

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – 29 OCTOBER 2013

| | |
|----------------------|---|
| Title of report | NORTH WEST LEICESTERSHIRE LOCAL PLAN: CORE STRATEGY |
| Contacts | <p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Regeneration and Planning 01530 454782 david.hughes@nwleicestershire.gov.uk</p> |
| Purpose of report | The purpose of this report is to consider the withdrawal of the Core Strategy in the light of the Inspector's continuing concerns about its soundness and to agree the next steps. |
| Council Priorities | These are taken from the 2013/14 Council Delivery Plan: Value for Money Business and Jobs Homes and Communities Green Footprints Challenge |
| Implications: | |
| Financial/Staff | It is anticipated that the additional costs associated with further work on the Core Strategy can be met from within existing budgets, although the matter will be kept under review. |
| Link to relevant CAT | Business CAT Green Footprints CAT |
| Risk Management | Withdrawal of the Core Strategy could leave the Council vulnerable to planning applications for development which in the context of the Core Strategy might have been considered inappropriate, but which the Council could find difficult to resist in the absence of the Core Strategy. Not withdrawing the Core Strategy but proceeding to examination would result in the Core Strategy being found not sound and would only delay work to get a plan in place as soon as is practicable. |

| | |
|----------------------------------|---|
| Equalities Impact Assessment | An Equality Impact Assessment has been undertaken of the policies contained in the proposed Core Strategy. |
| Human Rights | None discernible |
| Transformational Government | Not applicable |
| Comments of Head of Paid Service | The report is satisfactory |
| Comments of Section 151 Officer | The report is satisfactory |
| Comments of Monitoring Officer | The report is satisfactory |
| Consultees | Legal Services |
| Background papers | <p>North West Leicestershire Local Plan: Core Strategy, pre-submission version April 2012 which can be found at www.nwleics.gov.uk/pages/evidence_base</p> <p>National Planning Policy Framework which can be found at www.gov.uk/government/publications?topics%5B%5D=planning-and-building</p> |
| Recommendations | <p>1 THAT THE NORTH WEST LEICESTERSHIRE LOCAL PLAN CORE STRATEGY BE WITHDRAWN IN ACCORDANCE WITH REGULATION 27 OF THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING)(ENGLAND) REGULATIONS 2012;</p> <p>2 THAT WORK CONTINUES ON THE CORE STRATEGY WITH A VIEW TO RE-SUBMITTING AS SOON AS IS PRACTICABLE;</p> <p>3 THAT THE GOVERNANCE ARRANGEMENTS FOR OVERSEEING THE RE-SUBMISSION OF THE CORE STRATEGY BE AGREED.</p> |

1.0 BACKGROUND

- 1.1 On 24 June 2013 the Core Strategy and associated documents were submitted to the Secretary of State. A Planning Inspector; Michael J Hetherington, was subsequently appointed to undertake an independent examination into the soundness of the North West Leicestershire Core Strategy.

1.2 On 9 July 2013 the Inspector provided the Council with an “Initial Note” in which he stated, “*I have identified a number of matters that potentially involve serious concerns of soundness and/ or legal compliance*”. The Council provided the Inspector with a response on 16 July. The Inspector’s second note of 25 July indicated that although certain of his earlier reservations had been dealt with, he continued to be seriously concerned about 3 matters, namely:

- (i) The assessment of the need for housing;
- (ii) The supply of land for housing; and
- (iii) Whether the Council is likely to be able to demonstrate it has complied with the duty to cooperate.

1.3 In this second note the Inspector asked the Council to consider whether it wishes to withdraw the Core Strategy prior to an Exploratory Meeting in which he will set out his concerns in more detail. On 19 September 2013 Council agreed that it wished to proceed with the Exploratory Meeting.

2.0 THE EXPLORATORY MEETING

2.1 The Exploratory Meeting was held on 25 September 2013 and was attended by about 60 interested persons. At the outset of the meeting the Inspector made it clear that as submitted he considered that it was unlikely that he would be able to find the Core Strategy ‘sound’.

2.2 Officers set out the Council’s case in respect of the concerns raised by the Inspector as to why it was considered that the Core Strategy should be able to proceed to examination, or that the examination should be suspended to enable the Council to do additional work to address the Inspector’s concerns.

