



*Meeting:* **Cabinet**

*Date/Time:* **Friday, 23 September 2022 at 11.00 am**

*Location:* **Sparkenhoe Committee Room, County Hall, Glenfield**

*Contact:* **Mr. M. Hand (Tel. 0116 305 6038)**

*Email:* **matthew.hand@leics.gov.uk**

### **Membership**

Mr. N. J. Rushton CC (Chairman)

Mr. B. L. Pain CC    Mrs H. L. Richardson CC  
Mrs D. Taylor CC    Mrs. P. Posnett MBE CC  
Mrs. C. M. Radford CC    Mr. R. J. Shepherd CC  
Mr. O. O'Shea JP CC    Mr. P. Bedford CC  
Mr. L. Breckon JP CC

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– Notices will be on display at the meeting explaining the arrangements.**

### **SUPPLEMENTARY REPORT**

<u>Item</u>	<u>Report by</u>
7. Charnwood Local Plan (2021 - 2037).	Chief Executive (Pages 3 - 16)



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**CABINET – 23 SEPTEMBER 2022**

**CHARNWOOD LOCAL PLAN (2021-2037)**

**REPORT OF THE CHIEF EXECUTIVE**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to advise members with regard to the consequences and required actions arising from the suspension and subsequent delay to the Examination in Public (EiP) of the Charnwood Local Plan following the proposal communicated by the Borough Council to the EiP on its first day on its approach to meet its apportionment of the City of Leicester's unmet housing need through the Local Plan, rather than, as set out in the submitted Local Plan, a trigger review. The Inspectors defined that as a 'material change' and the EiP was paused.
2. The report sets out the evidence, clarification and information the County Council requires to enable it to support Charnwood Borough Council's proposal for dealing with Leicester's unmet housing need.

**Recommendations**

3. It is recommended:
  - a) That it be noted that the position taken by Charnwood Borough Council on the first day of the Examination in Public was a change from the Local Plan it had submitted and which the County Council had agreed to support with conditions;
  - b) That the evidence, clarification and information the County Council requires to enable it to support Charnwood Borough Council's proposed changed strategy for dealing with unmet need from the City of Leicester, as put to the Inspectors, as set out in paragraph 50 of this report, be noted;
  - c) That the potential consequences for the County Council arising from the delay to the Examination in Public be noted;
  - d) That the interim approach to dealing with planning applications in Charnwood be approved and that, as the local planning authority, Charnwood Borough Council's support for its implementation be sought;

- e) That Charnwood Borough Council be notified that it is the County Council's view that:
- (i) the Borough Council needs to establish new formal governance and joint working arrangements with the County Council to oversee the preparation for the next stage of its Local Plan and beyond.
  - (ii) in the event that the Borough Council is required to reconsider its housing strategy following the Examination in Public in October 2022, it should give due consideration to the inclusion of new sites to accommodate additional housing as well as the distribution of additional housing across sites identified in the Charnwood Local Plan (2012 – 2037) submitted to the Inspectorate in December 2021.
- f) That the Chief Executive, following consultation with the Leader of the County Council and the Lead Members for Children and Family Services and Highways, Transportation and Flooding, and on advice from the Director of Law and Governance, be authorised to:
- (i) keep under review the basis for the County Council's position for the purposes of the Examination in Public; and
  - (ii) make such changes to that position as may be required in the light of evolving circumstances, including in respect of Charnwood Borough Council's position on how it proposes to deal with the City's unmet housing need and the Examination's progress, including to update and/or to prepare new documentation as required for the Examination in Public; and
  - (iii) take all required steps should it be necessary for the County Council to make any formal submission on the position taken by Charnwood Borough Council when the Examination in Public resumes.

