



Intelligent Plans
and examinations

Advisory Note for Harborough District Council

Further Advice following letter from the Minister of State for Housing and Planning

**An Advisory Note prepared for Harborough District Council by:
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Date: 15 September 2023

Summary

- This Advisory Note provides Further Advice to the Officers and Councillors of Harborough District Council (the Council) and provides an assessment of the letter dated 8 September 2023 from the Minister of State for Housing and Planning (Rachel Maclean MP) to the Leader of the Council.
- The letter confirms that plan makers (which includes the Leicestershire authorities) will have until 30 June 2025 to submit their local plans for independent examination under the existing legal framework, and that existing legal requirements and duties including the Duty to Co-operate (DtC) will still apply.
- The letter states correctly that there is no formula imposed by the Government through which housing need for an area or unmet need must be transferred from one area to another and that this is a matter for local planning authorities to agree, through the DtC and the production of Statements of Common Ground (SoCG).
- The Leicester & Leicestershire Authorities SoCG (L&L SoCG) represents, in our view, a clear and comprehensive example of authorities working together under the DtC to address the key strategic issue of meeting Leicester City Council's unmet housing and employment land needs, in order to be able to progress their respective Local Plans with the certainty of their housing and employment land requirements up to 2036.
- Nothing in the Minister of State's letter changes any of our previous advice to the Council, as set out in the Advisory Note dated 31 August 2023.
- The letter serves to reinforce our overarching advice to the Council that the benefits of signing the L&L SoCG at this time very significantly outweigh the potential risks that would arise from a decision not to sign it.

1. Introduction

- 1.1 This Further Advice Note has been prepared for the Officers and Councillors of Harborough District Council (the Council) following receipt of the letter dated 8 September 2023 from the Minister of State for Housing and Planning (Rachel Maclean MP) to the Leader of the Council.
- 1.2 The letter is reproduced below, for ease of reference.



Department for Levelling Up,
Housing & Communities

Rachel Maclean MP
Minister of State for Housing and Planning
2 Marsham Street
London
SW1P 4DF

Our reference: 30689454

Cllr Phil Knowles
Harborough District Council
The Symington Building
Adam and Eve Street
Market Harborough
Leicestershire
LE16 7AG

8 September 2023

Dear Phil,

Thank you for your letter of 18 August to the Rt Hon Michael Gove MP. I have been asked to reply as the Minister of State for Housing and Planning.

Due to the Secretary of State's quasi-judicial functions in the planning system, I am unable to provide advice on the production of a specific local plan. However, I am happy to provide more general comments on the duty to cooperate and on the proposed legislative and policy changes to the planning system.

The duty to cooperate will be formally abolished after the Levelling Up and Regeneration Bill receives royal assent. However, the Government has confirmed that plan makers will have until 30 June 2025 to submit their local plans for independent examination under the existing legal framework. This will mean that existing legal requirements and duties, including the duty to cooperate, will still apply. An authority that submits its plan after 30 June 2025 would not have to meet the requirements of the duty to cooperate.

Plan-makers are expected to provide for the objectively assessed needs for housing in their area unless the policy constraints of doing so or the adverse impacts of doing so would outweigh the benefits. There is no formula imposed by the Government through which housing need for an area or unmet need must be transferred from one area to another. This is a matter for local planning authorities to agree to, through the duty to cooperate and the production of statements of common ground.

Authorities which are seeking to have their unmet need met by other local planning authorities will have to satisfy an inspector that they have met as much of their need as they can through the process of producing their local plan.

Thank you again for your letter.

Yours sincerely,

RACHEL MACLEAN MP
Minister of State for Housing and Planning

- 1.3 This Further Advice Note has been prepared by Derek Stebbing, a Consultant employed by Intelligent Plans and Examinations (IPE) Ltd, and follows the preparation of the previous Advisory Note to the Council dated 31 August 2023.
- 1.4 This Note assesses whether the letter from the Minister of State has any additional or revised implications for the Council's present consideration of the draft Statement of Common Ground between the Leicester & Leicestershire Authorities (L&L SoCG) dated June 2022, beyond those set out in the previous Advisory Note and discussed at the Members' Briefing held on 7 September 2023.

2. The Duty to Co-operate

Proposed Abolition of the Duty to Co-operate

- 2.1 The first point to note is that the letter confirms that the Duty to Co-operate (DtC) will be abolished after the Levelling Up and Regeneration Bill receives Royal Assent. It goes on to state that plan makers (which includes the Leicestershire authorities) will have until 30 June 2025 to submit their local plans for independent examination under the existing legal framework, and that existing legal requirements and duties including the DtC will still apply.
- 2.2 This is entirely consistent with the advice previously given to the Council as it affects the preparation of the Council's new Local Plan for the period up to 2036 and beyond.