2.3 In terms of the assessment of housing need the Council’s view was that the most up-to-date evidence of need was provided by the Leicester & Leicestershire Housing Requirements Study (LLHRS) which in itself used the most up-to-date government produced household projections. In addition, a new Strategic Housing Market Assessment (SHMA) was being commissioned for the Leicester and Leicestershire Housing Market Area and if that suggested a higher housing requirement the Council was committed to do a review. The approach suggested by the Council was one accepted elsewhere by other Inspectors as a pragmatic approach to resolving potential concerns.

2.4 The Inspector took the view that the LLHRS was not a substitute for an updated SHMA, although he noted that such an update was being undertaken. Furthermore, he took the view that the Council’s preparedness to agree to a review following the completion of an updated SHMA meant the Council was expecting that the figures included in the Core Strategy would need to be revised.

2.5 On the issue of the supply of housing land, the Inspector’s previously expressed view was that the Core Strategy should include housing allocations to demonstrate where the supply of housing would come from in view of the lack of a 5-year supply of housing. The Council contended that this was not necessary as it had identified a number of Broad Locations in the Core Strategy, that these would account for nearly 90% of the residual requirement and that all of the Broad Locations were the subject of planning applications and/or

permissions. Therefore, it was not necessary to make formal allocations of land as the council was already delivering the required development.

- 2.6 The Inspector made reference to the fact that as part of a Planning Inspectorate advisory visit in 2012 another Inspector had raised concerns regarding the lack of allocations and that had the Council followed that advice and allocated sites then he may have been able to take a different position.
- 2.7 Notwithstanding this, the comments of that Inspector following the advisory visit were considered by officers. It was considered that his suggestion to, in effect, cease working on a Core Strategy and produce a housing allocations plan was flawed in a number of respects;
- i) it would have taken at least 18 months to get to a stage of submission (i.e. February/March 2014) and so would have left the Council vulnerable in the meantime;
 - ii) there was no guarantee that an approach that failed to consider any issues other than housing would have been supported at an examination;
 - iii) there were other local authorities, including locally, that had not allocated sites but had, instead, referred to Broad Locations or Directions of Growth and that these had been supported at other examinations; and
 - iv) all of the sites that would have been potential allocations were likely to either have permission or be the subject of planning applications within 6 months (this has subsequently turned out to be the case)
- 2.8 However, whilst other inspectors elsewhere agreed with this view, Mr Hetherington was not persuaded by the Council's argument and took the view that the work required to undertake formal allocations would probably take too long to resolve to enable a suspension of the examination.
- 2.9 In terms of the Duty to Cooperate the Council informed the Inspector that it had received written confirmation from the other authorities in the Housing Market Area that they were content that the Council had cooperated. The Inspector considered he could only deal with this as part a formal session at an examination and he did not pass judgement on this matter.
- 2.10 Overall the Inspector remained of the view that the Core Strategy should be withdrawn rather than proceed to examination. A copy of the Inspector's note is attached at Appendix 1 to this report.
- 2.11 Clearly the outcome from the Exploratory Meeting is disappointing, especially the Inspector's refusal to countenance a suspension of the examination. Such suspensions have been allowed elsewhere and some of them for longer than the normal six months which the Planning Inspectorate seeks to restrict suspensions to. Furthermore, the approach to housing supply and allocations promoted by the Council has been supported elsewhere.
- 2.12 The Inspector made reference to paragraph 47 of the National Planning Policy Framework (NPPF) which refers to boosting "*significantly the supply of housing land*". The fact that the proposed annual housing requirement in the Core Strategy (388 dwellings) was significantly less than that in the now revoked Regional Plan (510 dwellings) could be seen to run counter to this aim, particularly as it was not backed up by a more recent SHMA.

- 2.13 However, it should be appreciated that whilst other plans across the HMA have used the housing requirements in the Regional Plan this was at a time when the Regional Plan remained in force. Indeed, earlier this year the Melton Core Strategy was considered to be not sound in terms of housing requirements based on the Regional Plan and the Inspector in that case had referred to more up-to-date evidence in the LLHRS. Therefore, there is no guarantee that even had the Council decided to use the higher figure from the Regional Plan that the outcome would have been any different.

