examining the Forest of Dean Site Allocations Plan in his Interim Findings dated 24 June 2016 “... *I share the concern that the move away from assessment at the level of the full HMA is a potentially significant departure from good practice ... there was a strong case for considering the relationship between homes and jobs on a broader basis than the individual authority ... it does illustrate the value of addressing the issue at wider than the local scale ... I consider it important that the calculation of OAN should so far as possible be based at the scale of the full HMA ... the implications of local adjustments of economic projections must be reflected at the wider scale ... the Stroud LP Inspector ... also emphasised the importance of a consistent view across the county when assessing the overall level of housing required to meet population and household needs and support economic growth ... the Council should therefore now re-examine its estimation of OAN taking account of the situation across the full HMA*” (paras 26,27 & 30). This criticism is equally valid in the context of the updated work undertaken by North West Leicestershire and its relationship with the wider Leicester & Leicestershire HMA ;
- The use of mid points rather than the upper end of ranges from alternative scenarios. In comparison Inspectors examining the North Somerset and the Brighton & Hove Local Plans found that if a range is identified the most appropriate figure to use is the upper end of the

range. The North Somerset Local Plan Inspector concluded that “*the selection of the bottom end of the range was not in the spirit of positive planning and the national objective to boost significantly supply*” whilst the Brighton & Hove Local Plan Inspector confirmed “*the Framework’s requirement that a LPA should assess their full housing needs ... my view is that the Plan should indicate that the full OAHN is at the higher end of the range*”. If the upper figure is used for the OAHN calculation for North West Leicestershire then the demographic starting point should be 440 dwellings per annum (based on the long term migration trend, UPC & uplift of HFR for the 25 – 34 age group scenario) rather than 417 dwellings per annum ;

- No uplift for worsening market signals even though the Council’s own evidence identifies a notable increase in house prices, unaffordability arising from some demand / supply imbalances, low rates of development resulting in an undersupply against planned housing targets and overcrowding rising between 2001 – 2011. The NPPG confirms that worsening trends in market signals should be considered which may necessitate an upward adjustment above demographic projections (ID 2a-018-20140306 & 2a-019-20140306). The NPPG is explicit in stating that a worsening trend in any one of the market signal indicators will require an upward adjustment to planned housing numbers (ID : 2a-020-20140306). In comparison the Eastleigh Local Plan Inspector’s Preliminary Conclusions on Housing Need a 10% uplift was proposed as a cautious approach to modest pressures on market signals whilst the Uttlesford Local Plan Inspector’s Conclusions found an overall increase of 10% was appropriate to achieve the objective of improving affordability. The recently published Local Plans Expert Group (LPEG) Report also recommends in its proposals for a standard methodology for the calculation of OAHN uplifts of up to 25% in order to improve affordability dependant on house price and rental affordability ratios (see text in Appendix 6 of LPEG Report) ;
- The appropriateness of using an adjustment to suppressed household formation rates (HFR) in the 25 – 34 age group as the mechanism to uplift for worsening market signals. Although the 2012 SNHP draw upon long term trends since 1971 the methodology applied by DCLG means there is a greater reliance upon trends experienced over the last 10 years than to those experienced over the longer term. The implication of this bias is that the latest SNHP continue to be affected by recently observed suppressed trends in HFRs associated with the impacts of the economic downturn, constrained mortgage finance, past housing undersupply and the preceding period of increasing unaffordability. Younger households were particularly affected by these past trends and evidence shows that HFR for these groups are likely to recover as the economy improves (Town & Country Planning Tomorrow Series Paper 16, “*New estimates of housing demand and need in England, 2001 to 2031*” by Alan Holman). Therefore it is agreed that an adjustment to HFR in younger age groups is appropriate. However as suggested in the LPEG recommendations adjustments for suppressed HFR in younger age groups and

worsening market signals are separate and both are required (see Flowchart Steps A & B in Appendix 6 of LPEG Report). Indeed the LPEG recommendation proposes that the adjustment to HFR in younger age groups (25 – 44 years old) is applied together with adjustments for longer term migration to the demographic starting point before further uplifts are applied ;

