

MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Coalville on
TUESDAY, 29 OCTOBER 2019

Present: Councillor R Blunt (Chairman)

Councillors R Ashman, R D Bayliss, T Gillard, N J Rushton and A C Woodman

In Attendance: Councillors D Bigby, D Everitt, J Geary, J Legrys, V Richichi, C A Sewell and
S Sheahan

Officers: Mr J Arnold, Mrs B Smith, Miss E Warhurst, Miss A Wright and Mrs C Hammond

45. APOLOGIES FOR ABSENCE

There were no apologies for absence.

46. DECLARATION OF INTERESTS

There were no interests declared.

47. NORTH WEST LEICESTERSHIRE LOCAL PLAN - PARTIAL REVIEW

The Leader invited Councillor J Legrys to address the Cabinet.

Councillor J Legrys stated that he was aggrieved by the lack of consideration throughout the Local Plan process and that he had always worked hard with other group Members to bring the plan forward.

He asked the following questions:

- 1) In relation to the Money Hill master plan, had the employment land figures been included in the report before them?
- 2) Why had the terms of reference in relation to the frequency of meetings of the Local Plan been ignored and it had been longer than 2 months between meetings?
- 3) Would it be worth Labour Members bothering to attend any future Local Plan meetings?

The Leader thanked Councillor J Legrys for addressing the meeting and for his continued engagement and commitment with not just planning issues but all aspects of the Council's services.

The Portfolio Holder for Planning and Infrastructure addressed Members detailing the following:-

"Members will recall that a report was considered by Cabinet on 16 July outlining a 2 stage approach to the review of the adopted Local Plan – a partial review focussing solely on Policy S1 and a more substantive review with a wider focus. This was in response to it no longer being possible to submit a single revised plan by February 2020, as was originally proposed to meet the requirements of Policy S1 of the adopted Plan. This has been due to changes in circumstances since adoption, including Leicester City Council still not having declared the extent of any unmet housing need and the publication of a new National Planning Policy Framework in July 2018 and subsequent updates in February 2019 and June 2019.

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Failure to submit a reviewed plan (even if it is only a Partial Review) by February next year means that the whole of the adopted Plan would in effect be out of date. This would mean that the Council is then at risk of receiving ad hoc planning applications for developments which would be contrary to the Local Plan, but which it would be difficult to resist in the absence of an up-to-date plan and in view of what the NPPF says. Such developments could be for any number of uses, not just housing and employment, although these are the most likely. Members will recall that this was the situation the Council found itself in before the current Local Plan was adopted.

Undertaking a partial review would only involve changing the date by which the (now) substantive review would be submitted – no other changes would be required.

Following the July Cabinet meeting, in accordance with the Council's constitution this Partial Review was recommended to the Local Plan Committee (LPC). At its meeting on 2 October 2019 LPC considered a report which outlined the proposed approach to the Local Plan review and which sought approval of a consultation document.

Local Plan Committee Amendment

At the October meeting of the LPC an amendment to the recommendations was tabled – which can be seen in Appendix B of the report before you. The amendment seeks, as part of the partial Review, the revision or deletion of Local Plan Policies Ec2(2) and S3(s) in order to limit further development in the countryside. It also recommends that the substantive review should take full account of the Council's Climate Emergency Policy.

This amendment was agreed by the Local Plan Committee. I am advised that the statutory framework that underpins the adoption and review of Local Plan splits the process between:

- The Executive (exercised by Cabinet in this Council) which formulates the content of Local Plans; and
- The Council (exercised by the Local Plan Committee under a delegation in the Constitution) which puts forward the formulated Local Plans for consultation or examination.

Since statute does not give the Local Plan Committee the power to formulate the content of the Local Plan, the effect of the amendment that was passed on 2 October is to instruct Cabinet (as the Executive) to reconsider the content of the proposed Partial Review.

Subsequent Labour Group Submission

Further reasoning behind the proposed amendment has now been submitted to this Cabinet meeting by the Labour Group. This focusses around a concern that the current wording of the Local Plan leaves all land adjacent to the District's major roads, vulnerable to unnecessary speculative planning applications, particularly from employment development. I have great sympathy with this sentiment, seeking to protect the countryside within the district. However for a number of reasons I don't believe that the proposed solution will have the desired effect – indeed I consider that it may have the exact opposite effect of what the amendment is trying to achieve and actually make the situation worse.