3.0 WHAT DOES WITHDRAWAL MEAN FOR THE CORE STRATEGY?

- 3.1 If the Core Strategy is withdrawn it will cease to be a material consideration in the determination of planning applications and no weight will be able to be attached to its provisions, although it is a matter of fact that its provisions represent the Council's expressed preferences on those matters contained within it. In practice, at the moment this will make little difference to decision making in North West Leicestershire as the Council and Inspectors have attached little weight to the emerging Core Strategy. Instead, the chief source of planning policy guidance will continue to be the National Planning Policy Framework (NPPF).
- 3.2 If the Council withdraws the Core Strategy it must cease to make any documents relating to the withdrawn plan available. However, the withdrawal of the submission draft version of the plan does not obliterate the evidence base which was used to inform the Core Strategy; this evidence can still be used to inform a revised Core Strategy or a new plan.
- 3.3 However, there is still a duty on the Council to produce and keep up-to-date a Local Plan for the area.

4.0 WHAT ARE THE OPTIONS MOVING FORWARD?

- 4.1 It is considered that following withdrawal of the Core Strategy there are three options available to the Council:
- Do nothing;
 - Continue with Core Strategy;
 - Abandon Core Strategy and produce a completely new Local Plan

Do nothing

- 4.2 Under this option the council would not do any further work on the Core Strategy and would seek to rely upon a combination of the adopted Local Plan and the NPPF in making decisions on planning applications.
- 4.3 As noted already there is a legal duty to prepare and keep up-to-date Local Plans, so doing nothing would be contrary to this. In any event, it would leave the council extremely vulnerable when making planning decisions and could be viewed as failing to take appropriate responsibility for the future planning of the district.

Continue with the Core Strategy

- 4.4 Under this option the council would address the outstanding issues raised by the Inspector and resubmit in due course.

- 4.5 Of the outstanding issues, the lack of an up-to-date Strategic Housing market Assessment (SHMA) is the most significant issue that needs to be addressed and its results could have a knock on effect to other areas of work which may need to be undertaken.
- 4.6 In terms of the SHMA, there is agreement across the Leicester & Leicestershire Housing Market Area (HMA) to commission an updated study and the procurement process for this is well underway. It is anticipated that the study will begin in early November with initial results in respect of future housing requirements for the HMA and individual authorities available by the end of February. Other information required as part of the study, such as the type and mix of future housing will be available by late April 2014.
- 4.7 It should be appreciated that the SHMA is a technical piece of work which provides evidence of future needs. However, it is possible (if not likely) that some of the needs identified for individual districts will not be capable of being met within those districts. Therefore, there will be a need for some form of dialogue and agreement amongst the HMA authorities regarding both the housing requirement for the overall HMA and the distribution of development between districts. It will be essential to undertake this process in order to demonstrate that the Duty to Cooperate requirement has been complied with.
- 4.8 The NPPF requires that authorities demonstrate evidence of cross boundary working where required. It suggests that this could be done by way of a memorandum of understanding or a jointly prepared strategy. At the Exploratory Meeting the Inspector suggested this would be a sensible approach, although he did confirm that it could not be insisted upon. This matter is currently the subject of discussion as part of the Housing and Planning Infrastructure Group (HPIG) which is an officer group covering the Housing Market Area chaired by the Council's Chief Executive. This group has agreed to the establishment of a Member Advisory Group comprised of the portfolio holders from each of the HMA authorities to begin discussing issues of common interest as part of the Duty to Cooperate requirement.
- 4.9 It is only when the results of the SHMA and any subsequent discussions and agreements are known that the full extent of any additional work will be known. Assuming the technical work on the SHMA is completed on time and it does not significantly alter the projected need for the district from that proposed in the submitted Core Strategy, and provided there is an early cross-HMA agreement on the distribution of growth, then a re-submission could be achieved within the next 12 months.
- 4.10 However, if there is an increased housing requirement not only would there be a need to allocate sites, but there may also be a knock on effect to other aspects such as the requirement for new employment land or retail provision as these are related to population size. In such circumstances, or if a HMA wide agreement takes longer to secure, then re-submission will be delayed.
- 4.11 Whilst the SHMA is the key piece of work which will determine not only future housing requirements but also the extent of any changes required, it will also be necessary to consider whether more changes may be required to take account of other factors such as the revocation of the Regional Plan and whether there is a need to update aspects of the evidence base.
- 4.12 It should be appreciated that any changes to the housing requirements or other aspects will result in a need for further consultation which will add to the timescales. Following this

consultation it would then be necessary for council to agree a revised Core Strategy, to then publish it for consultation and then resubmit. Any revised policies will also need to be subject to Sustainability Appraisal.

- 4.13 There is, therefore, significant uncertainty regarding possible timescales, but it is likely to be spring 2015 at the earliest before a resubmitted version is adopted.