- No uplift to help deliver affordable housing despite a significant identified affordable housing need of 212 dwellings per annum. As set out in the NPPG an increase in the total housing included in a Plan should be considered where it could help to deliver the required number of affordable homes (ID : 2a-029-20140306). However no uplift is proposed. In comparison other Local Plans have included significant uplifts to meet affordable housing needs for example in Canterbury there is an uplift of 30% (paragraphs 20, 25 & 26 Canterbury Local Plan Inspectors Note on main outcomes of Stage 1 Hearings dated 7 August 2015) and in Bath & North East Somerset there is an increase of 44% (paragraphs 77 & 78 BANES Core Strategy Final report 24 June 2014). More recently the Gloucester, Cheltenham & Tewkesbury Joint Core Strategy Inspector's Interim Conclusions proposes a 5% uplift to help deliver affordable housing needs. Elsewhere in Gloucestershire the Forest of Dean Inspector is also suggesting a 10% uplift in his Interim Findings stating *"to seek to deliver all of the identified affordable housing need as a proportion of market housing would result in unrealistic and undeliverable allocations. But it does not necessarily follow that some increased provision could not be achieved ...I consider that an uplift of 10%, which has been found reasonable in other plan examinations, would be more appropriate here"* (para 63). The use of uplifts to meet in full OAHN for affordable housing is also recommended in the LPEG Report (see Flowchart Steps C & D in Appendix 6 of LPEG Report) ;
- The NPPG sets out that household projections produced by DCLG are the starting point for OAHN (ID 2a-015-20140306). However the Council's latest assessment in 2016 pre-dates the publication of both the 2014 SNPP and SNHP therefore the Council should consider if any implications arising from a meaningful change identified by these projections which suggests that a re-assessment of OAHN is necessary (NPPG ID 2a-016-20140306).

In **Policy S1** a minimum housing requirement of 10,400 dwellings (520 dwellings per annum) for the period 2011 – 2031 is proposed. It is disappointing that this figure is a slight reduction of the housing requirement of 10,700 dwellings (535 dwellings per annum) proposed in the Draft Local Plan consultation. Moreover for the reasons set out above it is suggested that the housing requirement should be no less than 604 dwellings per annum. This is based on the Council's own evidence namely :-

- 440 dwellings per annum (the long term migration trend, UPC & uplift of HFR for the 25 – 34 age group) ;

- 10% uplift (44 dwellings per annum) for worsening market signals and meeting affordable housing needs ;
- 120 dwellings per annum for the impact of the East Midland Gateway Rail Freight Interchange.

This figure is suggested without prejudicing the validity of any alternative OAHN / housing requirement figures submitted by other parties.

Housing Land Supply (HLS)

Policy S2 proposes a settlement hierarchy comprising of :-

- Principal Town – Coalville Urban Area ;
- Key Service Centres of Ashby de la Zouch and Castle Donington ;
- Local Service Centres of Ibstock, Kegworth and Measham ;
- 17 named Sustainable Villages ;
- 16 named Small Villages ;
- Hamlets (subject to **Policy S3** on the Countryside).

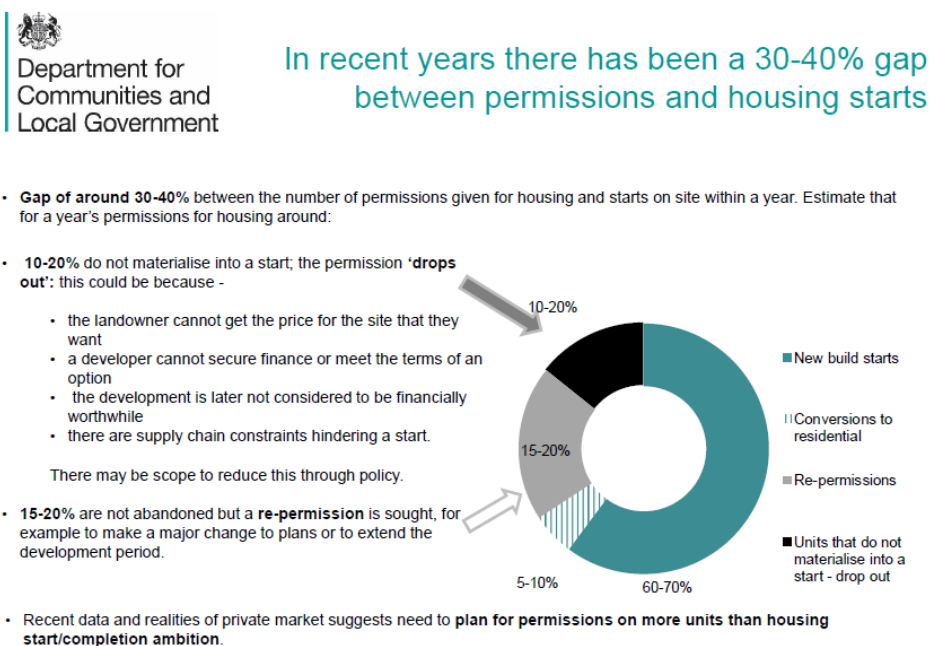
The apportionment of the housing requirement to the towns and villages and future directions of growth should seek to meet the housing needs of rural areas as well as the urban areas. The NPPF states “*to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities*” (para 55) and “*take account of the different roles and character of different areas ... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it*” (para 17). The NPPG also emphasises that all settlements can play a role in delivering sustainable development in rural areas so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided. However **Policy S2** lacks clarity about the amount of development referred to in the policy wording as “large, significant, reasonable and limited” which should be clearly defined.

