

## **Examination of North Lincolnshire Local Plan 2020-2038**

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Mr Durham  
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15 December 2022

Dear Mr Durham

### **Inspectors' Initial Questions**

#### **Introduction**

1. Following the submission of the North Lincolnshire Local Plan (2020-2038) we have begun our initial preparation and identified a number of initial questions that would benefit from early clarification. These are intended to assist in our understanding of the Plan and the evidence base, to help in our assessment of soundness and legal compliance, and to provide clarity and potentially narrow down the focus of the examination.
2. At this early stage in the examination, we have some questions about the Plan and in particular the evidence base as submitted. We also have some questions regarding the soundness of the Plan, some of which are raised here and others which will be set out in our Matters Issues and Questions in due course.

## **The Plan to be examined**

3. To confirm, the Plan that we are examining is the Proposed Submission North Lincolnshire Local Plan (2022) (the Plan). It is our understanding that this is exactly the same as the North Lincolnshire Local Plan, Publication Draft Addendum Plan, May 2022, except for the change of title and date on the front cover and that all of the red 'tracked changes' text has been 'accepted' and turned black. It is our understanding that the Plan has been subject to Regulation 19 consultation prior to it being submitted for examination.
4. **Inspector Question (IQ)1** Can the Council please let us know if any of these assumptions regarding the Plan to be examined are incorrect?

## **The scope of the Plan**

5. Regulation 8 (5) of The Town and Country Planning (Local Planning)(England) Regulations 2012 states that *“Where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy.”* **IQ2** Can the Council please direct us to where the schedule of superseded policies is within the plan?
6. Paragraph 21 of the Framework indicates that strategic policies should be limited to those necessary to address the strategic policies of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed.
7. Paragraph 31 of the Framework indicates that plans should make explicit which policies are strategic policies; footnote 13 clarifies that the requirement applies to instances where a single local plan is being prepared. Moreover, paragraph 28 of the Framework establishes that non-strategic policies should be used by local planning authorities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic

environment and setting out other development management policies.

8. **IQ3** Bearing in mind this advice in the Framework are the strategic policies identified at paragraph 1.38 of the Plan appropriate? Have the strategic policies been identified in accordance with the advice in the Framework?
9. The National Planning Practice Guidance (the Guidance) indicates that Neighbourhood Plans (NPs) when brought into force become part of the statutory development plan for the area they cover. They can be developed before, after or in parallel with a local plan, but the law requires that they must be in generally conformity with the strategic policies in the local plan for any area.
10. Where a NP has been brought into force, the local planning authority should take its policies and proposals into account when preparing the local plan. Local plan policies should not duplicate those in the neighbourhood plan, and do not need to supersede them unless changed circumstances justify this. It is important for local plans to make appropriate reference to neighbourhood plan policies and proposals, and similarly for neighbourhood plans to acknowledge local plan policies that they relate to.
11. **IQ4** How many made NPs are there? (paragraph 1.32 of the Plan refers to two but this does not correspond with paragraph 4.31 of the Plan which refers to one). Are the policies in the Plan intended to apply to areas covered by made NPs? Are there any instances of duplication of NP policies? How do the policies in the Plan take into account the made NPs? Are any of the NP policies intended to be superseded by the policies in the Plan? Does the Plan make appropriate reference to the policies and proposals in the NPs?

### **Legal Compliance**

12. S33A of the Planning and Compulsory Purchase Act 2004 (as amended) sets out the Duty to Cooperate (DtC). This applies to the preparation of Local Plans so far as relating to a strategic matter. Local Planning Authorities must

demonstrate how they have complied with the DtC at the Examination stage of their Local Plan.

13. Paragraph 1.15 of PINS Procedural Guide 2022 suggests that in order to demonstrate compliance with the DtC the most helpful approach is to submit a statement of compliance to identify any relevant strategic matters and how they have been resolved, or if they have not, why not. **IQ5** Has the Council provided a statement confirming that the relevant procedural and legal requirements have been complied with and if not, can this please be provided?
14. Paragraph 27 of the Framework advises that the Council should prepare one or more statements of common ground with relevant bodies. The Guidance explains that a Statement of Common Ground (SOCG) is a written record of the progress made by strategic policy making authorities during the process of planning for strategic cross boundary matters. It forms part of the evidence required to demonstrate that they have complied with the duty to cooperate.
15. The Guidance provides advice on preparing such statements. Paragraph 022 Reference ID 61-022020190315 is clear that Inspectors will expect to see that authorities have addressed key strategic matters through effective joint working and are not relying on the Inspector to direct them. It also advises that if agreements cannot be reached this should not prevent the authority from submitting a plan for examination. However, comprehensive and robust evidence of the efforts it has made to co-operate and any outcomes achieved will be tested in the examination.
16. The Council has provided a SOCG (DLP22), but it has not been signed by all the stakeholders. **IQ6** Are there any outstanding objections from neighbouring authorities? Doncaster Metropolitan Borough Council has not signed the SOCG but we can see no explanation as to why this is so?
17. In terms of the relevant prescribed bodies, some signatures are absent from the SOCG, and in other instances signatures have been provided, but it is clear that there are still outstanding issues (and in some cases reference is made to

