



Meeting: **Cabinet**

Date/Time: **Tuesday, 19 December 2023 at 2.00 pm**

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

Contact: **Miss G. Duckworth (Tel. 0116 305 2583)**

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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

URGENT ITEM

Item

Report by

14. Charnwood Borough Council's Local Plan

Chief Executive
and Director of
Environment and
Transport

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CABINET – 19 DECEMBER 2023

CHARNWOOD BOROUGH COUNCIL'S LOCAL PLAN

JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet regarding the current position of the Charnwood Borough Council's Local Plan, the initial outcomes in respect of the latest period of the public consultation, and the associated potential effect on the Interim Transport Contributions Strategy (ITCS).

Recommendation

2. It is recommended that:
 - a) The latest position regarding the Charnwood Borough Council's Local Plan Examination be noted, including:
 - i The latest evidence indicating that the adoption of the Local Plan is expected to result in a funding gap of at least £120m in terms of funding for highways and transportation measures and infrastructure from developer contributions; and
 - ii That to date, still no agreement with Charnwood Borough Council has been reached that would give effect to the implementation of the Interim Transport Contribution Strategy (ITCS), and neither has the Borough Council proposed any alternative approach to securing developer contributions to mitigate the cumulative and cross-boundary impacts arising from the Local Plan's spatial strategy;
 - b) It be noted that Charnwood Borough Council as the authority responsible for making the Local Plan and ensuring its effective delivery, is required to demonstrate that the Plan objective to increase the use of sustainable travel modes can still be fulfilled;
 - c) The principles set out in paragraphs 35 to 38 of this report be agreed as a basis for the responses to Charnwood Borough Council or the Inspectors

as part of the ongoing local plan examination process and the Director of Environment and Transport, following consultation with the Cabinet Lead Member, be authorised to respond to requests for information arising from or relating to the Examination of Charnwood Borough Council in line with these principles;

- d) The Director of Environment and Transport, following consultation with the Cabinet Lead Member, be authorised to update the draft ITCS as required, ahead of consultation, to take account of the issues set out within the report at paragraphs 32 to 50 below;
- e) The Director of Environment and Transport, following consultation with the Cabinet Lead Member, be authorised to make such refinements to the ITCS as might be required for it to become the Transport Contributions Strategy, at the point of the Charnwood Local Plan being adopted.

Reasons for Recommendation

3. Charnwood Borough Council undertook a further consultation on additional Local Plan evidence from 27 September to 8 November 2023. The consultation included information on the whole plan viability as well as the approach to mitigating transport impacts of growth arising from the Local Plan spatial strategy. The viability evidence suggested the ability of the Plan to provide sufficient developer contributions to deliver education, highways and transport requirements was limited. The County Council responded, as did a number of other organisations and individuals.
4. It is the responsibility of Charnwood Borough Council to consider the consultation responses and respond as appropriate. In addition, as the Local Plan-making authority, Charnwood Borough Council is also responsible for demonstrating that the proposed spatial strategy appropriately reflects a wide range of factors and considerations including sustainability and viability.
5. Charnwood Borough Council has approached the County Council for support in responding to the queries arising from the consultation and any subsequent required responses to the Inspector. The delegated authority to respond will allow sufficient time for the County Council officers to consider the consultation responses and any subsequent impact on the approach to managing highways and transport impacts through the transport strategies and ITCS.
6. Non-implementation of the ITCS, and the absence of any alternative approach from Charnwood Borough Council, risks further developer contributions being missed and continued difficulties in covering shortfalls to key infrastructure mitigation, increasing levels of financial risk to the County Council. It is therefore necessary for the County Council to work with Charnwood Borough Council to analyse the consultation responses and amend the Strategy or agree an alternative approach as necessary to ensure implementation can take place.

7. As previously agreed, the County Council will undertake a 6-week consultation on the ITCS, to provide an opportunity for interested parties to view the proposed mechanism and underpinning evidence. As a number of comments have already been received, it is proposed to review the current draft of the ITCS in light of those and make amendments as necessary prior to the consultation.

Timetable for Decisions (including Scrutiny)

8. Charnwood Borough Council has sought a response from the County Council officers by 5 January 2024. Further urgent work may be required in line with the Local Plan Examination timetable.

