

Gladman Developments Ltd

**Matter 1 Hearing Statement
Oadby and Wigston Local Plan**

Legal Requirements and Procedural Matters



March 2018

Matter 1 – Legal Requirements and Procedural Matters

1.1. Q4. Does the LP have regard to national planning policy, including consistency with the National Planning Policy Framework and the planning policy for travellers' sites? Is there sufficient justification for any policies that are not consistent with national planning policy? Does the submitted plan properly reflect the presumption in favour of sustainable development?

1.1.1. Gladman has concerns with a number of the policies included within the Oadby and Wigston Local Plan and their consistency with the guidance set out in the Framework. These are set out in detail in our response to the Regulation 19 consultation document and for brevity, they are not repeated here. However, for reasons that are set out in those representations, we consider that a number of minor changes are necessary to several of the policies, to ensure that they are consistent with national policy and are consequently sound.

1.1.2. In particular, Gladman consider that whilst the majority of Policy 1 reflects the positive approach to sustainable development set out in the Framework, the final sentence requires rewording so that it fully reflects the Framework and the model policy on the Presumption in Favour of Sustainable Development.

1.1.3. The final paragraph should read:

“Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

1. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or

2. Specific policies in that Framework indicate that development should be restricted.”

1.2. Q6. Has the LP been prepared in accordance with the Duty to Co-operate and does it fully meet this requirement? What are the key outcomes from the Co-operation with neighbouring authorities? In

particular, how is it anticipated that unmet need in the City of Leicester authority area be addressed?

- 1.2.1. The Duty to Cooperate is a process of ongoing engagement and collaboration and, as set out in the PPG, it is clear that it is intended to produce effective policies on cross boundary strategic matters. In this regard, the Leicester and Leicestershire authorities (L&L) have been working together to prepare a joint evidence base which has been used to inform the preparation of their Local Plans up to 2031.
- 1.2.2. Whilst this approach is welcomed, Gladman has concerns that one of the fundamental areas of cross-boundary strategic issues, that of housing needs across the Housing Market Area (HMA), remains unresolved.
- 1.2.3. The L&L authorities are currently working towards the adoption of a Strategic Growth Plan (SGP) covering the whole of the HMA which was originally intended to deal with the issue of the distribution of unmet housing needs across the HMA, following the identification of unmet housing needs from Leicester City Council (LCC).
- 1.2.4. The 2016 SGP consultation document stated at paragraph 4.5:

“The conclusions from [the HEDNA] will form the basis of the housing land strategy in the Strategic Growth Plan and will be formalised in a revised Memorandum of Understanding (MoU) on housing land supply.”
- 1.2.5. It was therefore clear that the SGP would set out and consult on, the basis for addressing unmet housing needs across Leicestershire **before** any MOU was completed.
- 1.2.6. However, there has been a significant slippage in the timescales for the production of the SGP and, following publication of a draft SGP for consultation in early 2018, it is clear that the SGP will in fact do nothing to clarify how the unmet needs of LCC will be addressed in the short term. Instead, these decisions are deferred to an updated Memorandum of Understanding to be prepared and signed sometime in 2018.
- 1.2.7. The need to positively plan to meet full housing needs across housing market areas should not be underestimated. It is all too easy for the duty to cooperate to be seen as an administrative exercise. However, the fundamental social and economic need to ensure a supply of good quality housing to meet the homes and employment requirements across the wider area is a key issue that must be addressed properly through the plan making process. Whilst it may be the case that a local planning authority has sought to work positively with its neighbours, the extent to which a plan tackles strategic priorities that arise from the cross-boundary evidence base is an issue to be considered in assessing the soundness of that plan.