Table 2 sets out existing commitments (consented sites or sites with resolutions to approve subject to legal agreements) comprising of 11,207 dwellings. This HLS is listed in **Policies H1 – Housing Provision : Planning Permissions** and **H2 – Housing Provision – Resolutions** for sites with an individual capacity of more than 10 dwellings. However the Council anticipates that only 9,600 dwellings from the existing commitments will be built out during the plan period up to 2031. Therefore an additional provision of 800 dwellings is proposed. New housing site allocations are set out in **Policy H3 – New Allocations** including a Sustainable Urban Extension (SUE) for 1,750 dwellings at land North of Ashby de la Zouch (**Policy H3a**), 95 dwellings in Coalville (**Policy H3b**) and 420 dwellings in Measham (**Policy H3c**).

As the housing requirement is a minimum figure it should not be seen as a ceiling on overall HLS or as a means to prevent sustainable development from coming forward. In this context the proposed Limits to Development in

other words settlement boundaries are tightly drawn which may overly restrict future development.

Moreover within its overall HLS the Council should have enough contingency to provide sufficient flexibility to respond to changing circumstances. The Council is referred to the DCLG presentation slide from the HBF Planning Conference September 2015 (see below) which illustrates 10 – 20% non-implementation gap together with 15 – 20% lapse rate. The slide also suggests “*the need to plan for permissions on more units than the housing start / completions ambition*”. It is acknowledged that this presentation slide shows generic percentages across England but it provides the Council with some guidance on the level of contingency needed to provide sufficient flexibility. It is suggested that a greater amount of headroom in the HLS should be provided than currently proposed by the Council.



Extract from slide presentation “DCLG Planning Update” by Ruth Stanier Director of Planning - HBF Planning Conference Sept 2015

The LPEG Report also recommends that “*the NPPF makes clear that local plans should be required not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term (over the whole plan period), plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the NPPF*” (para 11.4 of the LPEG Report).

On adoption of the Local Plan the Council will have to demonstrate a 5 years housing land supply (5 YHLS) and its ability to maintain this 5 YHLS throughout the plan period. Without a 5 YHLS on adoption the Local Plan would fail the NPPF soundness tests of positively prepared, effective and consistent with national policy (para 182). Furthermore without a 5 YHLS under the NPPF (para 49) the housing policies including all policies restricting housing development (see Court of Appeal Judgement Richborough Estates

Partnership LLP v Cheshire East Borough Council & SoS CLG (C1/2015/0894)) would be instantly out of date on adoption.

At this time it is doubtful that 5 YHLS exists. The HBF disagrees with the Council's method of calculating its 5 YHLS. The Council's calculation is incorrectly based on an annualised OAHN figure of 350 dwellings per annum rather than the proposed annualised housing requirement figure of 520 dwellings per annum. The 5 YHLS should be calculated on the overall housing requirement that the Local Plan is seeking to deliver (NPPF para 47). When BANES Council used a similar disaggregated method of calculation for its 5 YHLS this was challenged during the Core Strategy Examination Hearing Sessions. Subsequently the method of calculation was changed (refer to paragraphs 31 & 80 of the Inspector's Final Report dated 24th June 2014). It is agreed that 20% buffer should be used and applied to both the annualised requirement and any shortfall from previous years. The Sedgfield approach to shortfalls should be used (NPPG ID : 3-035-20140306).

It is recommended that the Council re-calculates its 5 YHLS. An approximate re-calculation shows :-

- 5 x 520 dwellings per annum = 2,600 dwellings ;
- Shortfall between annualised housing requirement and completions (1,706 dwellings) between 2011/12 – 2014/15 = 375 dwellings ;
- 20% buffer on annualised housing requirement and shortfall = 595 dwellings ;
- Total 3,569 dwellings (714 dwellings per annum) ;
- Total supply for 2015/16 – 2019/20 (taken from trajectory (including resolutions) in 5 YHLS 1st April 2015 without any critical analysis) = 3,295 dwellings ;
- 4.6 years.

This re-calculation is based on the Council's evidence on supply. A detailed analysis of lead in times, lapse rates and delivery rates of individual sites may result in changes which reduce the supply below 4.6 years.

