

Leicester Local Plan Review Examination

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Fabian D'Costa
Policy and Information Services Manager
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115 Charles Street
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By email via the Programme Officer

Dear Mr D'Costa,

Examination of Leicester Local Plan 2020-2036 Inspectors' Initial Questions

Following the Council's submission of the Leicester Local Plan (the Plan) for examination, we have commenced initial reading of the Plan, the submission documents, evidence base and representations.

Based on what we have read so far, we have some initial questions and requests for further information and clarification, which are set out below. Document references are contained in [square brackets].

Duty to Co-operate

1. We note that the Leicester & Leicestershire Statement of Common Ground (SoCG) on Housing and Employment Need [SCG1] is awaiting agreement from Harborough and Hinckley & Bosworth Councils, in respect of the apportionment of Leicester's unmet development needs. Please would the Council confirm when or whether the formal agreement of these two authorities is expected. If agreement is not forthcoming, what would the implications be for the spatial strategy of the Plan?

Local Development Scheme and Minerals and Waste Policies

2. The adopted Local Development Scheme (LDS) [SD13] lists a separate Waste Local Plan to be prepared, and paragraph 1.8 of the Plan states that policies for both waste and minerals will be set out in a separate Leicester Waste and Minerals Local Plan. However, the Plan includes some policies for waste and minerals, including Policy FMWN03 which designates mineral safeguarding

areas, and Policy SL02, which allocates land for a waste recycling centre. There are two initial questions which arise from this:

- a). Has the Plan been prepared in accordance with the LDS¹, given that it does not contain all planning policies and proposals to manage Leicester's mineral resource needs, including the allocation of sites for mineral extraction to contribute to the region's supply needs, and the LDS does not indicate that these will be set out in a separate minerals local plan?
- b). Where is the evidence to justify the designation of mineral safeguarding areas and the allocation of land for a household waste recycling centre in the Plan?

Consultation

3. The Statement of Community Involvement (SCI) [SD11] states that the Council will actively seek to engage with 'seldom heard' groups, who find it difficult to engage in the participation process, listing smaller minority ethnic communities, recent arrivals in the City, and disabled, elderly and young people. What has the Council done to actively engage these groups in the consultation process on the Local Plan, given that the Regulation 22 Statement of Consultation [SD9] does not make this explicit?

Sustainability Appraisal and Site Selection

4. We are concerned that, at present, the evidence contained within the submitted Sustainability Appraisal (SA) and Strategic Housing and Economic Land Availability Assessment (SHELAA) does not provide a clear enough audit trail to explain the selection of strategic and non-strategic sites for allocation against the reasonable alternatives. In particular, we note from Table 7.2 of the SA that only one of the eight strategic sites allocated in the Plan has been appraised as 'most sustainable' and that four of the eight have been appraised as the 'least sustainable'. Likewise, six of the non-strategic sites in the same table have been appraised as 'least sustainable'. Table 6.4 explains why four of the 'unsustainable' sites have been selected, but does not deal with the others. We would be grateful for further explanation of how the Council has arrived at its decisions and judgements on each of the sites considered.

Plan Period

5. The Plan period runs from 2020-2036, meaning that, by the time it is adopted, there will be around 11-12 years of the Plan period remaining. Paragraph 22 of the National Planning Policy Framework (the NPPF) expects strategic policies to look ahead over a minimum 15-year period from adoption and for larger scale developments, including significant extensions, policies should be set within a

¹ As required by section 19(1) of Part 2 of the Planning and Compulsory Purchase Act 2004

vision that looks at least 30 years ahead. As such the Plan would not be consistent with national policy in these respects. What alternatives have been considered to respond to the long-term requirements of Leicester? Should the Plan be looking ahead over 30 years in respect of its cross-boundary strategic allocations?