3. Meeting Housing Need

- 3.1 The National Planning Policy Framework (NPPF) sets out how Local Planning Authorities (LPAs) in England should create their Local Plans and includes a Standard Method to assess housing need. LPAs must follow the Standard Method when developing their Local Plan, unless 'exceptional circumstances' apply. The housing need figure generated by the Standard Method should be a starting point in the planning process, rather than a housing target. LPAs are also expected to factor in constraints such as how much land is available, when preparing Local Plans. (The Standard Method is sometimes described as a formula, but for clarification it is not the 'formula' or absence thereof being described in the fourth paragraph of the Minister of State's letter).
- 3.2 The L&L SoCG confirms that the housing requirement for each of the Leicestershire authorities has been calculated for the period up to 2036 using the Standard Method. The principal factor that leads to 'unmet need' for Leicester City Council during that period has been the 35% uplift for the twenty major cities in England, including Leicester, and known as the 'cities and urban centre uplift', that was introduced by the

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Government in 2020. It formed part of the measures to boost housing supply towards an annual target of 300,000 new homes per annum. The 35% uplift is simply applied as an addition to the housing need figure generated by the Standard Method.

- 3.3 Clearly, the LPAs subject to the 35% uplift are expected, as far as they can, to meet their full housing requirement (i.e. 100% + 35%) within their boundaries, and to that end the LPAs involved undertake rigorous and exhaustive urban capacity studies to maximise the housing potential of previously developed or 'brownfield' land, vacant sites, redundant buildings, etc. However, in most cases, and Leicester is no exception, there is a level of unmet need which cannot be met within the LPA's boundaries simply because suitable sites cannot be identified. The L&L SoCG is based upon a calculated assessment of an unmet need of 18,700 dwellings and 23 hectares of employment land that cannot be met within the Leicester City Council area during 2021-2036. There is no unmet housing or employment need for any of the other Leicestershire LPAs.
- 3.4 It has been reported (at the Members Briefing held on 7 September 2023) that Leicester City Council consider that they have undertaken the most exhaustive studies of potential housing and employment sites within the City's boundaries during the past six years in order to seek to reduce their level of unmet need. This has been set out in further detail in a letter of 12 September 2023 from Leicester City Mayor, Sir Peter Soulsby, to the Leader of Harborough District Council, Cllr. Phil Knowles. It is also understood that their new Local Plan will be submitted for independent examination shortly on the basis of the housing and employment needs distribution set out in the L&L SoCG and, as also noted in the previous Advisory Note, the Charnwood Local Plan is already being examined on the same basis.
- 3.5 The Minister of State is correct in stating that "*There is no formula imposed by the Government through which housing need for an area or unmet need must be transferred from one area to another*". Notwithstanding this, and critically, she then goes on to reinforce that "*This is a matter for local planning authorities to agree to, through the duty to co-operate and the production of statements of common ground*". In other words, there is no national policy requirement (or formula), apart from the DtC, for determining how authorities will work together to address unmet housing and employment needs.
- 3.6 The L&L SoCG therefore represents a good example of authorities working together under the DtC for the past six years to address the key strategic issue of meeting Leicester City Council's unmet housing and employment land needs, in order to be able to progress their respective Local Plans with the certainty of their housing and employment land requirements up to 2036.
- 3.7 As outlined in the earlier Advisory Note, on the basis of the Council's intention to submit its new Local Plan for examination by 30 June 2025, it

is clear that the Council continues to be subject to the legal requirement to comply with the DtC as part of its preparation of the new Local Plan. The L&L SoCG is a key outcome of the Council's DtC.

4. Conclusion and Advice

- 4.1 There is nothing contained within the Minister of State's letter that serves to change any of our earlier advice to the Council. Indeed, in our assessment, it reinforces that advice, the key element of which is that the benefits of progressing the Council's new Local Plan under current planning legislation, prior to 30 June 2025, very significantly outweigh the risks and disadvantages of awaiting new legislation, which may well serve to stall work on the new Local Plan until early 2027. Any delay is likely to expose Harborough to the highly increased risk of speculative developments across the district. A decision by the Council to sign the L&L SoCG remains the next key step in being able to progress the new Local Plan.

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