### **Reasons for Recommendations**

4. To ensure that the information required to enable the County Council to support a changed Local Plan is communicated to Charnwood Borough Council.
5. To ensure that the County Council's interests are protected during the extended period of Charnwood Borough Council having no adopted Local Plan.
6. To reiterate the Cabinet decision of June 2022 to formalise a commitment to joint working with Charnwood Borough Council on its Local Plan which was not taken forward given the pause in the EIP.
7. In the event that Charnwood Borough Council's Housing Strategy is reviewed, providing that they are of an appropriate scale and location, the inclusion of new sites in any reconsidered Housing Strategy could aid the delivery of

necessary supporting infrastructure and services in comparison with a strategy that may seek to scatter provision in smaller numbers over a wide geographic area.

8. Authorising the Chief Executive to revise the County Council's position for the purpose of the EiP and representation at the hearing sessions, in consultation with the Director of Law and Governance, will ensure it reflects the latest position in the light of evolving circumstances.

### **Timetable for Decisions (including Scrutiny)**

9. The EiP Inspectors have determined, in discussion with Charnwood Borough Council, that the EiP will resume in part in October 2022, whilst the remaining original hearing sessions are still to be rescheduled in early 2023.
10. In the meantime, it is important that the County Council acts appropriately to seek to mitigate the consequences to it arising from the delay.

### **Policy Framework and Previous Decisions**

11. In September 2021, the Cabinet agreed the County Council's response to the Pre-Submission Charnwood Local Plan and advised the Borough Council that the County Council considered that the partnership working arrangements between the two authorities and other partners should be formalised at the earliest opportunity in order to ensure that infrastructure issues were properly addressed. That report, a link to which is provided under Background Papers, sets out in some detail the policy framework within which the Plan sits, and also relevant previous decisions made by the Cabinet.
12. In June 2022 the Cabinet considered a report on highways and transportation matters in respect of the Charnwood Local Plan, provided background and set out the County Council's position leading up to the commencement of the EiP. The Cabinet approved, amongst other things:
  - proposals for an area Transport Strategy-based approach to the delivery of the proposed Plan/Borough-wide highways and transportation mitigation package; and
  - the County Council's position as local highway authority for the purposes of the EiP including:
    - a commitment to ongoing work to develop the area Transport Strategies\* and to develop strategic scheme business cases so as to provide the best basis for seeking to secure Government and developer funding to enable the delivery of the highways and transportation mitigation package; and
    - accepting a proportionate and reasonable deterioration in traffic conditions in the Borough as a result of developments being permitted prior to the overall mitigation package being put in place.

\* Covering Loughborough/Shepshed, the north of Leicester and the Soar Valley.

13. A separate report is on the agenda of this Cabinet meeting which seeks approval for the County Council's position in regard to the Statement of Common Ground (SoCG) on unmet housing and employment need arising from Leicester City. The SoCG has been part informed by a Housing and Employment Needs Assessment (HENA).

### **Resource Implications**

14. The report to the Cabinet on 24 June 2022 detailed the resource implications arising from local plans, including that:
- the financial challenges to the County Council are being exacerbated by the high inflation environment that is currently being experienced, which is having a particularly profound impact upon construction schemes; and
  - the Council's financial position, both in relation to capital and revenue funds, is grave. As the lowest funded county council in England, the Council has limited capacity to provide funding to support planned growth and therefore the focus must be on maximising developer contributions.
15. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