some ongoing work). Natural England's concerns are considered elsewhere in this letter, but other outstanding matters are as follows:

- Paragraph 3.8 indicates that the Environment Agency has signed the SOCG but discussions are on-going.
- Paragraph 3.11 indicates that Historic England has signed but discussions are on-going and changes to policy criteria regarding areas of soundness have already been agreed and work is ongoing on a separate SOCG. This is also referred to in paragraph 5.69.
- Paragraph 3.27 indicates that discussions are ongoing with Anglian Water and Severn Trent Water.

18. **IQ7** What are the outstanding matters (areas of disagreement or 'uncommon ground') that need to be addressed and what is the process for reaching agreements on these? What progress has been made with the on-going discussions referred to and what is the timeframe for these? When are the additional SOCGs referred to expected to be signed? Has the Council included any agreed wording arising from the full SOCG or the additional SOCGs in a schedule of Main Modifications (MMs)?
19. **IQ8** Have any significant concerns been expressed by statutory consultees or interested parties about the Sustainability Appraisal (SA) which remain in dispute?

## **National Planning Policy**

### **Housing**

#### *General*

20. The Guidance (Paragraph: 010 Reference ID: 2a-010-20190220) considers when it might be appropriate to plan for a higher housing need figure than the standard method indicates. It advises *that "the government is committed to ensuring that more homes are built and supports ambitious authorities who want to plan for growth. The standard method for assessing local housing need provides a minimum starting point in determining the number of homes needed*

*in an area. It does not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour. Therefore, there will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates.*

21. *This will need to be assessed prior to, and separate from, considering how much of the overall need can be accommodated (and then translated into a housing requirement figure for the strategic policies in the plan). Circumstances where this may be appropriate include, but are not limited to situations where increases in housing need are likely to exceed past trends because of:*

*- growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth (e.g. Housing Deals);*

*- strategic infrastructure improvements that are likely to drive an increase in the homes needed locally; or*

*- an authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground;*

22. *There may, occasionally, also be situations where previous levels of housing delivery in an area, or previous assessments of need (such as a recently-produced Strategic Housing Market Assessment) are significantly greater than the outcome from the standard method. Authorities are encouraged to make as much use as possible of previously-developed or brownfield land, and therefore cities and urban centres, not only those subject to the cities and urban centres uplift may strive to plan for more home. Authorities will need to take this into account when considering whether it is appropriate to plan for a higher level of need than the standard model suggests”.*

23. **IQ9** Have the Council carried out such an assessment and if so where can we find it?

24. **IQ10** Have the Council considered whether a cap to the housing need figure is appropriate in accordance with the Guidance?

25. A housing topic paper would be helpful in setting out this information along with the details of the Council's spatial strategy and distribution and how it was arrived at. A housing trajectory to demonstrate how the housing requirement will be delivered over the plan period should also be provided. We have appended a proforma for you to complete with this information (Annex 2). In addition, the topic paper should cover the Council's approach to providing affordable housing, small and medium sized sites, First Homes, what reliance is being placed on windfall sites and any other information the Council think may be helpful in providing an overview of this topic.
26. In terms of whether the Council will have a 5-year housing land supply (HLS) on adoption of the plan, we cannot find any detailed evidence in this regard. We have appended a form (Annex 1) to this letter to be completed for every site that the Council intend to rely on to demonstrate their 5-year HLS.