Policy Framework and Previous Decisions

9. In September 2021, the Cabinet considered a report setting out the County Council's proposed response to the Pre-Submission Charnwood Local Plan. The report included detail of the policy framework within which the Plan sits. The report also set out an 'in principle' supportive approach to the draft Local Plan to be taken by the County Council, based on a commitment by Charnwood Borough Council to complete further work between then and the Examination in Public and to certain other conditions, including in respect of highways and transportation matters.
10. In May 2022, the Cabinet noted with concern the increasing pressures on the County Council's Capital Programme relating to infrastructure required to support housing and economic growth in the delivery of planned growth. The report set out some of the elements required to manage the financial risk to the Council.
11. In June 2022, the Cabinet considered a report on Highways and Transportation matters in respect of the Charnwood Local Plan, providing background and setting out the County Council's position leading up to the commencement of the Examination in Public. The Cabinet inter alia offered the County Council's support for the draft Local Plan at the Examination in Public, noting the scale of the highways and transportation mitigation package.
12. In September 2022, the Cabinet considered the latest position on the Charnwood Local Plan and approved work towards an interim approach to dealing with planning applications in Charnwood and that, as the local planning authority, Charnwood Borough Council's support for implementation of this interim approach be sought.
13. In November 2022, the Cabinet considered a report regarding the financial implications for the County Council of delivering sustainable and inclusive growth. An approach and a set of principles were agreed in order to address and manage risks, including that the district councils integrate the County Council's requirements relating to delivery of statutory infrastructure in their Local Plans and that the entire cost of statutory infrastructure projects would be

recovered from developers (and other appropriate sources) and sufficient contributions secured before the County Council funded scheme delivery.

14. On 10 February 2023, the Cabinet considered a report regarding the County Council's interim approach to securing developer contributions and managing development in respect of highways and education infrastructure needs in Charnwood Borough, pending the adoption of the Charnwood Local Plan. It was resolved that the approach as set out in the Transport Contributions Strategy and Education Infrastructure Evidence Base, be approved and that the Director of Environment and Transport be authorised to make refinements to the Transport Contributions Strategy as required.
15. On 23 June 2023, the Cabinet considered a report advising of the potential risks to the progress of the Charnwood Borough Council's Local Plan and the County Council's progress towards securing developer contributions and managing development in respect of highways needs in the Borough, following a change of administration at Charnwood Borough Council. It was resolved, amongst other things, that the County Council remained in support of Charnwood Borough Council in demonstrating that the draft Local Plan is viable, but required assurances from the Borough Council that the area Transport Strategies and interim approach should be jointly owned and approved by both councils in order to provide assurances that necessary developer contributions would be secured.
16. On 24 October 2023, the Cabinet considered a report highlighting the County Council's proposed initial response to the Charnwood Local Plan consultation, and it was resolved that formal comments would be submitted by the close of consultation of 8 November 2023. Revisions, and any further refinements made to the draft ITCS designed to manage the risks associated with the delay in implementing the Local Plan, were also approved. The report confirmed the position of in principle support for the Charnwood Local Plan noting the potential challenges around delivery of highways and transport infrastructure.

Resource Implications

17. The County Council has committed significant resources to engaging in and supporting a collaborative approach to strategic planning, which is intended to facilitate the delivery of growth within the County and mitigate the negative impacts of development.
18. The County Council's current Capital Programme includes over £200m to fund infrastructure projects that support growth in the County.
19. The previous approach to delivering infrastructure (highways, schools and some community facilities) has required significant forward-funding from the County Council and in the current financial climate this approach is no longer possible.
20. Adoption of the Local Plan is expected to result in a funding shortfall of at least £120m for highways infrastructure. The County Council will not be able to fund

this gap and will require additional developer contributions or other funding to be secured before the County Council could agree to delivery of the associated transport schemes.

21. The County Council continues to seek to provide support for a Local Plan that provides an as robust as possible policy platform for securing the provision and infrastructure and services required to support its successful delivery.
22. The Director of Corporate Resources and the Director of Law and Governance have been consulted on this report.

Circulation under the Local Issues Alert Procedure

23. This report will be circulated to all members.

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PART B

Background

24. The County Council has proactively engaged in the Charnwood Local Plan development process; the detail of previous consultation responses and work undertaken in support of this are set out in the previous Cabinet reports.
25. In October 2023, the Cabinet was updated on the progress on the Charnwood Local Plan examination process, including the consultation on additional documents which consist of details of the transport strategies and updated viability information. The Cabinet also agreed the basis of the County Council's formal response to the public consultation.
26. The Cabinet confirmed that it remained the position of the County Council as the Local Highway Authority (LHA) that, given the proposed approach to the distribution of development set out within the proposed Local Plan and the number of developments that have already received planning permission that the Plan requires modification, as previously submitted to the examination, the transport strategies are necessary to support sustainable growth in Charnwood.
27. In light of the limited viability of the Charnwood Local Plan, the Cabinet reaffirmed the prioritisation of contributions towards infrastructure associated with education and noted the challenges for delivery of highways and transport infrastructure to mitigate the impacts of growth. However, subject to Charnwood Borough Council's continued commitment to the principle of the transport strategies being necessary to deliver sustainable planned growth, it resolved to continue to support adoption of the Plan because on balance it remained in the best interest of the communities within the Borough.
28. The County Council responded on the basis of the above.
29. The Cabinet was also updated on discussions with Charnwood Borough Council on the development and implementation of the ITCS. The Strategy was updated to contain sustainable travel packages that are currently being investigated and developed through the County Council's ongoing Local Cycling and Walking Infrastructure Plans (LCWIPs), Bus Service Improvement Plan refresh and next priority Major Road Network scheme programmes.
30. The ITCS was prepared in response to ongoing development pressures across Charnwood to provide an evidence base for the Borough Council to seek necessary transport contributions through the development management process towards the Local Plan mitigation package in advance of an adopted plan and/or associated detailed area transport strategies to be developed in support of this. The ITCS became necessary because a number of developments identified within the Local Plan have been coming through the planning process ahead of its adoption. However, as it has developed, the ITCS will ensure the County Council's interests remain protected, on a policy

