

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET – TUESDAY, 16 JULY 2019**

Title of report	<b>LOCAL PLAN REVIEW</b>
Key Decision	a) Financial No b) Community Yes
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Purpose of report	To seek Cabinets approval for changes to the proposed approach in respect of the Local Plan review.
Reason for Decision	Cabinet approval of the proposed approach required.
Council Priorities	Local people live in high quality, affordable homes Support for businesses and helping people into local jobs Developing a clean and green district Our communities are safe, healthy and connected
Implications:  Financial/Staff	  If Cabinet agree to the recommendation then this will mean that there would be two Examinations rather than the one initially envisaged (i.e. one for the review of Policy S1 only and then one for a wider review). The Examination for the wider review will need to come from future budgets and will be built in to the budget process.
Link to relevant CAT	None

Risk Management	Policy S1 of the adopted Local Plan as currently worded represents a significant risk to the Council as having an out dated plan would leave the Council vulnerable to unwanted applications and appeals. The risk is not just financial but also reputational. The suggested approach outlined in the report offers a potential way forward which if successful would remove the risk of the plan being considered to be out-of-date, although as outlined in the report is not without its own risks.
Equalities Impact Screening	An Equalities Impact Assessment of the Local Plan review will be undertaken as part of the Sustainability Appraisal.
Human Rights	No discernible impact
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 Deputy Monitoring Officer	On the advice of the external solicitor, the report is satisfactory
Consultees	Strategy Group
Background papers	<p>National Planning Policy Framework which can be found at <a href="https://www.gov.uk/government/publications/national-planning-policy-framework--2">https://www.gov.uk/government/publications/national-planning-policy-framework--2</a></p> <p>The Town and Country Planning (Local Planning)(England) Regulations 2012 which can found at <a href="http://www.legislation.gov.uk/ukSI/2012/767/contents/made">http://www.legislation.gov.uk/ukSI/2012/767/contents/made</a></p> <p>Adopted North West Leicestershire Local Plan <a href="#">Local Plan 2011-2031 - North West Leicestershire District Council</a></p> <p>Leicester and Leicestershire Strategic Growth Plan <a href="#">Strategic Growth Plan Leicester and Leicestershire - North West Leicestershire District Council</a></p>
Recommendation	<b>THAT CABINET AGREES TO RECOMMEND TO THE LOCAL PLAN COMMITTEE THAT:</b>

	<p>(I) <b>THE INITIAL LOCAL PLAN REVIEW FOCUS UPON CHANGES TO POLICY S1 AS OUTLINED IN THE REPORT;</b></p> <p>(II) <b>OFFICERS CONTINUE TO WORK ON A WIDER REVIEW AND WITH A VIEW TO SUBMITTING AS SOON AS REASONABLY PRACTICABLE AFTER THE PUBLICATION OF THE 2018-HOUSEHOLD PROJECTIONS;</b></p> <p>(III) <b>TIMETABLES FOR BOTH THE INITIAL REVIEW AND WIDER REVIEW BE ESTABLISHED AS PART OF A REVISED LOCAL DEVELOPMENT SCHEME</b></p>
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## 1.0 BACKGROUND

1.1 The North West Leicestershire Local Plan was adopted on 21 November 2017 and covers the period to 2031.

1.2 Policy S1 commits the Council to undertaking an early review of the plan. It states that:

*The District Council will commence a review of this Local Plan (defined as being publication of an invitation to make representations in accordance with Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012) by the end of January 2018 or within 3 months of the adoption of this Local Plan (whichever is the later). The Plan Review will be submitted for examination within two years from the commencement of the review. In the event that the reviewed plan is not submitted within two years then this Local Plan will be deemed to be out of date.*

1.3 The wording of Policy S1 was agreed with the Local Plan Inspector during the Examination process. The Inspector had required the wording regarding timescales so as to ensure that “the Council is expressly committed, by adopted policy, to early review of the plan, within a stated period after any such unmet needs to be met within NWL are identified” (paragraph 135 of Inspector’s Report).