### **Circulation under the Local Issues Alert Procedure**

16. This report has been circulated to all Members.

### **Officers to Contact**

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## **PART B**

### **Background**

#### *Examination in Public hearing sessions – June 2022*

17. The reports considered by the Cabinet in September 2021 and June 2022 detail the background leading up to the commencement of the EiP.
18. The EiP hearings commenced on 28 June, with attendance from officers representing the County Council including from the Chief Executive's, Environment and Transport and Children and Family Services Departments.
19. A key matter at the EiP was the Borough Council's approach to meeting the City of Leicester's unmet housing need. Under their Plan submitted for EiP, Charnwood Borough Council proposed that this would be dealt with by a 'trigger policy' (Policy DS2) in respect of a review of the Plan once Leicester and Leicestershire Housing Market Area partners had confirmed agreement to the apportionment of the City of Leicester's unmet housing and employment land need.
20. However, at the first hearing session Charnwood Borough Council advised the Inspectors that instead of the trigger policy approach it would now, in principle, be willing to accommodate Charnwood's apportionment of the City's unmet housing need, as set out in the SoCG, thus removing the 'trigger policy' (DS2). As per the SoCG that would represent an increase in allocation of 78 dwellings per annum or circa 1500 (to maintain a supply buffer of 10%) over the lifetime of the Plan to 2037. It is noted that at the time of writing the SoCG has yet to be approved by all the local authorities.
21. The Inspectors indicated that they considered Charnwood Borough Council's changed position to represent a material change in circumstances and that there was a need to pause the EiP. In correspondence shortly afterwards the Inspectors said:
 

"The Council has indicated that it may be possible to increase housing land supply to meet Charnwood's apportionment of the unmet housing need, but before assessing the matter, we must firstly examine whether the housing requirement figure has been positively prepared. A pause in the current Examination is therefore essential to enable all interested parties to review and have an opportunity to comment on the evidence that underpins the proposed apportionment for housing and for us to be able to test that evidence in a measured and robust way."

It is the importance of the underpinning evidence which has concerned the County Council as an infrastructure and service provider.
22. The Inspectors and Charnwood Borough Council have since exchanged correspondence regarding proposed arrangements going forward. In brief, the process for the EiP is now as follows:

- A six-week consultation is being undertaken on the evidence informing the unmet need (i.e. underpinning the SoCG), from 15 August 2022 to 26 September 2022.
  - A hearing session on unmet need will take place on 25 and 26 October 2022.
  - The Inspectors have suggested that irrespective of any particular outcome, they and Charnwood Borough Council would then need a period of time to enable any implications for the Plan to be properly considered.
23. Beyond October there is no certainty or confirmation at present around the timeframe for completing the EiP process. However, there is an indication that the original hearing sessions (which would need to include a session to deal with development strategy, paused from week one) would resume in early 2023.

### **Potential consequences for the County Council arising from the delay**

#### **Speculative development**

24. Charnwood Borough Council's current Local Plan is now nearly seven years old (it was adopted in November 2015) and the Borough Council is also unable to demonstrate a five-year supply of housing land. Under the National Planning Policy Framework (NPPF) a local planning authority in such a position is in a relatively poor position to seek to resist speculative, unplanned sites coming forward through the planning process. (The NPPF Presumption In Favour of Sustainable Development is triggered, whereby local planning authorities should grant planning permission unless it would be contrary to two specific conditions specified in the NPPF.)
25. The table below shows that already a considerable number of the submitted Local Plan allocation sites are being progressed (including confidential pre-applications) or already have planning permission.

<b>Total No. Plan allocation sites<sup>(ii)</sup> (total No. homes)</b>	<b>No progress<sup>(i)</sup></b>	<b>Pre-application<sup>(i)</sup></b>	<b>Planning application<sup>(i)</sup></b>	<b>Planning permission<sup>(i)</sup></b>
69 (8588)	40 (2904)	6 (2383)	17 <sup>(iii)</sup> (2393)	6 (908)

(i) Figures as per time of table completion (8<sup>th</sup> September 2022)

(ii) Under Plan Policy DS3, excluding Sustainable Urban Extensions

(iii) Includes 4 separate applications for site HA43 at Anstey

26. There is a concern that given Charnwood Borough Council's circumstances, any ongoing delays to the adoption of a Local Plan will only result in further sites being brought forward as planning applications. Where this happens, so



increases the risk of missing out on opportunities to seek to secure developer contributions towards the delivery of the area Transport Strategies (noting also that planning permissions have already been secured at several other speculative/ unallocated sites within those areas, these effectively being opportunities that have already been missed, too). Maximising developer contributions is key to the successful delivery of a Plan, given the likely overall cost of the proposed Plan/Borough-wide highways and transportation mitigation package and considerations of the Plan's viability.