Abandon Core Strategy and produce a completely new Local Plan

- 4.14 Under this option rather than carry on with the Core Strategy, which as part of the Local Development Framework was a strategic document, the work undertaken so far would be incorporated in to a Local Plan which would include not only strategic policies but also more detailed policies.
- 4.15 Preparation of a new Local Plan would require going back to the beginning of the process and it is likely that it would take longer than resubmitting the Core Strategy. As with a resubmitted Core Strategy the production of a new SHMA would be crucial. It is estimated that adoption would be about late 2016. However, it would also mean that once adopted there would be no need to do any additional new documents, although the need to keep monitoring the plan would remain and a further review within 3 or 4 years would be quite likely to be required.
- 4.16 It is possible that some aspects of the evidence base could be reused but there would be a need for new evidence as well. This would have resource implications, the full extent of which is not known at this time.

Conclusion on options

- 4.17 Clearly the recommendation of the Inspector to withdraw the Core Strategy is disappointing. However, it is important to start to plan ahead so as to ensure the council is in a position to press ahead as soon as possible.
- 4.18 Of the 3 options outlined above, the 'Do nothing' option is not considered to be appropriate. Of the two remaining options the resubmission of the Core Strategy has the advantage that most of the existing work undertaken can be utilised and adoption should be earlier than the option of producing a completely new Local Plan, although further documents may then be required. However, producing a completely new Local Plan has the advantage that there would only be one document that is needed.
- 4.19 On balance it is considered that resubmission would be the most appropriate option as it would ensure some form of new policies would be in place as soon as possible.
- 4.20 To manage the process of preparing a revised Core Strategy for submission it is suggested that consideration be given to the establishment of a member working group. Such an approach has been used elsewhere and it provides a useful forum for wider discussion amongst members. It is suggested that such a group would be chaired by the planning portfolio holder and would have cross party representatives and whose views would be reported as part of any subsequent report on the Core Strategy to either Cabinet or Council

NORTH WEST LEICESTERSHIRE CORE STRATEGY (CS) EXAMINATION

NOTE OF EXPLORATORY MEETING

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

1. Inspector's Introduction & Purpose of Meeting

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

2. Inspector's Summary of Main Concerns**a. Assessing Housing Needs**

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

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

- 2.2 As set out in his previous notes to the Council, the Inspector raised concern that the 2007/8 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) does not appear to reflect recent market conditions and does not cover the full Plan period to 2031. In the absence of an up-to-date SHMA, it would be difficult to conclude that the CS meets the Framework's soundness requirements that a Plan should be justified and consistent with national planning policy. Indeed, such a finding is implied by the Council's acceptance (and suggested rewording of policy CS1) that a SHMA will now be prepared. Nevertheless, the Inspector emphasised that this is the wrong way round: the Plan should follow from the evidence.
- 2.3 The Inspector then briefly summarised the other concerns that he has raised on this matter
- While the Leicester and Leicestershire Housing Requirements Study (LLHRS) has informed the Plan's housing target figure it is on its own terms only one of a number of factors to be considered in setting a housing target.
 - The LLHRS suggested an overall target for the housing market area that was similar to (or higher than) the previous East Midlands Regional Plan (RS) requirement. Yet the Core Strategy is planning for a markedly lower rate of housing delivery than the RS. Taken together, these factors suggest concern that there may be a shortfall of provision in the housing market area as a whole.
 - This concern has been raised by a number of other planning authorities in the housing market area.
 - The Council's view in its response to the Inspector's first letter suggests that any shortfall should be accommodated 'elsewhere in the housing market area' (para 3.32). However, there is no agreement with other Councils on that point. It is therefore difficult to properly assess how the CS's housing proposals relate to the housing market area as a whole.
- 2.4 The **Council** drew the Inspector's attention to the significant changes in the planning policy environment since the Framework has been issued. Different Councils within the housing market area are at different stages in their plan preparation process: for example, the Blaby CS had been adopted earlier in 2013. While it is recognised that the projections upon which the Regional Plan was based are now out of date, the LLHRS was prepared in order to provide an updated, common and consistent evidence base within the housing market area. That document had been given significant weight in recent Section 78 planning appeals and by the Inspector in the Melton Core Strategy¹. Nevertheless, an updated SHMA has been commissioned: the housing requirements elements of this will be available in February 2014, with the remainder in April 2014.
- 2.5 The Inspector commented that, in other examinations, it has proved possible to agree a temporary suspension in order to enable work to be carried out to update a SHMA. In principle, he would wish to take a pragmatic stance in order to enable an examination to proceed. However, such suspensions depend upon the particular