#### *Lincolnshire Lakes*

27. In terms of the Lincolnshire Lakes allocation (Policy SS7), it appears that not all of the area currently allocated for development in the Lincolnshire Lakes Area Action Plan is allocated for development in the Plan before us. **IQ11** Can the Council confirm if this is the case and if so the reason for this?
28. We note from the Lincolnshire Lakes Position Statement that the Council have secured £23m of funding for necessary infrastructure in connection with the development of this area of land. **IQ12** Is there a timescale for the delivery of this infrastructure and if so, where can we find the relevant information? Is the infrastructure required prior to any development in the Lincolnshire Lakes site taking place?
29. There appears to be an outstanding objection to Policy SS7 from Historic England. **IQ13** What is being done to resolve these matters?
30. Page 36 of the SOCG also refers to ongoing discussions with Severn Trent Water regarding sewerage capacity including at Lincolnshire Lakes. **IQ14** What is the latest position on this matter?

31. **IQ15** Are there any other issues that may delay the delivery of the Lincolnshire Lakes Allocation

*Neighbourhood Areas*

32. Paragraph 66 of the Framework requires that strategic policies set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Paragraph 67 of the Framework states that where it is not possible to provide a requirement figure for a neighbourhood area (because a neighbourhood area is designated at a late stage in the strategic policy making process, or after strategic policies have been adopted) the local planning authority should provide an indicative figure, if requested to do so, by the neighbourhood planning body. **IQ16** Has a housing requirement been provided for the designated neighbourhood areas?

*Gypsy and Traveller Accommodation*

33. The Council will be aware of the judgment *Lisa Smith v SSLUHC* [2022] EWCA Civ 1391 of 31st October 2022, regarding the interpretation of the Planning Policy for Traveller Sites (PPTS) and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles. **IQ17** Can the council please consider whether, in light of this judgment, they wish to review the traveller site needs in the North Lincolnshire Council Gypsy and Traveller Accommodation Assessment Final Report (October 2021) (GTAA)?
34. According to the GTAA, there were 17 Gypsy or Traveller households identified in North Lincolnshire that met the planning definition; 3 undetermined households that may meet the planning definition; and no households that did not meet the planning definition. It identifies a need for 13 pitches for households that met the planning definition and a need for up to 4 pitches for undetermined households.
35. We note that the Plan identifies a pitch requirement of 17 over the Plan period and that 8 of these are required in the first 5 years of the Plan. We have concerns that there does not appear to be any sites allocated in the Plan to



meet the 17 pitch requirement. Instead, the Council appears to be relying on applications being submitted for sites which would then be determined against Policy H6, a criteria-based development management policy.

36. Paragraph 10 of PPTS advises, amongst other things that, *“local planning authorities should, in producing their Local Plan:*

*a) identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years’ worth of sites against their locally set targets*

*b) identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15.”*

37. It appears from what we have read that the Council have not done this. **IQ18** It would be helpful to understand the reasons behind this and in particular if any attempts were made to find appropriate sites through a call for sites or allocating land on a part of larger residential or mixed use site, for example.

38. **IQ19** Did the SA consider different policy options for meeting Gypsy and Traveller needs?

39. **IQ20** Was the option of allocating specific sites to meet identified needs, as required by national policy assessed?

40. **IQ21** Is this approach to meeting the needs of gypsies and travellers and travelling showpeople justified, effective and consistent with national policy?

### **Employment Land**

41. Policy EC1 of the Plan advises that provision will be made for 131.7 ha of employment land across the plan area. However, the table of allocated sites shows that around 183.93ha of land has been allocated and this does not appear to include land allocated in strategic site allocations under policy SS8 (1,038ha) or SS7 (around 25ha). **IQ22** Why is this the case and does the Plan clearly set out the total amount of employment land allocated anywhere?

42. A similar level of buffer is not provided for in terms of housing land. **IQ23** What is the justification for this mismatch in supply and is it likely to result in unsustainable levels of inward migration from surrounding areas?

### **Environmental/Legal Compliance Matters**

43. We note that Natural England in their response to the Plan addendum consultation in May 2022 welcomes the updates to the Plan to take on board some of their earlier concerns, however it is clear that they still have a number of serious outstanding concerns regarding various policies in the Plan, the Habitats Regulations Assessment and parts of the evidence base that underpins the Plan. Their serious concerns are reiterated in the SOCG (DLP22). These are potentially legal compliance matters and therefore it is critical they are resolved as expeditiously as possible.
44. **IQ24** Is there an ongoing dialogue between the Council and Natural England to resolve some or all of these matters and if so, what is the up-to-date position and most importantly what are the outstanding areas of disagreement? It is critical that these are set out in a specific SOCG between the Council and Natural England. If some matters regarding wording within policies is agreed these will need to be included in a list of main modifications.
45. Paragraph 9.23 of the Plan says that a Biodiversity Supplementary Planning Document (SPD) to address the Council's Measurable net gain is demonstrated, secured and implemented will be prepared to accompany the Plan. **IQ25** What progress has been made on this SPD? Assuming work has begun, have Natural England been involved in its formulation?

