



## **CABINET – TUESDAY 22 OCTOBER 2024**

### **ORDER PAPER**

#### **ITEM    DETAILS**

##### **APOLOGIES FOR ABSENCE**

Mrs. D. Taylor CC.

Mrs. L. Richardson CC will attend via MS Teams.

#### **1.    MINUTES (Pages 3 - 14)**

##### **Proposed motion**

That the minutes of the meeting held on 13 September 2024 be taken as read, confirmed, and signed.

#### **2.    URGENT ITEMS**

The Chairman has agreed to take one urgent item – a report of the Director of Environment and Transport regarding the Leicestershire County Council Lead Local Flood Authority Protocol.

#### **3.    DECLARATIONS OF INTEREST**

Members of the Cabinet are asked to declare any interests in the business to be discussed.

#### **4.    LEICESTERSHIRE HIGHWAY DESIGN GUIDE REVIEW UPDATE AND CONSULTATION OUTCOMES (Pages 15 - 372)**

##### **Proposed motion**

- a) That the updated Leicestershire Highway Design Guide (LHDG) be approved for implementation and publication;
- b) That the outcome of the public consultation be noted;
- c) That the Director of Environment and Transport be authorised to make future amendments to standards and guidance as considered necessary to the LHDG, following consultation with the Cabinet Lead Member;
- d) That the trial of the Value of Trees toolkit within the updated LHDG be approved.

**5. STRATEGIC TRANSPORT PLANNING ISSUES ASSOCIATED WITH THE EMERGING CHARNWOOD LOCAL PLAN** (Pages 373 – 388 and Supplementary Report Pages 1-12)

- *A response from Richard Bennett, Head of Planning and Growth, Charnwood Borough Council to Julie Thomas, Head of Planning, Historic and Natural Environment is attached to the Order Paper, marked '5a'*
- *A letter from Councillor Jewel Miah, Leader of Charnwood Borough Council, to the Acting Leader of the County Council is attached to the Order Paper, marked '5b'*

Proposed motion

- a) That the latest position regarding the Charnwood Borough Council Local Plan Examination and Charnwood Transport Contributions Strategy (CTCS) consultation be noted, including:
- i) Charnwood Borough Council's statement in relation to implementation of the CTCS, as summarised in paragraph 30 of the main report;
  - ii) The Borough Council's recent late submission to the Local Plan Inspectors explaining that the Borough Council 'is now minded to prepare' a Community Infrastructure Levy (CIL) to secure contributions to mitigate the impact of growth in Charnwood, including transport contributions to mitigate cumulative transport growth. The letter is attached as Appendix A to the main report;
  - iii) The implications for the County Council as Local Highways Authority (LHA), in its role of statutory consultee, arising from the likely timetable for developing a CIL, as set out in paragraphs 39-42 of the main report, including the significant financial impact;
  - iv) Recent communications between the County Council and the Borough Council included in Appendix C to the supplementary report and the regrettable apparent misrepresentation of the Local Highway Authority's position at the recent Borough Council Plans Committee;
  - v) The recent resolutions to approve planning applications relating to sites allocated in the emerging Local Plan by Charnwood Borough Council Plans Committee;
  - vi) That these approvals were given despite the recommendations of the LHA, as a statutory consultee, to defer making the determinations at this time;
- b) That it be noted that the Borough Council is the authority responsible for making the Local Plan and ensuring its effective delivery. As such, it is required to demonstrate that the identified highways and transport mitigation can be delivered and that the Local Plan objective to increase the use of sustainable travel modes can still be fulfilled;

- c) That arising from its recent actions and advice given by the Borough Council to the Plans Committee on 17 October 2024, the County Council is doubtful that the Local Plan is capable of being successfully delivered or can be considered sound, or that a CIL schedule can be successfully implemented at the necessary pace to make an impact;
- d) That in respect of the letter dated 21 October 2024 to the Acting Leader from the Leader of the Borough Council a) it is noted that the letter appears to have been prepared on the same basis as the officer advice given to the Borough Council's Plans Committee, which was an apparent misrepresentation of the County Council's position as LHA; b) its focus on the CTCS overlooks the fact that all the issues arising from the proposed Local Plan's distribution strategy have been known by the Borough Council for a considerable time, that the LHA has been requesting a suitable mechanism for over two years, during which the Borough Council has not addressed the issues until October 2024, and that the recent Plans Committee approvals may have resulted in lost contributions of up to £3.3million to support infrastructure in Charnwood; and c) the County Council therefore does not accept that as LHA its observations on applications considered by the Plans Committee were "irresponsible and unnecessary";
- e) That whilst the County Council will continue to work with the Borough Council to seek to have a sound Local Plan in place, the Chief Executive, the Director of Environment and Transport, and the Director of Law and Governance, following consultation with the appropriate Cabinet Lead Members, be authorised to withdraw the proposed CTCS and take appropriate actions necessary to:
  - i) Mitigate the impacts arising from the interim period between likely Local Plan adoption and the adoption of CIL, estimated to be at least 12-18 months;
  - ii) Participate appropriately in the development and implementation of a CIL charging schedule in line with national guidance and seek to influence the adoption of a CIL as quickly as possible;
  - iii) Address the concerns set out in paragraphs 18-26 of the supplementary report, including continuing to bring these concerns to the attention of the Borough Council;
- f) That approval be given to the principles for future engagement of the LHA in other local plan processes, set out in paragraph 46 of the main report, in light of the County Council's experience of the development of the Local Plan for Charnwood by the Borough Council.