Strategy for Leicester

6. Paragraph 20 of the NPPF expects strategic policies to set out the overall strategy for the pattern, scale and design of places, including provision for development, infrastructure, community facilities and the conservation and enhancement of the environment. We are concerned that at present, chapter 4 of the Plan, comprising the Strategy for Leicester, does not do this adequately in terms of strategic policies. Whilst it contains policies for the location of development and strategic sites across the City, the following strategic policy matters appear to be lacking from chapter 4:
 - a). Policy setting out the strategic infrastructure requirements for the City to support the proposed growth, in particular key transport schemes and sustainable transport measures, such as modal shift, flood management schemes, and the mechanisms for their delivery, taking account of the Council's declared climate emergency and the City's dependence on strategic sites within adjoining local authority areas.
 - b). Policy setting out the strategic requirements for new and improved community facilities to support proposed growth, in particular for education and healthcare, and the mechanisms for their delivery where facilities would be required to meet cross-boundary development needs.
 - c). A strategic policy for the central development area and City centre clearly setting out their role within the overall spatial and development strategy for the City.
 - d). A single spatial strategy for the protection and enhancement of green infrastructure across the City, bringing together green wedges, open spaces and wildlife sites, and opportunities for the growth or extension of the network into and within the City.

If these are matters which the Council considers are already set out in strategic policies in the Plan, we would be grateful to be directed to the relevant policies. If not, does the Council consider main modifications would be necessary to make the Plan sound?

Housing Need and Supply

7. The Plan identifies a housing need of 39,424 homes over the Plan period 2020-36, but a target of 20,730 homes to be delivered from a supply of 23,010 homes within the administrative boundaries of

Leicester (paragraph 4.10 and Policy SL01 of the Plan). The remaining unmet need of 18,694 dwellings is to be provided for within adjoining districts in Leicestershire. Two initial questions arise from this:

- a). How is the level of unmet need justified against a supply which exceeds the target by 2,280 dwellings (or 11%)?
 - b). Is the target intended to be a ceiling, or a minimum requirement as expected by paragraph 61 of the Framework?
8. The Housing Trajectory at Appendix 1 of the Plan appears to be based on the timeframes for the delivery of committed and allocated housing sites in Appendices A and B of the SHELAA [EB/HO/3]. Please could the Council provide the evidence to substantiate the deliverability and/or developability of the sites comprising the housing supply and the estimated timeframes for their completion?
 9. The allowance for housing provision from windfall sites included in Table 1 of the Plan and in the Trajectory at Appendix 1, is based on evidence of past windfall completions for sites of fewer than 10 dwellings (at Figure 3 of the Leicester SHELAA [EB/HO/3]). The non-strategic housing allocations at Appendix 6 of the Plan also include sites of less than 10 dwellings. Therefore, it would appear that the housing supply from small sites of less than 10 dwellings has been double counted in the windfall allowance. Please would the Council clarify the evidence on this point?
 10. Paragraph 69 of the Framework expects local planning authorities to identify at least 10% of their housing requirement on small and medium sized sites of 1ha or less. What proportion of the Plan's proposed housing requirement for Leicester would be accounted for by sites of this size and where is the evidence to support this?

Student Accommodation

11. Paragraph 5.36 of the Plan identifies a need for 4,800 bedspaces for student accommodation in the City, but there do not appear to be any sites allocated to meet this need? Please would the Council explain how student accommodation needs would be met over the Plan period?

Gypsy and Traveller Accommodation

12. The Gypsy and Traveller Accommodation Assessment 2017 and the 2019 Addendum (GTAA) [EB/HO/2 and 2a] identify accommodation needs for 28 Gypsy and Traveller households and 3 Travelling Showpeople households. However, the Plan only allocates land within Strategic Site 1 (Policy SL02) for 7 permanent pitches for Gypsy and Traveller households that meet the planning definition in the Planning Policy for Traveller Sites (PPTS). In drawing up the submission Plan and its policies for Gypsy and Traveller

accommodation, what account has been taken of the Court of Appeal judgement on the Smith vs SSLUHC & Ors case², which post-dates the GTAA and establishes that the definition of Gypsies and Travellers in the 2015 PPTS is unlawfully discriminatory? In the light of this judgement and the related legislative context, how does the Plan make provision for the accommodation needs of Gypsy and Traveller and Travelling Showpeople households identified in the GTAA that either did not meet the PPTS definition or where this was undetermined?