1.4 The early review was required to:

- Address a shortfall in employment land (excluding strategic B8) provision to address new evidence published whilst the plan was at examination;
- To possibly make additional housing provision as a result of the inability of one or more of the Leicestershire authorities to accommodate their own housing needs within their administrative boundaries. At the time of the examination precisely where the housing need of the Housing Market Area (“HMA”) as a whole would be met was not certain.

1.5 In respect of the latter point, Leicester City had declared in January 2017 that it was not likely to be able to meet its own housing need, although it was not able to identify the quantity of unmet need. At the time of the Examination, Oadby and Wigston also declared an unmet need but this has since been retracted.

1.6 An initial consultation under Regulation 18 of the Local Plan Regulations 2012 was undertaken between 21 February and 4 April 2018, in accordance with the timescale

established by Policy S1. This means that to comply with policy S1 the reviewed plan would have to be submitted by February 2020.

- 1.7 Further consultation was undertaken in November/December 2018 in accordance with the Local Development Scheme.
- 1.8 To date the review has been seen as a partial review rather than a whole scale review.
- 1.9 There are a number of changes which have occurred since the Local Plan was adopted and which have potential implications for the Local Plan review and its timetable. These are considered below.

## **2.0 CHANGES IN CIRCUMSTANCES**

### The National Planning Policy Framework

- 2.1 The revised National Planning Policy Framework (NPPF) was published in July 2018 (and there were subsequent further changes in February 2019). This introduced a number of new plan-making requirements, including:
  - Clear distinction between strategic and local policies;
  - Guidance on the provision of 'entry level homes';
  - Specific reference to storage and distribution uses;
  - Specific reference to lorry parking; and
  - Viability
- 2.2 In terms of strategic policies the NPPF states such policies "*should look ahead over a minimum 15 year period from adoption*".

### Housing requirements

- 2.3 At the time the inspector's recommended modifications to the Local Plan were being finalised (winter 2016/17) it had been envisaged that the housing requirements for a review would be based upon the Housing and Economic Development Needs Assessment (HEDNA) and that Leicester City would have declared the full extent of any unmet need and that this would have been agreed with the Leicestershire authorities as would its redistribution. However, Leicester City Council has still not formally declared the extent of its housing need that it cannot meet within its own boundaries.
- 2.4 A further issue in terms of housing requirements is the introduction by the government of the new "standard method" for calculating housing requirements. The latest figure for North West Leicestershire when using the 2014-household projections and the March 2019 affordability ratio, is 379 dwellings. This is over 100 dwellings less than that in the adopted Local Plan. It is also less than that identified through the HEDNA. There is therefore significant 'headroom' in the existing local plan for meeting need that arises elsewhere in the HMA without a formal review.
- 2.5 North West Leicestershire is in the minority of local authorities whereby the outcome from the 2016 household projections, which have been rejected by the government, results in a

higher housing requirement (529 dwellings) when using the standard method than the 2014 household projections.

- 2.6 The government has stated that it intends to publish changes to the standard methodology at some point before the next household projections are published in autumn 2020 (these would be 2018 based projections). This is partly to ensure that the outcome from the standard methodology reflects the government's stated aim of 300,000 new homes annually across England. It is reasonable to assume, therefore, that the housing requirement (irrespective of any unmet need from Leicester City) will be higher than those derived from the 2014-household projections, but it is not clear as to what this is likely to be.
- 2.7 There is, therefore, considerable uncertainty regarding the housing requirement element which the review would need to plan for. In the meantime, the adopted local plan's requirement figure appears sufficient to meet need arising in North West Leicestershire and a significant contribution to need that arises elsewhere in the HMA.