### *Local Green Spaces*

46. Policy DEQ9 designates a number of local green spaces. Paragraphs 101-103 of the Framework set out that LGS should only be used where the green space is in reasonably close proximity to the community it serves, demonstrably special to a local community and holds a particular local significance and local in character and is not an extensive tract of land. **IQ26** What methodology underpins these designations, does it accord with advice in the Framework and

the Guidance and would each proposed designation meet the criteria set out in paragraph 102 of the Framework?

## **Infrastructure**

47. The Government recommends that when preparing a plan strategic policy-making authorities use available evidence of infrastructure requirements to prepare an Infrastructure Funding Statement. This should set out the anticipated funding from developer contributions, and the choices local authorities have made about how these contributions will be used. At examination this can be used to demonstrate the delivery of infrastructure throughout the plan-period. (Paragraph: 059 Reference ID: 61-059-20190315)
48. In the SOCG at paragraph 5.47 the Environment Agency (EA) suggest the inclusion of land to the North of the Humber Sea Terminal will require a flood defence scheme and that this needs to be reflected in the Infrastructure Development Plan (IDP) which the Council will update and include. **IQ27** Has this been done?
49. The SOCG at paragraph 5.79 refers to outstanding matters regarding wastewater treatment capacity at sewerage treatment works. some of these relate to committed sites. However, the EA expressed concerned that the IDP did not include location specific details of improvements required or liaison with Anglian Water to ensure it could be provided. **IQ28** Has this matter now been resolved and if not, this needs to be dealt with in an up-to-date SOCG setting out the outstanding areas of disagreement?
50. It seems that the proposed Brigg Link Road will, among other things, open up land to deliver 820 homes. **IQ29** What is the timescale for the delivery of this link road and is it likely to hold up the delivery of these homes and does the trajectory take account or realistic timescale for delivering road?
51. It appears that the Brigg Link Road has been costed at £8,821,000 and that it will be delivered by the private sector developer of the site, that the Council are also looking for alternative funding to assist and accelerate the delivery of the

site. **IQ30** What is the latest position on this and is it likely that the delivery of the site will not be viable without alternative funding for the link road? Are there implications for other allocations in the Plan if this road is not delivered in a timely manner?

### **Viability**

52. The North Lincolnshire Council Local Plan and Community Infrastructure Levy Viability Assessment October 2021 whole Plan viability appraisal conclusions find that based on the proposed policy combination of affordable housing and section 106 contributions, insufficient additional margin exists, beyond a reasonable return to the landowner and developer to accommodate CIL charges for residential development. **IQ31** Does it recommend changes to the plan and if so have they been made?
53. **IQ32** Is the Council satisfied that the viability assessment of the Plan has properly addressed the impact of other factors including First Homes provision, Electric Vehicle Charging Points (EVCP), carbon offsetting, accessibility and adaptability, housing for older and disable people and the requirement to deliver 20% net gain in biodiversity on the viability and deliverability of the overall Plan strategy?
54. **IQ33** Does the Plan take account of recent changes last year to the Building Regulations in respect of EVCP and energy efficiency?

### **General Matters**

55. We are unaware as to whether the Council has a running list of draft MMs. It would be helpful if you could draw up a list of MMs. If the Council is unsure which modifications in the list are MMs, then we can assist with this.
56. Any proposed changes that materially affect the Plan's policies can only be included in the Plan if we consider them to be necessary for soundness or legal compliance and recommend them as MMs. **IQ34** Does the Council wish us to recommend changes to the Plan should we consider them necessary for the purposes of soundness or legal compliance? If so, the Council will need to

make a formal request for us to make such MMs under section 20(7c) of the Planning and Compulsory Purchase Act 2004 as amended.