Let us first consider the process that was agreed by this Cabinet in July. A two stage Local Plan Review - with a partial Review to be followed by a more substantive review. It is important to emphasise once more that the Partial Review would in effect only change the date at which the Local Plan Review (effectively the substantive review) would need to be submitted. This would remove the immediate threat of the Local Plan becoming out of date in February.

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The Labour Group submission highlights the fact that under the original review schedule, Policies Ec2 and S3, the main policies dealing with new employment development, would have been reviewed, or even potentially deleted, by next year. The reasons for the delay in the original timetable were detailed in the report to this Cabinet in July – principally that Leicester City has to yet to declare the extent of any unmet housing need, uncertainty about employment land requirements and the publication of a new National Planning Policy Framework. I share my Labour colleagues frustration that the original timetable has not been achieved but in the case of Leicester's unmet need and the new NPPF these are factors outside the control of this Council, and I am confident that the new timetable outlined by officers for the completion of the substantive review, which will cover the review of a much wider range of policies, is as ambitious as it can be taking into account the significant amount of work required in its preparation.

The undertaking of a partial review followed by a more substantive review allows us to address any concerns Members may have with the adopted Local Plan policies as part of the substantive review – and I want to emphasise that I would like to see all Members engaged in this process. However – critically – undertaking the partial review first and promptly allows us to meet the February 2020 submission deadline and keep our adopted Local Plan up-to-date. If policies Ec2 and S3 are deleted, or reviewed, as part of the Partial Review then it is almost impossible that this deadline could be met.

The Labour Group submission notes that Policies Ec2 and S3 were introduced at the very end of the Local Plan Examination process. This is true, but when they were included is not relevant - What is important is that these policies were agreed by the Council when it adopted the Local Plan in 2017.

The submission also claims that the shortfall of employment land identified in the Local Plan has already been met and therefore there is no longer any need for Policies Ec2(2) and S3(s) to be retained. This is not the case. The 30ha of existing employment land supply referred to in the Local Plan Committee Report of 2 October includes the Money Hill site that was allocated in the Local Plan. This means that we still currently have a shortfall of employment land. Therefore, deleting this requirement would contradict the views of the Local Plan Inspector who clearly considered the provisions in Policy Ec2(2) were essential. It would also leave the Council with a policy vacuum and so have to rely upon the provisions of the National Planning Policy Framework (NPPF). Deleting EC2(2) or reference to demand is also very likely to lead to objections, particularly from the development industry, on the grounds that there is still a shortfall of employment land and so the Council is not satisfying its obligations to meet the development needs of the district as required by the NPPF. Such objections would be difficult to refute and pose a serious risk to the Partial Review and could result in an Inspector considering that the Partial review was not sound.

The Labour Group submission also recommends that, should deletion of these two policies be deemed unacceptable, then they could instead be amended to reduce the ease with which employment permissions in the countryside can be gained. The suggested example is removing the words "or demand" from Ec2(2), or deleting the word "favourably" from the Policy.

Officers have considered whether revisions are possible to policy Ec2(2) without changing its principles such that it would be not likely to generate objections. The reference in policy Ec2(2) to immediate need could be replaced with reference to the needs identified in the Local Plan. However, it would still leave reference to meeting a demand and removing this reference as well would change the principles of the policy. It is worth noting, as I referred to earlier, that these policies were agreed with the Local Plan Inspector.

Furthermore, in the event of new evidence in respect of need becoming available which was different to that in the local plan, the policy would, in effect, be out-of-date. Finally, as strategic B8 developments (distribution warehouses) are not included as part of the

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specific Local Plan requirements there would be a policy vacuum in respect of such developments from the point of view of need which would weaken the Council's ability to resist such proposals. I do not believe therefore that it would be possible to revise Policy Ec2(2). In terms of policy S3(s) the only possible change which could be made would be to delete it in its entirety. However, this would build in a potential conflict within the plan as a proposal could satisfy Ec2(2) and then fall foul of policy S3. As such this would not provide sufficient certainty.

With regard to the second part of the amendment – the requirement to refer to the Council's Climate Emergency Policy in the substantive review – I would agree with my Labour Group colleagues that such a policy is appropriate to be considered as part of the wider Local Plan review process – however I do not believe that a specific requirement to do it is necessary at this stage.