#### Employment requirements

- 2.8 The HEDNA identifies the amount of employment land required to 2031 and 2036, except for strategic B8 uses (those of over 9,000sqm) which are identified in a separate study.
- 2.9 Since the Local Plan was adopted additional planning permissions which have been granted means that the current shortfall (allowing for potential losses of existing employment sites) is 17ha compared to 39ha in October 2016 (the figures used at the Examination).
- 2.10 Officers have concerns regarding the amount of land which the HEDNA suggested is required for B1a/b uses, not least because such an amount is contrary to past trends and also to what the market appears to want which is more B8 uses (both large and small).
- 2.11 For this reason the Local Plan consultation undertaken in late 2018 asked a specific question regarding the suitability of the HEDNA as an evidence base. Whilst there was some support for the HEDNA, there were also some representations which questioned its continuing validity for a number of reasons, including:
- The latest evidence from the Office of National Statistics shows that the overall level of jobs located in North West Leicestershire has increased substantially;
  - The HEDNA was based on assumptions that were overly optimistic with the future supply of workers and overly-pessimistic regarding the future demands of employers;
  - It over-simplifies the need and demands for employment land and how economic investment is realised;
  - It fails to address the relationships with employment land supply, need and demand in the West Midlands with which North West Leicestershire has a functional relationship; and
  - The evidence presented in HEDNA on the take-up of employment land is questionable, when compared to Valuation Office Agency data.

- 2.12 On balance, therefore, additional evidence has been commissioned to assess the continuing robustness of the HEDNA conclusions and (if necessary) to produce some alternative forecasts.
- 2.13 In terms of strategic B8 requirements, the requirements for this are set out in the Leicester and Leicestershire Strategic Distribution Study 2014, which was updated in 2016. It has been agreed by the Leicester and Leicestershire authorities to commission updated evidence on this issue.
- 2.14 As with housing there is significant uncertainty regarding the exact amount of employment land which would need to be identified as part of the review.

#### Leicester and Leicestershire Strategic Growth Plan

- 2.15 Members will be aware that the Leicester and Leicestershire authorities have jointly prepared and agreed a Strategic Growth Plan (SGP) covering the period 2011-50. This is a non-statutory plan, but its intended purpose was to provide a framework for future Local Plans. The SGP was formally agreed in late 2018.
- 2.16 The SGP is seeking a step change in the way that growth is delivered; focussing more development in strategic locations and reducing the amount of new development that takes place in existing towns, villages and rural areas. One of these strategic locations lies partly within North West Leicestershire and is known as the 'Leicestershire International Gateway' (The Gateway) which covers the northern part of North West Leicestershire and Charnwood. The SGP estimates that The Gateway could accommodate about 11,200 dwellings to 2050. The split between North West Leicestershire and Charnwood has to be agreed, but is likely to be at least 5,200 dwellings in North West Leicestershire.
- 2.17 Whilst the Local Plan review will not go up to 2050, the scale of development is such that it will need to be planned for well in advance and so will need to be addressed as part of the review. It is likely that some large scale developments will be required, possibly new settlements. Such developments are inherently complex and require time to compile the necessary supporting evidence.

### **3.0 WHAT DOES THIS MEAN FOR THE LOCAL PLAN REVIEW?**

- 3.1 For the reasons outlined above, the circumstances are very different to those at the time the Local Plan was adopted. A particular issue is the lack of clarity regarding unmet need from Leicester City. The Local Plan Inspector had, understandably sought to try and ensure that the review was carried out speedily "*within a stated period after any such unmet needs to be met within NWL are identified*", but at this time no such needs have been identified. Indeed, doubt has been cast on the continuing robustness of the HEDNA as being a suitable evidence base to assess housing and employment land need in the HMA.
- 3.2 The Council needs to have a high degree of confidence that whatever it puts forward would be supported at examination. Compliance with the NPPF will be a key issue in this respect.
- 3.3 In order to comply with the NPPF provisions regarding strategic policies and for the review to continue to plan for the period to 2036 (as previously agreed by the Local Plan Committee), it would be necessary for the review to be adopted by April 2021. Based on

experience elsewhere it would be prudent to allow for a period of 18 months from the date of submission to adoption. This would mean that the plan would have to be submitted by late September 2019. This would meet the requirements of policy S1 in terms of the plan being submitted by February 2020. However, such a deadline is simply not feasible.