- 1.2.8. The scale of unmet need in Leicester City is likely to be considerable and although it has not yet been quantified, the draft updated Statement of Cooperation November 2017 (Appendix 1) shows that it could be as great as 15,000 dwellings.
- 1.2.9. This unmet housing need represents real people with real housing needs both now (from 2011, the base date of the Housing Need figure for Leicester City, until 2015/16 Leicester had a backlog of almost 3,000 dwellings - See Appendix 2) and in the future.
- 1.2.10. Gladman remain of the view that the SGP is the correct vehicle for considering these strategic issues and for identifying deliverable sites to inform the Memorandum of Understanding (MOU), rather than these issues being dealt with by the MOU alone. The MOU may not be the subject of public consultation and may not be scrutinized in any public forum. Consequently, there would be no formal mechanism for the distribution of unmet housing needs across the HMA, leaving the resolution of this issue outside of the plan led process. This is both unacceptable and contrary to the Framework.
- 1.2.11. It is Gladman's view that the SGP has failed to fulfil its potential as a strategic planning document by deferring the issue of the geographical distribution of unmet housing need to a MOU. As previously set out, the MOU is still in preparation, has yet to be published or signed by the Leicester and Leicestershire authorities and there is no guarantee that it will eventually be signed by all parties. There is therefore considerable uncertainty regarding the distribution of housing growth across the HMA that must be clarified to ensure that up-to-date local plans can be put in place across the area.
- 1.2.12. Therefore, whilst it is considered that the Council has fulfilled its legal requirement through the Duty to Co-operate, given the current situation with the progress and content of the SGP and the fact that the Local Plans for many of the Leicester and Leicestershire authorities are progressing without tackling the immediate issue of identified unmet housing needs from Leicester from 2011 onwards, raises concerns regarding the Duty to Co-operate in terms of the soundness of the Oadby and Wigston Local Plan.

Leicester & Leicestershire Authorities

Joint Statement of Co-operation Relating to Objectively Assessed Need for Housing

November 2017

1.0 The Leicester and Leicestershire HMA

1.1 The Leicester and Leicestershire Housing Market Area (HMA) covers the administrative areas of eight local authorities and two highway authorities. The eight local planning authorities are:

- Blaby District Council
- Charnwood Borough Council
- Harborough District Council
- Hinckley & Bosworth Borough Council
- Leicester City Council
- Melton Borough Council
- North West Leicestershire District Council
- Oadby & Wigston Borough Council

1.2 The two highways authorities are:

- Leicester City Council
- Leicestershire County Council

1.3 The purpose of this Joint Statement of Co-operation (the 'Joint Statement') is to support those authorities which are seeking to produce a Local Plan in advance of the Strategic Growth Plan (SGP), and to set out how the local authorities will collaborate further to ensure that the necessary joint evidence is in place to support subsequent Local Plans. The document has been received by the Members' Advisory Group overseeing the preparation of the Strategic Growth Plan and will proceed through the normal governance procedures of individual authorities as necessary.

2.0 Background

Duty to Cooperate

2.1 The Joint Statement is intended to provide evidence of effective co-operation on planning for issues with cross-boundary impacts. A Housing and Economic Development Needs Assessment (HEDNA) has been completed, the purpose of which is to identify the Objectively Assessed Need (OAN) for housing and employment for the HMA and Functional Economic Market Area (FEMA) in the periods 2011-2031 and 2011-2036. In the case of Leicester & Leicestershire, the HMA and FEMA are coincident. The HEDNA was commissioned jointly by the nine local authorities together with the Leicester & Leicestershire Enterprise Partnership (LLEP).