**6. DRAFT LEICESTER, LEICESTERSHIRE AND RUTLAND SUICIDE PREVENTION STRATEGY 2024-2029 (Pages 389 - 460)**

Proposed motion

- a) That the progress of the work under the current LLR Suicide Prevention Strategy 2020-2023 be noted;

- b) That a formal 8 week consultation exercise on the draft LLR Suicide Prevention Strategy 2024-2029 be approved;
- c) That a further report be presented to the Cabinet in Spring 2025 outlining the outcome of the consultation and seeking approval of the final LLR Suicide Prevention Strategy.

**7. EAST MIDLANDS DEVELOPMENT COMPANY LIMITED (Pages 461 - 466)**

Proposed motion

- a) That the County Council supports the steps being taken by the Board of the East Midlands Development Company Limited to bring about the voluntary dissolution of the Company;
- b) That authority is delegated to the Chief Executive and the Director of Law and Governance, in consultation with the Acting Leader of the Council, to take all necessary steps in terms of the legal procedure to enable dissolution;
- c) That the Company be advised that its proposals for use of its 'materials and activities' to be transferred to the East Midlands County Combined Authority as well as being available to the member authorities will include making these available to the East Midlands Freeport and its members, subject to the conditions in the proposed statement of principles.

**8. ITEMS REFERRED FROM OVERVIEW AND SCRUTINY**

None.

**9. ANY OTHER ITEMS WHICH THE CHAIRMAN HAS DECIDED TO TAKE AS URGENT –**

*An urgent report has been circulated separately*

**LEICESTERSHIRE COUNTY COUNCIL LEAD LOCAL FLOOD AUTHORITY PROTOCOL (Supplementary Pack Pages 1-10)**

Proposed motion

That the Director of Environment and Transport, following consultation with the Cabinet Lead Member, be authorised to develop a protocol for how the Lead Local Flood Authority (LLFA) will engage with the district councils on the management of local flood risk going forward.

**10. EXCLUSION OF THE PRESS AND PUBLIC**

Proposed motion

That under Section 100A of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 10 of Part 1 of Schedule 12A

of the Act and that, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

*Exception to Contract Procedure Rules to Provide Agency Cover for the Provision of Qualified Social Workers*

**Officer to contact**

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# Charnwood

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BY EMAIL

21 October 2024

Dear Julie

## LCC letter to the Charnwood Planning Inspectors

Thank you for sharing with me your 11 October 2024 letter to the Local Plan Inspectors.

I am pleased that the County Council welcomes the decision from the Borough Council to offer the Inspectors a Community Infrastructure Levy to deliver strategic transport infrastructure in Charnwood. We believe this will be the most effective means to secure strategic level contributions for local plan growth.

As you will recall, the Borough Council consistently advised the County Council to take expert advice to support the preparation of the draft Transport Contributions Strategy to apprise it of the risks associated with the approach and the requirement to demonstrate compliance with the CIL Regulations. While our view has always been that strategic contributions are capable of being compliant with the CIL tests, the opposition to the draft TCS drew attention to a shortfall of evidence to support the compliance of requests and the unlawfulness of the tariff based approach.

That this situation has played out during the finalisation of recent planning applications and the local plan process is regrettable, but the answer is not to defer decisions until the Inspectors have issued their report. This position would not be credible at an appeal and could have unintended consequences for the local plan. It will also not realise any financial contributions for the County Council. Given that both Councils believe it is better to have a plan than be without one it is disappointing that the County Council felt it appropriate to send the letter.

We are mindful that the emerging local plan sets out a strategy to secure contributions in draft Policies INF1 and INF2. Once the Inspectors' report is issued, policies INF1 and INF2 will have substantial weight in decision making and will provide the basis to seek evidence of cumulative impacts through applicant's Transport Assessments. The Local Highway Authority will be able to match these impacts to identified projects to secure proportionate financial contributions or scheme delivery. This approach will provide the solution until the Community Infrastructure Levy is adopted in due course.

