



Department for Levelling Up, Housing & Communities

Lee Rowley MP

*Minister of State for Housing, Planning and
Building Safety*
2 Marsham Street
London
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Councillor James Dawson
Leader of Erewash Borough Council
Town Hall
Ilkeston
Derbyshire
DE7 5RP

30 November 2023

Dear Councillor Dawson

s.27 Planning and Compulsory Purchase Act 2004 intervention in the Erewash Borough Council Local Plan

I write regarding concerns that Erewash Borough Council ('the Council') may withdraw their emerging local plan ('the plan') from examination.

The Government is clear that local plans are a core component of the planning system, and that it is essential they are kept up to date. Section 19 of the Planning and Compulsory Purchase Act 2004 ('the 2004 Act') requires that each local planning authority must identify the strategic priorities for the development and use of land in the authority's area, and policies to address those priorities must be set out in the local planning authority's development plan documents, such as their local plan.

The last Erewash Local Plan was adopted in 2014. Withdrawing the plan at this advanced stage of preparation will extend the period in which the Council has not had an up-to-date plan.

Given the Council's proposed intention to vote on withdrawing the plan, consideration has been given to possible next steps, including intervention by the Secretary of State.

The Secretary of State has powers to intervene under section 27 of the 2004 Act, if he finds that a local planning authority is failing or omitting to do the necessary preparation, revision or adoption of their local plan. It is considered that withdrawing the plan from examination would be a clear failure by the Council of the statutory test set out in section 27(1) of the 2004 Act.

I have also considered the Local Plan intervention criteria in the 2017 White Paper "Fixing our broken housing market", to assist me in determining priority and whether intervention should take place.

The applicable criteria are:

- The least progress in plan-making has been made: More than 69% of English Councils have adopted a local plan since Erewash (March 2014). If the Council withdraws the plan, it would be within the 30% of the oldest adopted local plans in the country.

- Policies in plans have not been kept up to date: The adopted local plan is now over nine years old, and it is reasonable to assume, given the age of the plan, that a number of the policies it contains will not be up to date.
- There was a higher housing pressure: The Council is not performing well against the Housing Delivery Test which requires enough houses to come forward within the Borough to adequately meet local housing need. In withdrawing the draft plan, the Council would be further failing to plan for and deliver the homes that people need.
- Intervention would have the greatest impact in accelerating Local Plan production: Considering the average time taken to prepare a local plan is seven years, and we are approaching the phased introduction of a new planning system, withdrawing the plan at this stage will lead to significant further delay whilst a new plan is prepared. The council should proceed with its current plan.
- Wider Planning context: Delays caused by withdrawing the Local Plan could significantly slow down Neighbourhood Plan progress in the area and could also disincentivise other communities from coming forward to start the process.

Having considered Erewash's performance against the intervention policy criteria and the statutory test set out in section 27(1) of the 2004 Act, I am satisfied that intervention is justified.

Accordingly, the Secretary of State is exercising his powers under section 27 of the 2004 Act and directs the Council as follows:

- 1. Per section 27(2)(b): Not to take any step to withdraw the plan from examination and report monthly (from the date of this letter) to departmental officials on the progress with the examination.** In accordance with section 27(8) of the 2004 Act, the Secretary of State's reason for making this direction is to avoid the unnecessary additional delay to having an up-to-date plan in place and additional expense that withdrawing the plan and preparing a new plan would cause.
- 2. Per section 27(4)(b): On conclusion of the examination, to publish the Planning Inspector's recommendations and reasons.**
- 3. Per section 27(5)(b): On conclusion of the examination, to consider adopting the plan, including any main modifications recommended by the Planning Inspector deemed necessary to make the plan sound.** In accordance with section 27(8) of the 2004 Act, the Secretary of State's reason for making this direction is to give the people of Erewash the best chance of having a sound local plan adopted in the near future, protecting the area in which they live from speculative development.

The above directions:

- 1. Do not prevent the Council from deciding to continue progressing the plan through examination; and**
- 2. Will remain in force until withdrawn by the Secretary of State.**

Should a significant delay occur to progressing the examination, and should you fail to comply with the directions in this letter, I will consider taking further intervention action to ensure that an up-to-date local plan is in place.

Notwithstanding this direction, I would like to take the opportunity to ask you to set out by 14 December 2023 any exceptional circumstances that should be taken into account when the Secretary of State considers the next steps to take in relation to the Direction and the emerging plan. To be clear, this neither alters nor removes the direction set out in this letter.

In the meantime, officials in the department will continue to engage with your officers although I understand that they have been trying to do so, without success, since May 2023.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lee', is centered below the text 'Yours sincerely,'.

LEE ROWLEY MP

Minister of State for Housing, Planning and Building Safety