Objectively Assessed Need for Housing

- 2.2 The National Planning Policy Framework (NPPF) requires local planning authorities to ensure that their Local Plans meet the full OAN for market and affordable housing in the HMA as far as is consistent with the policies set out in the NPPF (paragraph 47).
- 2.3 To enable an understanding of capacity to accommodate additional housing, the NPPF further requires local planning authorities to prepare a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about availability, suitability and likely economic viability of land to meet the identified need for housing over the plan period (paragraph 159). In Leicester & Leicestershire, the SHLAAs have been prepared using an agreed methodology across the HMA as a whole.
- 2.4 Table 1 has been prepared using the outputs of the joint HEDNA and SHLAAs. It provides a summary of the agreed OAN for housing, and the theoretical capacity of both the HMA and each local authority; the theoretical capacity has been derived from an understanding of existing commitments and SHLAA information. The partner authorities agree that the OAN for the HMA (and each local authority) is that set out in the table.
- 2.5 The HEDNA explains that the OAN is set at the level of the HMA although the OAN for each local authority is also identified; the OAN for each individual authority is considered to be secondary to that of the HMA as a whole. Table 1 indicates that the OAN for the HMA as a whole, based on demographic analysis, is some 96,580 dwellings for the period 2011-31 (4,829 dpa). For the period, 2011-2036, the figure is some 117,900 dwellings (4,716 dpa).
- 2.6 A similar analysis has been undertaken of the need for housing based on the economic development needs of the area; in this case, it has been concluded that the need for new housing, based on economic development needs across the FEMA, is lower than the demographic need. On that basis, there is no need for adjustment of this figure at the level of the HMA/FEMA although there is some misalignment at the level of individual authorities. As a result, there may be an alternative distribution of housing to meet economic needs whilst still ensuring that the demographic need of 4,829 or 4,716 dpa is met across the HMA/FEMA as a whole in line with paragraph 47 of the NPPF.
- 2.7 In terms of the housing capacity, Table 1 also indicates that there is a theoretical capacity for some 207,069 dwellings across the HMA as a whole. When this is set against the OAN of 96,580 (2011-31) and 117,900 (2011-36) dwellings, it is clear that there is considerable flexibility to meet the defined housing need across the HMA.
- 2.8 It is recognised that the ability of each local authority to meet its own OAN will vary. Table 1 demonstrates that, theoretically, and with the exception of Leicester City Council, all authorities are able to accommodate their own needs in the period 2011-36. In the period 2011-36, neither Leicester City Council nor Oadby & Wigston Borough Council will be able to meet their needs. It is important to note, however, that further testing will be required by the respective authorities through their Local Plan processes. Should an HMA authority identify, quantify and provide robust

evidence to demonstrate an unmet need in the future, it will be incumbent upon the HMA authorities jointly to resolve any cross-boundary matters with HMA partners under the Duty to Co-operate.

- 2.9 Following publication of the HEDNA, both Leicester City Council and Oadby & Wigston Borough Council declared that they would not be able to accommodate their full objectively assessed needs (OAN) for housing within their own boundaries. Letters were sent out by Leicester City Council in February 2017 and by Oadby & Wigston Borough Council in March 2017, to all other authorities within the Leicester & Leicestershire Housing Market Area, setting out the position and their formal declarations of unmet housing need. Since that time, and based on evidence, Oadby & Wigston Borough Council has determined that it will be able to accommodate its needs in the period 2011-2031 but not in respect of the period 2011-36. Oadby & Wigston Borough Council issued a further letter in November 2017 confirming its position. Both Leicester City Council and Oadby & Wigston Borough Council are yet to formally and finally evidence the extent of their unmet need, however it is necessary to include provision to accommodate unmet need arising from these two Council areas, for the relevant periods, within the HMA as a whole; this may include an element of a flexibility allowance in local plans currently in preparation, should the need arise.
- 2.10 In terms of determining housing targets to be included in their Local Plans, local planning authorities should take account of the requirements of both national policy and local circumstances, including the need to base Local Plans on a strategy that seeks to meet the OAN for housing. In this regard, it is recognised that all authorities are at different stages of plan preparation and that this situation must be accommodated. In determining their housing target over the relevant plan period, therefore, each authority will take into account the HEDNA and other relevant evidence.
- 2.11 In addition, the nine local authorities and the LLEP have jointly agreed to produce a Strategic Growth Plan, a non-statutory strategic plan looking forward to around 2050. As part of their work on the Strategic Growth Plan, the partner organisations may choose to redistribute development across the HMA as appropriate but the process of preparing the Strategic Growth Plan is not anticipated to be complete until the end of 2018 and will not, therefore, be available for all authorities to use prior to preparing their Local Plans. At the same time, Government has made it clear that it wants Local Plans for individual authorities to be in place without delay; and where no Local Plan has been produced, Government may choose to intervene in the process. As a result, the partner organisations understand that some authorities might wish to progress their Local Plans in advance of the Strategic Growth Plan.
- 2.12 The Written Ministerial Statement by the Minister for Housing and Local Government (21 July 2015) re-emphasises that Local Authorities cannot plan in isolation and must work together to provide the land for the housing needed across HMAs. It states: *“As we have made clear in planning guidance a commitment to an early review of a Local Plan may be appropriate as a way of ensuring that a Local Plan is not unnecessarily delayed by seeking to resolve matters which are not critical to the plans soundness or legal competence as a whole”*. It also refers to a note prepared by the Planning

