

**CABINET – 7 FEBRUARY 2020****BARWELL SUSTAINABLE URBAN EXTENSION PLANNING
APPLICATION****REPORT OF THE CHIEF EXECUTIVE, DIRECTOR OF CORPORATE
RESOURCES AND DIRECTOR OF LAW AND GOVERNANCE****PART A****Purpose of the Report**

1. The purpose of this report is to update the Cabinet on matters relating to the planning application for the Barwell Sustainable Urban Extension (SUE) approved by Hinckley and Bosworth Borough Council and completion of the related Section 106 (S106) agreement following the consideration of a report on the matter at the Cabinet meeting on 17 December 2019.

Recommendations

2. The Cabinet is recommended to:
 - (a) Note the progress that has been made since its meeting on 17 December 2019:
 - i. Hinckley and Bosworth Borough Council's Major Projects update to its Planning Committee on 7 January 2020,
 - ii. Discussions that took place with Hinckley and Bosworth Borough Council's officers on 14 January 2020,
 - iii. The updated County Council Consultation responses that have been provided to Hinckley and Bosworth Borough Council by County Council services, and
 - iv. The intention to meet with the developer on 10 February 2020;
 - (b) Note that the final package of planning obligations towards County Council infrastructure to be included in the Section 106 agreement will be approved by the Director of Law and Governance following consultation with the Cabinet Lead Members for Environment and Transport and Children and Family Services.

Reasons for Recommendation

3. On 17 December 2019 the Cabinet requested that a further report be submitted in February with an update on the outcome of discussions with Hinckley and Bosworth Borough Council.

4. The agreement is expected to be finalised later this year once the transport assessment has been updated and revised terms for the S106 agreement have been negotiated with the developer.
5. Completion of a S106 agreement following the negotiation of its content is a power that is delegated to the Director of Law and Governance. In light of the circumstances relating to the Barwell SUE S106 agreement, the Director will consult with the Cabinet Lead Members identified above before the revised agreement is finalised.

Timetable for Decisions (including Scrutiny)

6. The timetable for concluding the S106 is a matter for negotiation between relevant parties, including Hinckley and Bosworth Borough Council, the County Council, and the developer. The County Council has responded promptly following the 17 December 2019 Cabinet resolution and will work with the Borough Council and the developer to seek to ensure that the transport assessment is brought up to date as quickly as possible.

Policy Framework and Previous Decisions

7. The Leicester and Leicestershire Strategic Growth Plan (SGP) details the strategy for the growth and development of the area up to 2050. It was approved by partner authorities, including the County Council and the seven district councils in Leicestershire, in Autumn 2018. The SGP identifies 4 priorities –
 - (i) Creating conditions for investment and growth.
 - (ii) Achieving a step change in the way that growth is delivered.
 - (iii) Securing essential infrastructure.
 - (iv) Delivering high quality development.
8. The County Council's Planning Obligations Policy was approved on 10 July 2019. It explains the requirements for, and the approach to, the type and level of infrastructure the Council will seek through planning obligations and provides the framework for developer contributions towards county-wide services and infrastructure. The Policy notes that the planning system requires Local Planning Authorities (in Leicestershire, the district councils) to ensure that new development is supported by appropriate infrastructure.
9. The planning application for the Barwell SUE development was determined by Hinckley and Bosworth Borough Council in 2013.
10. Requests for developer contributions are made in accordance with relevant Development Plan policies, the National Planning Policy Framework and the Leicestershire Planning Obligations Policy. All planning obligations must conform with the Community Infrastructure (CIL) Regulations 2010 as amended. The recent changes to the CIL Regulations include the ending of the pooling requirements that previously only allowed a maximum of five obligations to contribute to a piece of infrastructure.

11. Responses to planning application consultations in relation to contributions towards County Council infrastructure are made by officers under delegated powers, following consultation with the relevant Lead Member(s).
12. Delegated authority to complete S106 Agreements is given to the Director of Law and Governance in accordance with the recommendations of the Chief Officer provided that when the agreement includes provision for contributions towards additional educational facilities, such authority is not to be exercised if, after consultation with the local member and appropriate Cabinet Lead Members, the Director of Law and Governance considers the matter to be sensitive locally.
13. The Cabinet considered a report on this matter at its meeting on 17 December 2019 and resolved that a further report be made on 7 February regarding the outcome of discussions with the Borough Council.