The Labour Group have also raised some concerns regarding the regularity of Local Plan Committee meetings, particularly that there was an interval of over three months between the June and October meetings. The schedule of meetings of the Local Plan Committee was agreed by Council at its meeting of 21 May 2019. No request was made to change the dates or frequency of these. A meeting was scheduled for 18 September 2019. However, in view of the need to make sure that all of the necessary Sustainability Appraisal and Habitats Regulations Assessment reports were available for the Local Plan Committee to consider alongside the proposed Partial Review a deferment to the meeting was sought by the Planning Policy Team Manager and agreed with the Chair of the Local Plan Committee and the planning spokesperson from the Labour Group. No objection was made to this deferment.

The Labour Group have raised concerns about the decision-making processes surrounding this matter saying that a reasoned debate on these issues could have been achieved in a timely manner had members been engaged prior to Cabinet in July. In terms of consultation prior to the Cabinet in July, all members present were briefed prior to a presentation in respect of the application at Junction 11 on 9 July 2019. The issues in respect of policy Ec2(2) was raised at that briefing and officer's advice mirrors that set out in the report to this Extraordinary Cabinet. A debate could have been had either before or after the July Cabinet.

The Labour Group have also suggested that the Local Plan Committee should input into policies prior to Cabinet confirming its recommendations. I am aware that officers bring reports to the Local Plan Committee on a variety of matters to keep it updated and to seek its views. This will no doubt continue. However it will not be possible for this to happen on this point I refer to the split of functions I mentioned earlier. It is for the executive to formulate policy and for the Local Plan Committee to either approve it for consultation/examination or send it back to the executive to reconsider. This situation is not an "impasse" but rather an example of the system working as the law intends it to.

Conclusion

In conclusion, whilst appreciating and in many ways agreeing with the sentiment and aspiration of what the Labour Group's amendment is seeking to achieve – to stop unnecessary large scale employment development in the countryside - in reality I do not believe that this proposal will do what my Labour colleagues hope that it will. Indeed the unintended consequences on the future of this district may be significant.

If we are unable to consult on a publication version plan – even a Partial review which only seeks to amend one policy – and then submit to the Inspectorate by February 2020, then the adopted Local Plan will be considered out of date. We will then be back in the same situation we were a few years ago when we were at risk of ad hoc planning applications for developments which would be contrary to the local plan, but in the

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absence of an up-to-date local plan would be difficult to resist. Critically, this would apply to housing applications as well as employment.

As portfolio holder, I am committed to ensuring that all members are fully engaged with the local plan process. I propose that this is discussed as part of the Planning Cross Party Working Group and that wider working groups are established (as required) which will help inform Local Plan Committee.

In light of the reasons I have outlined I recommend that Cabinet, having fully considered the comments made by the Local Plan Committee and the subsequent submission by the Labour Group, recommends to the Local Plan Committee that the partial Local Plan Review focuses on changes to Policy S1 only and that such a review is approved for consultation.

Therefore I move the recommendations on pages 4 and 5 of the Report, with a slight change to the wording of recommendation (I) so that it read:

That Cabinet considers the amendments made to recommendations 1 and 4 of the report to the Local Plan Committee of 2 October 2019 as set out at appendix b of this report and the implications of accepting them and affirms its decision of 16 July 2019 to recommend to the Local Plan Committee that the partial Local Plan review focuses on changes to Policy S1 only and that such a review is approved for consultation;”

It was noted that call-in on the report had been waived, as call-in would prejudice the ability of the Council to submit the review by 20 February 2020.

Councillor R Blunt thanked Councillor R Ashman for all the work that he done on the issue. He stated that it was important to continue to work with the opposition group.

Councillor T Gillard expressed concerns that should the amendment from the Committee be agreed then it would leave the Whitwick Green Wedge open to development.

In response to Councillor T Gillard, Councillor R Ashman confirmed that it was the case in relation to, not just the Whitwick Green Wedge, but to all other areas of open space. He thanked officers for their continued hard work with the Local Plan.

It was moved by Councillor R Ashman, seconded by Councillor R Blunt and

RESOLVED THAT:

- (I) The amendments made to recommendations 1 and 4 of the report to Local Plan Committee of 2 October 2019 as set out at appendix B of the report and the implications of accepting them and affirms its decision of 16 July 2019 to recommend to the Local Plan Committee that the partial Local Plan review focuses on changes to Policy S1 only and that such a review is approved for consultation;
- (II) In the event that the Local Plan Committee agrees to publish the proposed consultation, delegates authority to the Strategic Director of Place in consultation with the Portfolio Holder for Planning and regeneration to agree amendments to the partial review as a consequence of considering responses to the consultation.

Reason for decision: Cabinet approval of the proposed approach required.

The meeting commenced at 5.00 pm

The Chairman closed the meeting at 5.29 pm

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