basis, during the period of Charnwood Borough Council having no adopted Local Plan and following its adoption.

31. To date, however, no mechanism has been agreed with Charnwood Borough Council that would give effect to the ITCS; neither has the Borough Council come forward with its own alternative suggestions as to how developer contributions can be secured to deal with the cumulative and cross-boundary transport impacts arising from the Local Plan's spatial strategy.

Latest Position in respect of Local Plan Examination

32. The consultation on the additional documents closed on 8 November 2023. Charnwood Borough Council has been collating the responses to the consultation and approached the County Council, as the LHA, for support, asking for responses to the issues raised in the consultation by 5 January 2024.
33. Charnwood Borough Council will be responsible for providing a response to the consultation to the Inspectors and confirming if any modifications are required to the Plan as a consequence of the consultation.
34. The Inspectors are yet to formally confirm the next steps for the Local Plan Examination following this, but it is anticipated that further consideration will be given to the key themes arising from the consultation responses.

Themes of the Consultation Responses and Guiding Principles for the Council's Input

35. The LHA has been asked to consider several responses and this will take some time. The delegated authority to consider the issues and respond will support the County Council officers in reviewing the consultation responses and providing information to Charnwood Borough Council based on previously agreed principles. However, there are two key themes emerging from the initial assessment of the information provided by Charnwood Borough Council that may require further development of the County Council's position in respect of the Charnwood Local Plan. These have been summarised below together with principles that will guide the County Council in responding to the issues raised.

Limited local plan viability means identified development cannot fund necessary highways and transport infrastructure

36. There is a concern that the gap between likely available developer funding and the cost of highways and transport mitigation will mean the measures set out in the ITCS will not be delivered and there will be deterioration in transport conditions in Charnwood, exacerbating existing issues.
37. The County Council has also raised concerns about the viability of the Local Plan previously highlighting the potential for £120m funding gap as well as recognising the difficulties in coordinating and delivering infrastructure to support growth in the context of the current planning system.

38. In addressing this issue as a statutory consultee, the LHA will be guided by the previously agreed principles, including:
- a) The LHA recognises that it is Charnwood Borough Council's responsibility as the Local Plan-making authority to determine the Borough-wide spatial strategy, reflecting a wide range of factors and considerations including sustainability and viability.
 - b) That contributions to education will take priority over those for highways and transportation measures.
 - c) Whilst it is recognised that mitigating 100% of the impact of growth would not be possible, developing area-based transport strategies that include active and sustainable modes of travel in addition to highways measures, underpinned by a suitable contributions' mechanism, is the best way of securing available developer contributions and providing the necessary evidence base to access available 'public funding'.
 - d) It is reasonable to suppose over the life of the Plan that some external funding can be secured to support the delivery of the identified highways and transport measures.
39. It should be noted that the viability evidence underpinning the Charnwood's Local Plan highlights that viability varies considerably across the Borough with some areas having low viability and other with a higher level of viability more able to fund appropriate infrastructure.
40. Following previous comments from Charnwood Borough Council, the County Council had worked to revise the proposed ITCS to reflect a multi modal and district-wide contribution strategy aiming to pool contributions to ensure delivery of priority schemes. However, given the limited funding available from developers overall, as the Local Plan-making authority and Local Planning Authority, it is for Charnwood Borough Council to consider how developer contributions will be used and what approach may be taken to addressing the gap, including, for example, whether it might be necessary to focus contributions on just one modal element of the Strategies.
41. Should Charnwood Borough Council choose to do so, this would be its decision having regard to planning considerations; from the LHA's perspective it would not change the intended fundamental nature of the area Transport Strategies, just the approach to funding. In that regard, most recently, the Department for Transport has provided more detail on 'Network North' (the redistribution of HS2 funding), including:
- a) Additional funding to support public transport in line with Bus Service Improvement Plans and the National Bus Strategy aims. Leicestershire has received confirmation of £5.840m of funding for the financial year 2024/25, with future years funding announcements expected in the early part of 2024.
 - b) Midlands Road Fund, worth nearly £650m, was launched for new roads. This is likely to include future rounds of Major Road Network Funding and Local Integrated Transport Settlements which are expected to be used to deliver local priorities.