Resource Implications

14. It is essential that the financial contributions secured through the S106 Agreement recognise current and potential future requirements and cover the cost of the substantial works required. Any funding for infrastructure that cannot be recovered through the S106 Agreement would have to be found from other sources if possible or the infrastructure would not be provided at the required level to support the development.
15. Funding for legal costs and for monitoring and recovering developer contributions will be included within the S106 Agreement.

Circulation under the Local Issues Alert Procedure

16. This report will be circulated to Mr. B. Crooks CC (Mallory Division).

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PART B

Background

17. The Barwell SUE is a strategic development for up to 2,500 homes and employment within the Hinckley and Bosworth Core Strategic 2009 (Policy 3). A planning application for the SUE (ref. 12/00295/ OUT) was submitted in 2012 and approved by Hinckley and Bosworth Borough Council's Planning Committee subject to a S106 agreement in 2013. The S106 agreement has not yet been signed and therefore the planning application is not yet determined.
18. On 17 December 2019, the Cabinet considered a report relating to the Barwell SUE draft S106 agreement including the background and policy context to the planning application. The Cabinet was advised that, because of the amount of time that had passed since the planning application was submitted, the transport information that accompanied the application was out of date and that the planning obligations within the draft S106 agreement relating to highway mitigation and education in particular were not fit for purpose. The Cabinet was further advised that the planning policy landscape had changed significantly since the application was considered by the Borough Council's Planning Committee in 2013.
19. On 14 January 2020, a meeting took place between officers from the County and Borough Councils. The meeting was constructive, and a way forward was agreed. The following points summarise the main issues discussed:
 - Hinckley and Bosworth Borough Council advised that a Major Projects update, which included a section relating to the County Council's concerns about the out of date S106 agreement for the Barwell SUE, was taken to its Planning Committee on 7 January. The Borough Council stated that it was not necessary for a further report to be taken to its Cabinet.
 - County Council officers explained why the Transport Assessment was out of date and why the obligations in the draft S106 agreement were no longer fit for purpose.
 - County Council officers summarised the updated S106 requirements relating to education, libraries and waste (these responses have since been followed up in writing).
 - Officers agreed that the final S106 agreement needed to be flexible so that it takes account of changing circumstances.
 - Hinckley and Bosworth Borough Council confirmed it had already spoken to the applicant and that they had seen the County Council's Cabinet report of 17 December.

- County Council officers advised that an updated Transport Assessment was required and that this could take some time for the applicant to prepare.
 - The Borough Council advised that if the Transport Assessment was updated, possibly alongside other supporting planning application documents, this would be likely to be reported to its Planning Committee for a decision.
19. The County Council and Hinckley and Bosworth Borough Council have agreed to meet with the applicant on 10 February 2020 to agree a way forward.
 20. Assuming that the applicant will be prepared to work with the two local authorities to update the Transport Assessment and other related planning application documents, it can be expected that the application will be re-determined by the Borough Council's Planning Committee later in 2020.
 21. The Cabinet Lead Members will be kept updated as negotiations progress.

Equality and Human Rights Implications

22. There are no equality or human rights implications directly arising from the recommendations in this report.

Environmental Impact Assessment

23. The planning application has been subject to an Environmental Impact Assessment which has required the applicant to consider all relevant environmental impacts and explain how those can be mitigated effectively. As decision maker, the Borough Council will need to satisfy itself that the decision it takes on the planning application complies with the Environmental Impact Assessment regulations.

Background Papers

Report to the Cabinet "Infrastructure Plan" - 16 September 2016

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MID=4775#AI48852>

Report to the County Council - 10 July 2019 "Leicestershire County Council Planning Obligations Policy" <http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MID=5788>

Report to the Cabinet - 23 November 2018 "Leicester and Leicestershire Strategic Growth Plan - Consideration of Revised Plan for Approval" <https://bit.ly/3aPC19F>

Report to the Cabinet - 17 December 2019 "Barwell Sustainable Urban Extension S106 Agreement" <https://bit.ly/2GuazXZ>

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