### **Interim approach to dealing with Planning Applications**

#### *Highways and transportation*

27. In its statutory capacity in connection with Highways and Transport, the County Council had worked closely with Charnwood Borough Council to develop the Local Plan's underpinning transport evidence base, including testing of its preferred spatial strategy and potential mitigation measures. Amongst other things, this evidence helped to highlight cumulative impacts (i.e. impacts on a particular junction or part of the road network whereby multiple Plan allocation sites have combined impacts) and cross-boundary impacts (i.e. in other areas beyond the Borough's boundaries).
28. It is intended to use the Local Plan evidence to inform discussions with site promoters/developers on Transport Assessment requirements if and when further allocation sites come forward subsequent to the adoption of a new Local Plan.
29. Where that Transport Assessment work identifies site-specific impacts on the road network that coincide with the cumulative and/or cross-boundary impacts and issues identified through the Plan evidence submitted, it is intended that this will form a basis for seeking to secure developer contributions. As is the case for any planning application, this will need to be in compliance with national planning policy and regulations.
30. Where appropriate, the scheme costing estimates prepared prior to the EiP will be used as a starting point for calculating the value of contributions.
31. With regard to seeking developer contributions to cycling and walking, the process to develop a Local Cycling and Walking Infrastructure Plan (LCWIP) for Loughborough and Shepshed is now well advanced, albeit it will not be presented to the Cabinet for approval until later in the year. However, where appropriate the intention is to use the LCWIP work as a basis for seeking to secure contributions towards cycling and walking improvements, where possible 'in kind' (i.e. a developer builds an appropriate element of a particular new route or enhancement of an existing route).
32. This is a far from ideal situation for the County Council to have been placed in as a consequence of the material change. However, the approach outlined above provides an open and transparent basis for securing at least some level of developer contributions, in circumstances where such contributions

would otherwise have potentially been missed altogether (pending the adoption of a new Local Plan).

33. As indicated in the report to the Cabinet on 24<sup>th</sup> June, the County Council proposes to pool developer contributions from developments within Charnwood, in general accordance with the area-based Transport Strategy approach set out through the proposed Main Modifications to the submitted Local Plan, with this funding being used for priority projects only when the money has been received.
34. Subject to the Cabinet's approval of this interim approach, the support of Charnwood Borough Council, as the local planning authority, will be sought for its implementation.

### Education

35. The submitted Local Plan with developments across Charnwood required new primary schools and extensions to existing schools to serve the proposed housing allocations. Approximately 5,332 new primary places would be required to serve the developments proposed in the submitted Local Plan.
36. The following site allocations as proposed ahead of the EiP make provision for the construction of new primary (or extended in the case of HA59) primary schools with construction costs and land costs to be shared amongst sites that the school(s) would serve.

<b>Policy Ref</b>	<b>Site Name</b>	<b>Location</b>	<b>Provision</b>
HA1	Land South East of Syston	Syston	2 FE Primary School on 2ha of land to provide for 420 pupils.
HA12	Land at Gynsill Lane and Anstey Lane	Glenfield	Reserve Site for 1 FE Primary School on 1.1ha of land to provide for 210 pupils*.
HA15	Land South of Loughborough	Loughborough	2 FE Primary School on 2ha of land to provide for 420 pupils.
HA32	Land at Tickow Lane South	Shepshed	3 FE Primary School on 3ha of land to provide for 562 pupils.
HA43	Land west of Anstey	Anstey	1 FE Primary School on 1.1ha of land to provide for 210 pupils.
HA49	Land off Cotes Road	Barrow upon Soar	1 FE Primary School on 1.1ha of land to provide for 210 pupils.
HA59	Land to the rear of Derry's Garden Centre	Cossington – to also serve Sibleby	0.5 FE extension to Cossington Primary School to provide for 105 pupils.

\* Part of a wider cross boundary development including parcels of land in the City of Leicester and Blaby District. The cost of the school would be shared amongst all parts of the development.