The Borough Council is advised that a Community Infrastructure Levy will enable contributions to be secured on a tariff basis with reference to an identified list of

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transport projects. That list will be kept up to date with each subsequent review of the local plan and contributions secured, pooled and spent until all the projects on the list are delivered. In this way, the necessary infrastructure will be delivered over time and the 'lost contributions' from allocations approved in advance of the Levy's adoption will be secured. The receipts from the tariff might also be used to match fund or leverage government funding to accelerate infrastructure delivery.

As the Community Infrastructure Levy is a formal planning document, it is subject to formal preparation processes and an examination in public. As the Levy is progressed, the charging schedule gains material weight and therefore it is possible for it to have significance in decision making before it is finally adopted by the Council.

The Borough Council is taking further advice on preparing a Community Infrastructure Levy and will set out a timeframe for its preparation in the Local Development Scheme. It should be noted that any progress on the Levy will be dependent on the strength of the evidence that underpins it and therefore it is imperative that the two councils continue to work together with the mutual objective of progressing it as quickly as possible through the established Infrastructure Board.

Yours Sincerely



Richard Bennett  
Head of Planning and Growth

CC: Janna Walker, Assistant Director Development & Growth





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21 October 2024

BY EMAIL  
Deborah Taylor CC  
Acting Leader of the Council  
Cabinet Office  
Leicestershire County Council  
County Hall  
Glenfield  
Leics, LE3 8RA

Dear Acting Leader

### **Emerging Transport planning Issues associated with the emerging Charnwood Local Plan**

On 22 October County Cabinet members will be asked to consider a report on the above. I think it is only right that as Leader of Charnwood Borough Council I seek to make clear our understanding of the situation so that members have a balanced view.

The Borough Council has been clear in its position that strategic transport contributions can be obtained by legal agreement under s106 of the Planning Act. This view has been advanced through the Examination process and through officers at our Joint Infrastructure Planning Board and supported by legal advice.

The County Council proposed a Transport Contributions Strategy for Charnwood (TCS) in early November 2022 to describe their approach towards formal requests for transport contributions and have led on this work over the last two years. Borough Council officers have engaged positively to assist County colleagues with this work by providing inter alia considerable officer support, managing the developer interface, commissioning expert advice (at the Borough Council's own cost) and arranging the consultation briefing at the Town Hall to support its launch. Despite the County Council's efforts, its approach was challenged in 2023 and again this Summer during the recent consultation on the draft TCS. It is disappointing that the County Cabinet report does not include a summary of the submitted representations and the legal opinion.

Seeking financial contributions through the planning process requires cogent robust evidence to demonstrate that the legal tests under the community Infrastructure Levy Regulations are met. These tests require a judgement to be made in the determination of planning decisions by the Plans Committee and ultimately through the courts. Therefore, while a TCS might provide useful guidance to developers on the approach the Local Highway Authority will take, it is their formal comments on planning applications, and the view of the Plans Committee on whether those requests meet the tests, that matters.



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The issue with the draft TCS is simply that it does not draw on sufficient evidence to give confidence to the development industry that the legal tests for transport contributions from planning applications can be met. Moreover, it goes further and seeks to implement a Community Infrastructure Levy outside of a formal process. These are all issues that officers raised with County colleagues prior to its publication and that have been raised through the consultation responses and legal opinion from Paul Tucker KC.

Whatever issues the County Council has with the draft TCS does not prevent it from submitting formal requests for transport contributions through the development management process. Policies INF1 and INF2 of the draft Local Plan sets out the agreed approach to support transport contributions for residual cumulative impacts as well as local transport improvements. These require developers to submit evidence through Transport Plans and Transport Assessments. These provide the basis for the County Council to identify impacts and agree mitigations with developers that will be secured under s106 of the Planning Act. It is acknowledged this will require more effort from County officers, as it is a site-by-site approach rather than a pre-agreed composite approach, but it is an approach that will secure contributions in the interim. A resolution that seeks to delay the determination of planning applications on prematurity grounds is therefore irresponsible and unnecessary.

In recognition of the financial challenges facing the County Council, the delays arising from the County Council's work on the TCS and the desire of the Borough Council to ensure that the local plan is effectively delivered, Borough Council officers wrote to the Inspector on 4 October 2024 to offer the preparation of a formal Community Infrastructure Levy. I am pleased that the County Council agrees that this is an appropriate mechanism for delivery and has committed to supporting its preparation. It is however important to stress that the success of this joint enterprise will be dictated by the County Council's engagement and the evidence available. To this end, I note that since the correspondence with the Inspectors on 26 July 2023, no further information has been forthcoming from the County Council on the timetable or progress of the Three Area Transport Strategies for Charnwood and that work on the Soar Valley LCWIP is not currently programmed.

I do hope that this letter helps with your understanding of the situation and look forward to our further engagement on the community Infrastructure Levy.

Yours sincerely



Cllr Jewel Miah  
**Leader of Charnwood Borough Council**

CC: Leicestershire County Cabinet Members  
Cllr C Hamilton (Lead Member for Planning, Charnwood Borough Council)