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

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

b. Housing Supply

- 2.6 The Inspector noted that while the Council is experiencing a substantial shortfall in housing land supply², no sites are allocated to address this. He suggested that this appeared contrary to the principle of a plan-led system set out in the Framework. The expectation is that Local Plans should seek to meet objectively assessed needs – that is what the Framework means by positive planning (para 182). If there is a shortfall of sites then the Council should consider allocating new ones.
- 2.7 The Inspector explained that the absence of provision for an adequate future supply of housing represents a major flaw in the Plan as submitted. It is difficult to see how this could be remedied in the context of the present Examination. The addition of specific site allocations at this late stage would, first, represent a substantial change from the submitted Plan and, second would require to be supported by relevant and robust evidence. These are not changes that can be made retrospectively. Indeed, these are decisions that should be made locally rather than coming forward as Inspector-led recommendations. The Inspector added that this concern was raised by his colleague who met with the Council on an advisory visit in August 2012.
- 2.8 The **Council** accepted that there was a housing land supply shortfall (its calculation was that it had 4.2 years supply available). The Inspector responded that the level of any shortfall would be a matter for discussion at any hearing sessions.
- 2.9 The **Council** pointed to the provision within the National Planning Policy Framework (paragraph 157) to identify broad locations for development. In its view, the Framework does not require allocations to be made. In the present case broad locations have been identified in order to provide certainty to developers. A substantial proportion of the Plan's housing requirement is accommodated within the identified broad locations. Significant progress has been made in bringing forward development within broad locations – both in terms of planning permissions granted and schemes currently in development (notably South East Coalville). Taking this into account, the scale of uncommitted development (estimated at some 750-800 dwellings) is comparatively small. As such, the broad locations are doing their job.
- 2.10 The Inspector commented that, on the evidence, the housing land supply shortfall remains: while this is the case, the Framework states (paragraph 49) that relevant policies for the supply of housing should not be considered up-to-date. It would be difficult to conclude that the CS was sound in such circumstances. Furthermore, in some cases the Council had not been able to resist development on sites outside identified broad locations (for example the Ashby appeal decision already referred to). Allocating specific sites would provide greater certainty for all parties.
- 2.11 The **Council** queried whether broad locations could be included within a five year housing land supply figure. The Inspector responded that this would depend on whether the site met the deliverability criteria set out in the Framework (paragraph 47, footnote 11). However, he felt that if a site needed to be brought forward in a subsequent allocations plan then this would (on grounds of timing and certainty) make it difficult to be considered within the five year land supply figure.
- 2.12 **Mr Tandy** (for Ashby Civic Society) raised concern about the position in Ashby. Over 500 unplanned houses had either been approved or were coming forward. This

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

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

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

c. Duty to Co-operate (DTC)

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

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

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

3. Next Steps

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

- 3.2 The Inspector commented that updated practice guidance on Local Plan examinations is due to be released shortly: this is likely to restate the previous advice that suspensions longer than 6 months should be avoided – partly in order to avoid creating uncertainty for other parties. It is unlikely that the work required to remedy the concerns that he has identified could be undertaken in such a short time period. Furthermore, the resulting document (with a revised housing needs assessment and new site allocations) would differ substantially from the document that was subject to public consultation in 2012. Indeed the Council has already proposed a significant number of pre-submission alterations to the 2012 plan³. In fairness to all parties, these matters should be subject to public consultation in the form of a new Local Plan.
- 3.3 The Inspector stated that this left two options. The first of these was withdrawal. He had already invited the Council to do this and he repeated that invitation. The alternative would be to move to the hearings stage: this would involve considerable expense for all parties without any prospect of the concerns being addressed. He expressed regret at having to reach a negative outcome: however he advised that it was necessary to give an early and realistic assessment of the likely chances of the Plan being found to be sound.
- 3.4 The **Council** restated its wish for the Plan to be suspended. Nevertheless, it would carefully consider the Inspector’s comments and respond formally in writing. This would require consideration by a meeting of Full Council on 29 October 2013.
- 3.5 The Inspector stated that he would await that decision and, in the meantime, would prepare a note of the EM to be placed on the website. He thanked everyone for attending the meeting, which closed at 1230pm.

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

³ See Inspector’s note dated 9 July 2013 and the Council’s response.