37. The provision of new primary schools in the Sustainable Urban Extensions at West Loughborough (Garendon Park), North East of Leicester SUE (Thorpebury) and North of Birstall SUE (Broadnook) are secured through existing Section 106 agreements for these developments, all of which were allocated in the Charnwood Core Strategy, adopted in 2015, and benefit from planning permission.
38. Education infrastructure required to support development, including the need for new, expanded or enhanced existing schools, has to be funded by developer contributions. Where land is needed for new primary schools, suitable and serviced sites should be provided as part of the development in the most appropriate location. The timing of the land transfer should align with the projected need for school places arising from the development. Developers will also be required to meet any temporary costs arising for the transport of pupils to other school locations (which may or may not be within the Borough) and to meet any costs arising for provision of temporary buildings while new, expanded or enhanced schools are delivered.
39. Additional secondary school places can be provided at existing schools and that funding for expansion has to be provided through developer contributions. If additional land is required to be secured, the cost would be met by developer contributions as necessary. Approximately 1,064 Secondary places would be required.
40. The County Council and Charnwood Borough Council will need to continue to discuss the delivery of new SEND provision across the Borough. Wherever possible new provision should be attached to existing or new primary, or secondary, schools in each locality, accepting there will be circumstances where some pupils with specialist needs may need to attend special schools or specialist provision further afield.
41. Outside the immediate scope of the EiP, it is important that the County Council's statutory duty is met to ensure provision of sufficient school places are available to accommodate the increased need arising from new developments granted planning permission. Therefore, a continuing open dialogue with Charnwood Borough Council is needed to ensure that new and ongoing Section 106 funding for pupil places are secured. This includes ongoing negotiations with developers and the Borough Council with regard to the need for additional pupil places from proposed developments prior to them being determined, finalising S106 legal agreements for housing developments that have received planning consent and the completion of the Barrow Education Delivery Strategy to ensure a new 1 form entry primary school is delivered and appropriately funded by the five housing developers involved.

## **Consequences of the Material Change for Infrastructure Provision**

42. Following the suspension of the EiP the Borough Council published in July 2022 two documents setting out their response to their approach being determined a material change, titled; 'Additional Housing Supply Technical Note' and 'Topic Paper: Reflection on Development Strategy'. The following section reflects the County Council's view of these documents.

### Highways and transportation

43. In terms of highways and transportation the change in approach from reviewing the planned allocation at a future date to including the unmet need in an amended Local Plan means that further assessment is required both at site specific and an area level. For allocated sites the Examination will consider the deliverability of those proposed allocations. From the local highway authority's perspective this includes reviewing the information the Borough Council used to underpin the revised allocations and providing information such as assessment of safe and suitable access and a site's ability to accommodate the necessary sustainable travel infrastructure.
44. Further consideration will also need to be given to the cumulative impact of the additional housing where the allocations have increased, or new sites have been added. Reliance on windfall sites as proposed by the Borough Council means that impacts arising from those sites will be dealt with through the development management process and there is a risk this could undermine the area strategy approach set out previously. Information from the Borough Council on how this risk could be mitigated will be helpful.

### Education

45. From a Children and Family Services perspective, housing numbers increasing beyond those set out in the submitted Local Plan through increased site densities, new site allocations or speculative development will need to be reassessed following the material change determined by the Inspectors to establish school and early years provision requirements.
46. Until the County Council has a clear understanding of what Charnwood Borough Council is proposing to deliver within a changed Local Plan, the County Council cannot provide a definitive view of what pupil places will be needed.

### Resourcing and workload to support local plans

47. The extension of the EiP process and additional work needing to be undertaken to support the Borough Council has exacerbated pressure on officer time and resources, to the potential detriment of other Local Plans and priority work areas.
48. Crucial to the County Council's ability to manage resources is clarity with regards the timetable of district councils' respective local plans. Districts

including Charnwood have committed to working more closely with the County Council and to provide detailed information in respect of their Local Plan timetables, which is welcome.