- 3.4 Moving forward an option would be to continue with the partial review and address the employment land shortfall to 2031; the same period as the adopted plan. The timetable to meet the February 2020 requirement of Policy S1 would be challenging, but potentially feasible. However, this approach would potentially conflict with the NPPF requirement for strategic policies to look ahead 15-years from adoption.
- 3.5 An alternative approach would be to continue with, but widen out, the review. This could necessitate making certain assumptions regarding possible future growth so as to maintain progress with a view to submission being as soon as possible after the 2018-household projections are known. This would help to ensure that the plan was as up-to-date as possible. Under this option the plan could potentially be adopted in early 2022 and could have an end date of 2038 or 2039, so satisfying the 15 year from date of adoption period of the NPPF. This approach would have the added advantage that by the time of submission the situation in respect of the quantum of unmet need from Leicester City should be known and agreed.
- 3.6 Whichever approach is taken the Council is faced with a significant dilemma; adhere to the provisions of policy S1 in terms of submitting the Local Plan by February 2020 or satisfying the requirement of the NPPF and have a plan that looks ahead at least 15-years from the date of adoption. Doing both is not feasible.
- 3.7 Whichever of the options outlined is pursued has associated risks. Continuing with a partial review to 2031 (the first option) runs the risk that an Inspector considers the review to be not sound as it would not look ahead 15-years. It is not clear as to whether this would still leave the remaining provisions of the adopted Local Plan intact.
- 3.8 By concentrating on the wider review and looking to plan ahead to 2038 or 2039 but missing the February 2020 deadline poses a risk for the adopted Local Plan in view of the provision in policy S1 for the plan to be considered out-of-date.
- 3.9 There are a variety of reasons why, but for the provisions of Policy S1, that the second option represents a logical choice:
  - the Local Plan was adopted less than two years ago;
  - housing provision and supply remains healthy;
  - the government has stated it will change the standard methodology which will impact current housing requirements; and
  - new household projections are due in a little over a years' time.
- 3.10 To address the issue of Policy S1, a further option would be to simply submit a review of the Local Plan as soon as possible that simply deletes or (more likely) amends the requirement for the review in policy S1.
- 3.11 Such an amendment would have to go through the normal process (i.e. consultation, submission, Examination) and be "sound", legally compliant and subject to sustainability appraisal. But the unforeseen changed circumstances arising since adoption of policy S1,

together with the unsatisfactory nature of the options outlined above, point to this as being a way forward.

- 3.12 Officers have taken external legal advice which supports such an approach.
- 3.13 It should be appreciated that this approach is not without its own risks. There is no guarantee that an Inspector would regard such an approach as being 'sound'. In these circumstances the statement that the plan would be "deemed to be out-of-date" would still form part of the policy. However, it would not have any effect as the requirement elsewhere in the policy for the plan to have been submitted would have been complied with; policy S1 does not require that the review be found 'sound'.
- 3.14 The issue of whether a plan is up-to-date is a matter for consideration by virtue of paragraph 11d of the NPPF. This requires the Council as decision maker to consider whether the relevant policies are out-of-date when determining planning applications. Where they are, the 'presumption in 'favour of sustainable development' applies. This would be the case whether the suggested approach was considered 'sound' or not. In terms of housing, paragraph 73 of the NPPF confirms that as the housing requirement in the adopted Local Plan is less than 5-years old it would still provide the appropriate basis for determining housing applications irrespective of any different housing projections which might be published (and this is the case until November 2022).

#### **4.0 NEXT STEPS**

- 4.1 As noted above a review which focussed solely upon Policy S1 would need to follow normal process. In accordance with the council's constitution, it would be for the Local Plan Committee to agree any consultation and to then agree to submit the review for Examination. Therefore, it is proposed to take a report to the Local Plan Committee on 18 September 2019 on this issue.
- 4.2 There is a greater likelihood of the suggested approach being found 'sound' if the Council can demonstrate that it is making significant progress on a wider review. Therefore, a timetable for the wider review will be prepared with a view to this taking place in parallel with the review of Policy S1. This will be included as part of the report to the Local Plan Committee in September and hence result in a new Local Development Scheme.
- 4.3 It is also proposed to discuss this matter with the other Leicestershire authorities under the Duty to Cooperate.