57. Additional Modifications (AMs) may also be indicated by the Council but must not materially affect the Plan's policies, and are generally accepted to be the correction of typos, updating of document titles and dates etc. Only. These should be kept in a separate table.
58. It would be helpful if any further proposed changes to the Plan are categorised into MMs and AMs and that these schedules are kept up to date throughout the examination. Where the Council wishes to propose changes to the Plan (for example in response to representations), these should be drafted as potential MMs.
59. **IQ35** Where necessary do the policies in the Plan make it clear that their geographic application is illustrated on the policies map? From our initial inspection of the Plan this does not appear to be the case for a number of the policies/allocations.
60. The policies map is not a development plan document and we do not have the power to recommend MMs to it. However, MMs relating to the Plan's policies may require corresponding changes to the Map. A change to the policies map would not be either a MM or an AM. It would be an alteration to the geographic illustration of a policy to ensure the policy is effective and therefore sound. Any such changes should be included in a separate schedule.
61. The Framework establishes that plans should set out clear policies on what will and will not be permitted and where. Paragraph 16 indicates that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals (d). Plans should also serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in the Framework where relevant) (f). They should also not duplicate other policies in the Plan or other legislation.

62. We are concerned that a number of the policies in the Plan (or parts of them) do not accord with this guidance. **IQ36** Please can the Council reconsider the policies in the Plan in light of this context and provide a response?
63. **IQ37** Have all of the all the documents referred to in the Plan been published on the examination website?
64. Some of the text included in the Introduction to the Plan at Section 1 (including but not limited to paragraphs 1.14, 1.16 to 1.24, 1.35, 1.39 to 1.48, 3.9) will be out of date when the Plan is finalised for adoption. **IQ38** Please can potential MMs to ensure that this part of the Plan be prepared?
65. **IQ39** Reference is made in the Plan to a number of SPDs. Please can a comprehensive list of the above relevant to the Plan showing their status, purpose, and their programme for preparation be provided?

#### **Additional documents**

66. The Council is currently compiling the representations in a different manner so that they are easier to work with and interrogate. **ID40** Can the Council please advise when this work will be completed and uploaded to the examination website? It should be noted that these Initial Questions have been drafted without sight of that document or the Council's responses to representations.
67. The Five Year Housing Land Supply Statement on the examination website (HOU1) is dated August 2021. **IQ41** Is there a more up to date version than this and if so, can it please be placed on the examination website and the details of its location provided?
68. We cannot find an Annual Monitoring Report on the examination website. **IQ42** Can the Council indicate where it is on the examination website and if it is not there can it please be placed on the examination website and its location provided?

## **Conclusion**

69. An early response to the above queries would be appreciated. We are keen that the above matters are resolved promptly, in so far as they can be, in order to ensure that the examination is not unduly delayed. We have not set a deadline as there are a number of matters for you to consider and we realise that some may take longer than others to deal with. However, can you please provide an indication of when you are likely to be able to reply in full, by **Friday 20 January 2023**.
70. If you have any queries regarding any of the above matters, then we can be contacted via the Programme Office. A copy of this note and the Council's response should be placed on the examination website as soon as possible.

*Elaine Worthington and Louise Crosby*

Examining Inspectors

## Annex 1

### Local plans: five-year housing land supply

The following information should be provided for every site that the Council assumes will contribute to current 5-year supply (from 1 April 2022).

#### A. All sites with detailed planning permission, and sites of <10 homes and <0.5ha that have outline planning permission

Site name					
Local plan ref					
Total capacity					
Plan period completions					
Five-year completions					
	2022/3	2023/4	2024/5	2025/6	2026/7
Completions					

These sites can be considered deliverable unless there is clear evidence that homes will not be delivered within five years.

#### B. Other sites (including those of at least 10 homes or at least 0.5ha with outline permission, with a grant or permission in principle, allocations, or identified on brownfield register)

Site name					
Local plan ref					
Total capacity					
Plan period completions					
Five-year completions					
	2022/3	2023/4	2024/5	2025/6	2026/7
Completions					

Clear evidence relating to:

<b>Developer's delivery intentions including anticipated start and build out rates</b>
<b>Current planning status and progress towards the submission of an application</b>
<b>Progress with site assessment work</b>
<b>Site viability</b>
<b>Availability: ownership, any existing uses, etc</b>
<b>Infrastructure provision</b>



## Annex 2

### Local plans: summary of overall housing land supply

Use the table below (extended to cover the whole plan period) to summarise the overall housing land supply identified in the Plan.

Ref	Name	Size Ha	Total capacity	Planning status*	Annual completions									
					22/3	23/4	24/5	25/6	26/7	27/8	28/9	29/30	30/31	31/32
Windfalls (if applicable)														
Total														

\* Planning status: completed, under development, detailed planning permission, outline planning permission, allocation without planning permission, etc