**Evidence, clarification and information required from Charnwood Borough Council following the material change**

49. Following the EiP being paused by the Inspectors, the County Council has sought to understand fully the Borough Council's changed position and matters arising in respect of the County Council's role as an infrastructure and service provider. The Borough Council's view is that the reason for the Inspectors determining their changed position to be a material change was the publication of the SoCG and the HENA. The County Council believes that determination of a material change arose from Charnwood's proposal as to how the Borough Council intended to deal with the SoCG and the HENA.
50. Since the County Council remains committed to working with the Borough Council with the objective of a sound Local Plan being approved, it is important to put on the record the key issues on which the County Council requires evidence, clarification and information from the Borough Council to assist in its understanding of Charnwood's position and the achievement of that objective:
- the impacts on housing trajectories and build out rates, which are particularly relevant to understanding educational provision implications;
  - how windfall sites could make appropriate, coordinated provision to infrastructure and services, particularly bearing in mind the Area Transport Strategy approach and education delivery strategy agreed with the Borough Council on the basis of the Plan submitted to the EiP;
  - how in detail assumptions about uplifts in allocation sites' densities have been derived by the Borough Council;
  - information on housing configurations and housing trajectories that demonstrate when the additional housing required for the unmet need would be delivered;
  - clarity of the information used by the Borough Council to conclude that 714 dwellings are required in the Anstey area to meet the unmet need when there are currently applications for 920 dwellings to be determined;
  - information on the location and current number of dwellings included in submitted planning applications that are to be determined for sites not allocated in the submitted Local Plan; and
  - clarity on where developers have offered increased school sites to meet the additional unmet need and the additional number of dwellings they wish to build to make the proposal viable.
51. As recommended in the report to the Cabinet in June 2022 it is also considered important that new formal governance and joint working

arrangements are put in place to enable Local Plan matters to be resolved in meetings with agendas prepared jointly in advance.

### **County Council engagement and representation at resumed EiP**

52. The control of the EiP is with the Examination Inspectors. Through the Local Plan Programme Officer, the Inspectors set the timetable and give direction to all the participating parties with regard to all aspects of the Inquiry process.
53. An appropriate recommendation has been included should it be necessary for the County Council to register its formal concern with regard to the implications for the Council at the approach Charnwood Borough Council announced at the start of the Examination in Public with regard to meeting the City Council's unmet need.
54. In the event that the County Council need to follow up any concern, advice will be taken from the Director of Law and Governance with regard to appropriate notification being given to the Programme Officer and thereafter information to be supplied to the Inspectors along with the level of representation e.g. counsel.

### **Equality and Human Rights Implications**

55. There are no equality and human rights implications arising from the recommendations in this report. Charnwood Borough Council is working with the County Council and with other partners in the Leicester and Leicestershire Housing Market Area to provide for the homes and jobs required in the future.

### **Environmental Implications**

56. The County Council will continue to seek to work with Charnwood Borough Council and other partners to minimise the impact of the planned growth on the environmental assets of Leicester and Leicestershire.
57. The impact upon the environment is a key consideration in all planning decisions made within the context of an approved or emerging Local Plan, and the County Council will seek to ensure that opportunities are taken to enhance the environment through biodiversity net gain and sustainable forms of development.

### **Partnership Working and Associated Issues**

58. The County Council works closely with the Leicester and Leicestershire Strategic Planning Partnership, which includes Leicester City Council, the seven district councils in Leicestershire and the Leicester and Leicestershire Enterprise Partnership. A strengthening of partnership working is sought to deal with the highways, transportation and education challenges which require a strategy-led approach with multiple partners, both in Charnwood Borough and the wider area.

**Background Papers**

Report to the Cabinet on 17<sup>th</sup> September 2021: Response to the Charnwood Borough Council Pre-Submission Charnwood Local Plan (2021-2037) Consultation and minutes of that meeting

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6446&Ver=4>

Report to the Cabinet on 24<sup>th</sup> June 2022: Charnwood Local Plan (2021 TO 2037) – Highways and Transportation Matters and minutes of that meeting

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6775&Ver=4>

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