If as a consequence of re-calculating the 5 YHLS the Council considers allocating more housing sites the Council should be mindful that to maximize housing supply the widest possible range of sites, by size and market location are required so that house builders of all types and sizes have access to suitable land in order to offer the widest possible range of products. The key to increased housing supply is the number of sales outlets including multiple outlets on Sustainable Urban Extensions (SUE). However as a general rule increasing the number of sales outlets available means increasing the number of housing sites. So for any given time period, all else been equal, overall sales and build out rates are faster from 20 sites of 50 units than 10 sites of 100 units or 1 site of 1,000 units. The maximum delivery is achieved not just because there are more sales outlets but because the widest possible range of products and locations are available to meet the widest possible range of demand.

Viability and Policy Requirements including Affordable Housing

If the North West Leicestershire Local Plan is to be compliant with national policy, the Council must satisfy the requirements of the NPPF (paras 173 & 174) whereby development should not be subject to such a scale of obligations and policy burdens that viability is threatened. The residual land value model is highly sensitive to changes in its inputs whereby an adjustment or an error in any one assumption can have a significant impact on viability. So it is important that the Council understands and tests the influence of all inputs on the residual land value as this determines whether or not land is released for development. The Council's latest assessment of viability is set out in Viability Report by Cushman & Wakefield dated June 2016.

Policy H4 sets out that subject to viability the amount of affordable housing provided is as follows :-

- on sites of 15+ dwellings 30% in Ashby de la Zouch and Castle Donington ;
- on sites of 15+ dwellings 20% in Coalville Urban Area ;
- on sites of 11+ dwellings 20% in Ibstock and ;
- on sites of 11+ dwellings 30% elsewhere.

However the Council's own viability evidence demonstrates that sites in particular brown-field land are not viable at the affordable housing provisions set out in **Policy H4** (see Table on page 28 of Viability Report). Whilst it is accepted that developers can negotiate lower affordable housing provision on the grounds of viability such negotiations inevitably incur additional costs in terms of both time and money which impairs housing delivery. It is unrealistic to negotiate every site on a one by one basis because the base-line aspiration of a policy or combination of policies is set too high as this will jeopardise future housing delivery. The purpose of whole plan viability assessment is to ensure that the bar of policy expectations is not set unrealistically high. If the bar is set too high then the majority of schemes rather than the exceptional scheme will be subject to individual viability negotiations. The targets set out in **Policy H4** are not justified by the Council's own evidence therefore it is suggested that the Council re-considers **Policy H4**. It is recommended that brownfield sites provide 0% affordable housing in all locations.

Other Policies

Under **Policy D1 – Design of New Development** Bullet Point (3) specifies that development should perform positively against Building for Life 12 criteria. This policy requirement is a wide interpretation of the purpose and scoring of Building for Life 12 which may be open to possible misuse to prevent or delay otherwise acceptable and sustainable development. It is suggested that Bullet Point (3) is modified and re-worded accordingly.

Policy H6 – House Types & Mix proposes on sites of more than 50 units a proportion of homes for the elderly will be provided together with a proportion of Part M4(2) Accessible & Adaptable Homes. The Council should provide appropriate justification for this policy requirement. The Written Ministerial

Statement (WMS) dated 25th March 2015 confirmed that “*the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG*”. The NPPG (ID 56-007 and ID 56-003) confirms that a policy requirement for the higher optional standard of M4(2) adaptable / accessible homes of the Building Regulations should be justified based on need and viability tested. The Council has not provided any evidence about the accessibility or adaptability of the existing housing stock or variations in the needs of its ageing population across different housing tenures. It is suggested that **Policy H6** is amended accordingly.

Conclusions

For the North West Leicestershire Local Plan to be found sound under the four tests of soundness as defined by the NPPF the Local Plan should be positively prepared, justified, effective and consistent with national policy (para 182). Therefore the Council should give further consideration to :-

- any post 2028 implications under the Duty to Co-operate of unmet housing needs in the HMA ;
- an under-estimation of OAHN and the housing requirement ;
- the lack of contingency in the overall HLS ;
- no 5 YHLS on adoption of the Local Plan ;
- an unviable affordable housing policy for brownfield sites ;
- modifications to policies on Design and Housing Type & Mix.

Without such re-consideration the Council risks submitting an unsound plan for examination because it is inconsistent with national policy, not positively prepared or justified and thereby ineffective. It is hoped that these representations are of assistance to the Council in informing the next stages of the North West Leicestershire Local Plan. In the meantime if any further information or assistance is required please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**



Susan E Green MRTPI
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