Employment

13. Paragraph 4.14 of the Plan justifies the provision of 23 ha of employment land need being met outside of the City boundaries on the basis that the provision of housing sites is a priority. However, at paragraph 4.4 of the Employment Topic Paper [TP/2], the Council proposes to change the use of 13 ha of residential land at Ashton Green to employment to meet a shortfall within the City. Given the shortfall in housing land in the City, what alternative strategies have been considered in order to avoid further increasing that shortfall in this way?

Supplementary Planning Documents and Planning Obligations

14. We note that in a number of places the Plan refers to supplementary planning documents (SPDs) containing policy requirements. Whilst the Planning Practice Guidance (PPG) permits the use of SPDs to provide more detailed advice or guidance on policies in an adopted Plan, in line with paragraph 34 of the NPPF, it states that planning obligations should be clearly set out in plans and examined in public, so that they can be accurately accounted for in the price paid for land, and that it is not appropriate to set out formulaic approaches to planning obligations in SPDs³. Paragraph 5.28 of the Plan states that SPD will be relied upon to determine the amount of commuted sums for affordable housing in lieu of on-site provision, and paragraph 18.10 says that the Council intends to produce a developer contributions SPD after the adoption of the Plan. We are clear that including such contributions or the method for calculating them in SPD would not be consistent with national policy on development contributions. We would invite the Council to consider how this should be addressed in suggested modifications to the Plan.

Schedule of Representations and Main Modifications

15. In Schedule 2 to Appendix 4 of the Regulation 22 Statement of Consultation (SD9), the Council has indicated potential changes to the Plan, in response to representations made on the Regulation 19 pre-submission consultation. Does the Council wish us to consider these under Section 20(7C) of the Planning and Compulsory

² Smith v SSLUHC & Ors [2022] EWCA Civ 1391

³ PPG Paragraph: 004 Reference ID: 23b-004-20190901

Purchase Act 2004 as modifications necessary to make the Plan legally compliant and/or sound? If so, we would be grateful if the Council would submit the suggested wording for these changes in the form of a draft schedule of Main Modifications (MMs), to which other MMs can be added as the Examination progresses.

16. We have also requested a fuller summary of the representations in Schedule 2 and the Council's responses to them. We look forward to receiving this in due course.

Policies Map

17. The Regulations⁴ require that the adopted Policies Map must illustrate geographically the application of the policies in the adopted plan. We note from the Atlas of Changes to the Policies Map [SD10a/b/c] that several designations are proposed to be removed from the Policies Map, some of which relate to policies in the Plan. These include: Conservation Areas (Policy HE01); Archaeological Alert Areas (Policy HE02); SSSIs, Regionally Important Geological Sites, LNRs and LWSs (Policy NE01); Park & Ride sites (Policy T04); and Flood Risk Zones (Policy CCFR06). These are examples, but there may be others. We would be grateful for the Council's explanation of this, as currently it does not appear that the Policies Map is legally compliant nor that the geographical illustration of all of the Plan's policies is clear.

We would be grateful for your **responses by 5 January 2024**. If the Council requires more time to reply, please let us know by return.

On receipt of this letter, please would the Council upload it to the Examination website.

In the meantime, we will continue with our initial reading of the Plan, evidence base and representations. This may generate further initial questions, which we will forward to you in due course.

The Council's response to these initial questions will help to inform the matters, issues and questions (MIQs) for the Examination and for subsequent discussion at the Hearing.

We look forward to hearing from you.

Yours sincerely,

Karen L. Baker

INSPECTOR

Mike Hayden

INSPECTOR

Joanne Burston

INSPECTOR

⁴ Regulation 9(1) of The Town and Country Planning (Local Planning) (England) Regulations 2012