Advisory Service which local authorities should consider; this sets out circumstances in which Local Plans have been found sound, subject to a commitment to an early review.

- 2.13 Taking this into account, the HMA authorities reached agreement in summer 2016 on appropriate trigger mechanisms that would be inserted into all Local Plans coming forward before the Strategic Growth Plan. In this respect the partner authorities agree that should the Strategic Growth Plan identify a significant change which would require local authorities to re-consider the amount of housing and employment land, an early review or partial review of affected Plan(s) will be brought forward to address this matter, unless there is sufficient flexibility already provided for within the Plan. Such flexibility may, for example, be secured by a Local Plan that specifies a requirement which materially exceeds the FOAN identified by the HEDNA. The agreement is based on the principle that the trigger mechanisms would be applied on a consistent basis across the HMA, ensuring that all Local Plans submitted in advance of the Strategic Growth Plan contain the necessary flexibility to respond to any significant change that might arise.

Table 1: OAN as defined in HEDNA (January 2017) and Theoretical Capacity based on assumptions set out in notes.

| | OAN* ¹ (2011- 2031) | OAN* ¹ (2011 - 2036) | Theoretical Total Capacity* ² |
|-----------------------------------|--------------------------------------|---------------------------------------|--|
| Blaby | 7,400 | 9,025 | 24,096* ³ |
| Charnwood | 20,620 | 24,850 | 34,756* ³ |
| Harborough | 10,640 | 12,850 | 30,578* ³ |
| Hinckley & Bosworth | 9,420 | 11,350 | 25,498* ³ |
| Leicester City | 33,840 | 41,700 | 26,230* ³ |
| Melton | 3,720 | 4,250 | 36,650* ³ |
| Northwest Leics | 9,620 | 11,200 | 26,301* ³ |
| Oadby & Wigston | 2,960 | 3,875 | 2,960* ³ |
| HMA Total*⁴ | 96,580 | 117,900 | 207,069*³ |

*¹ The OAN is set out in the agreed HEDNA (January 2017)

*² This figure is based on information on completions, commitments, windfalls (in some authorities) and SHLAAs as at 1st April 2016.

*³ The final figure will be determined by each authority through the Local Plans process.

*⁴ The Total received OAN for the HMA is lower than the sum of the OAN for individual authorities because the OAN for Melton BC and North West Leicestershire DC has been increased in the HEDNA to meet economic needs locally.

Note:

It should be noted that nothing in this statement should be taken to prejudice any representations made by individual authorities on any partner Local Plan.

Signed by:

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| | OBO Blaby District Council |
| | OBO Charnwood Borough Council |
| | OBO Harborough District Council |
| | OBO Hinckley & Bosworth Borough Council |
| | OBO Leicester City Council |
| | OBO Leicestershire County Council |
| | OBO Melton Borough Council |
| | OBO North West Leicestershire District Council |
| | OBO Oadby & Wigston Borough Council |

Appendix 2

Net Housing Completions in Leicester City 2011/12 to 2015/16 set against the HEDNA OAN 2011-2031

| Year | Net Completions | HEDNA OAN | New dwellings above or below OAN |
|--------------|-----------------|--------------|----------------------------------|
| 2011/12 | 977 | 1,692 | -715 |
| 2012/13 | 1,147 | 1,692 | -545 |
| 2013/14 | 1,126 | 1,692 | -566 |
| 2014/15 | 1,162 | 1,692 | -530 |
| 2015/16 | 1,131 | 1,692 | -561 |
| Total | 5,543 | 8,460 | -2917 |