42. As a result of the increased investment in passenger transport, the County Council is proposing to review its passenger transport network. In addition, the County Council is continuing to develop LCWIPs such as the Loughborough Area LCWIP, adopted in November 2023.
43. The outcomes of the passenger transport review and LCWIPs will support the conditioning of appropriate active and sustainable schemes through the development management process as well as forming part of the area-based strategies.
44. Reflecting the variable levels of viability across Charnwood Borough, proposed developments will continue to be assessed for necessary passenger transport and active travel measures through the development management process using the ongoing work the County Council is undertaking to develop appropriate local evidence bases.

Concerns over an appropriate mechanism for calculating, pooling and securing developer contributions to highways and transport mitigation measures and in particular compliance with the Community Infrastructure Levy Regulations

45. It should be noted that the document 'Transport Strategies To Enable Growth in the Borough of Charnwood', that was subject to the recent consultation, was produced by the County Council as the LHA and submitted by Charnwood Borough Council to the Inspector following a request for more information about the approach to highways and transport as part of the Local Plan. It sets out the broad contents of, and the framework for, Transport Strategies for Loughborough and Shepshed, the North of Leicester and the Soar Valley. These Strategies are intended to underpin the delivery of the new Charnwood Local Plan 2021 to 2037. The document also explains the rationale behind the Strategies, the context in which they are being developed, the work that had been done to date in preparing them and the work that is ongoing to inform the Strategy. This document does not contain the Strategies themselves, nor does it set out a mechanism through which the pooling and collecting of contributions can be achieved.
46. Therefore, the 'Transport Strategies To Enable Growth in the Borough of Charnwood' should not be conflated with the 'Interim Transport Contributions Strategy for Developments in Charnwood District' (ITCS), which the County Council is seeking to implement. The Council has committed to the principle of developing area-based strategy underpinned by a suitable contributions mechanism and the County Council officers have been working on the understanding that implementation of the Strategies will ultimately be given effect through proposed Main Modifications to the policy framework of the Local Plan.
47. As previously agreed, the County Council will undertake a 6-week consultation on the ITCS which will provide an opportunity for developers and other interested parties to view the proposed mechanism and underpinning evidence supporting the Strategies and demonstrating the direct link between the

cumulative impact of the proposed growth and the impact on the highways and transport network. However, as a number of comments have already been received in respect of the ITCS through this process, officers are proposing to review the current draft of the ITCS in light of those responses and make amendments as necessary prior to the consultation.

48. This will also ensure that the consultation draft of the ITCS takes account of any revisions necessary as a result of the prioritisation of pooled developer contributions as set out in paragraphs 35 to 44 above.

Conclusion

49. To conclude, it is the responsibility of Charnwood Borough Council to assess the responses to the consultation and continue to ensure that they promote a sustainable, viable and deliverable Local Plan Strategy. Notwithstanding the ITCS, it is also the Borough Council's responsibility to ensure that there is an appropriate approach in place to secure developer contributions towards the package of transport measures required to mitigate to the extent reasonably practicable and possible the cumulative and cross-boundary transport impacts arising from the Local Plan's spatial strategy.
50. Overall, it remains the Council's position that it is in the best interests of Charnwood communities to have an up-to-date Local Plan in place and thus, for the County Council to continue to work with Charnwood Borough Council to seek to achieve this, within the previously agreed principles and those set out above, recognising the inherent challenges associated with this approach.

Equality Implications

51. There are no equality implications arising from the report.

Human Rights Implications

52. There are no human rights implications arising from the report.

Environmental Implications

53. The County Council will continue to advise Charnwood Borough Council and other partners as to how best to minimise the impact of the planned growth on the environmental assets of Leicestershire.
54. 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

55. 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 Local Enterprise Partnership.

Background Papers

Report to the Cabinet on 25 November 2022: Managing the Risk Relating to the Delivery of Infrastructure to Support Growth - <https://bit.ly/3EN8P9Z>

Report to the Cabinet on 10 February 2023: Interim Approach to Planning Issues in Charnwood Borough - <https://bit.ly/3MI7XXZ>

Report to the Cabinet on 23 June 2023: Charnwood Borough Council's Local Plan - <https://bit.ly/3RFyeud>

Report to the Cabinet on 24 October 2023: Charnwood Borough Council's Local Plan - <https://bit.ly/485Dg85>

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