

Appendix – Leicestershire County Council Officer Comments on Hinckley and Bosworth Borough Council Pre-Submission Local Plan (2020-2039) Regulation 19 Consultation

1. At this stage of local plan making the comments of the County Council need to focus on compliance and tests of soundness. Paragraph 35 of the National Planning Policy Framework sets out that for a Local Plan to be found 'sound' it needs to be Positively Prepared, Justified, Effective, and Consistent with National Policy. An overview of the conclusions reached is provided prior to reference being made to the difficulties of identifying key modifications at this stage given the concerns of the County Council.
2. The County Council's full response and further comments are provided in this appendix. It is hoped that the report and appendix will provide useful and constructive information for H&BBC, the Planning Inspectorate and other interested parties and individuals in working towards a sound plan.

Overarching response: Legal Compliance and 'Tests of Soundness'

3. Although many of the County Council's previous comments at Regulation 18 stage have been taken on board, some of the more fundamental concerns have not been addressed; and it is these outstanding fundamental concerns plus the omission of the latest sustainability appraisal which have informed the County Council's consideration of compliance and tests of soundness.

Legal Compliance

4. The Planning and Compulsory Purchase Act (2004) requires a local planning authority to carry out a sustainability appraisal (SA) for the documents that form part of a local plan (including core strategies, site allocation documents and area action plans). SAs incorporate the requirements of the Strategic Environmental Assessment Regulations 2004. A Habitats Regulation Assessment (HRA) may also be required.
5. An SA can be used to test the evidence underpinning the local plan and help to demonstrate how the tests of soundness have been met. SAs should be applied as an iterative process informing the development of the Local Plan.
6. Given that the SA should be submitted with the Local Plan for examination and it should help to integrate different areas of evidence and demonstrate why the proposals in the local plan are the most appropriate, it would be expected for a SA on the current iteration of the local plan to be the subject of consultation at the same time. This would enable a clearer understanding of the impact of the preferred strategy and the likely impacts on the provision of infrastructure and services.
7. Unfortunately, this is not the case and the Sustainability Appraisal is still awaited. The most recent SA on the local plan was published in September 2020. A Site Assessment Methodology was published in October 2020 on the methodology for how potential land allocations will be assessed through the preparation of the SA and Local Plan but the actual appraisal of proposed site allocations through the SA process has not yet been published.
8. As a consequence, it is considered that in the absence of an up-to-date SA on the preferred spatial strategy and proposals set out in the draft Local Plan, the draft local plan is not legally compliant.

Tests of Soundness

9. For Local Plans to be 'justified' they need to be based on an appropriate strategy, taking into account reasonable alternatives and based on proportionate evidence. Given the Plan has no underpinning transport evidence base (the preferred housing strategy has not been modelled in transport terms), the present transport policies are generic and no Infrastructure Delivery Plan has been prepared at this time. It is therefore not possible for the Local Highway Authority (LHA) to be able to determine the nature of highways and transport measures and the infrastructure required to enable the Local Plan's delivery, nor to understand whether the costs of such can be funded or to what extent a funding gap might exist. As such the Local Plan cannot be described as being justified.
10. Work to develop a transport evidence base to underpin the Plan, identify required mitigation measures and infrastructure is likely to involve not just Leicestershire County Council as the Local Highway Authority (LHA) for roads in the Borough, but also Warwickshire County Council as the LHA for the adjoining Boroughs of Rugby, and Nuneaton and Bedworth, and National Highways as the Highway Authority for the A5. At present there is no defined position between these parties, such as a Statement of Common Ground, to provide a platform for taking the required work forward.
11. In the development of the transport evidence base, it is necessary to include the testing of the preferred housing strategy; identification and assessment of mitigation measures and infrastructure, not just site specific but also, as necessary, to address cumulative impacts; assessment of broad costings; inclusion of appropriate policies in the Local Plan to link development proposals to the required mitigation measures/infrastructure, including to provide robust basis for securing developer contributions; and development of an Infrastructure Delivery Plan. It is extremely questionable as to whether there is sufficient time available now to conclude the required actions ahead of the date in the Local Development Scheme for the Local Plan Examination (August 2022), and assumes that the evidence will conclude the Local Plan is deliverable.
12. Assessing site specific and cumulative impacts at a later date runs risks that opportunities could be missed or lost to ensure that the submitted Plan's overall highways and transport impacts are appropriately mitigated (e.g. because when judged at a later time, in isolation and without an appropriate, evidenced-based Plan policy(ies) it would be unreasonable in planning terms to seek the developer of a site to contribute towards or to deliver a piece of cumulative impact mitigation).
13. The Regulation 19 submission draft does not introduce any material changes in relation to education compared with the Regulation 18 version of the Plan. Reference to schools, SEND and early years provision remains extremely limited, including those sections referencing education and skills development. In this respect the importance of good education provision, whether through schools, early years or other specialist settings appears to have not been properly thought through. Such educational settings have an important role to play in the development of thriving and sustainable communities.
14. The Local Plan does not set out a clear strategy or any objective assessments to clarify how the education needs arising from new housing will be delivered. For example, there is no explanation of expected housing trajectories, how land will be secured, or how new school developments or school expansions will be funded, particularly where dependent on several developers to contribute to a specific solution.

15. Neither does the Local Plan recognise or consider the delivery challenges that may exist for the development of new schools or school expansions, for example where these might be placed in conservation areas or rural settlements where small schools may have limited space or other restrictions on expansion.
16. The discussions so far on education matters with HBBC officers have not addressed these concerns.
17. Furthermore, in the absence of the latest Sustainability Appraisal it is challenging to come to the view whether the residential and employment allocations in the Local Plan represent the most sustainable locations in the Borough for future development.
18. Without the detailed transport evidence on the preferred strategy, the Infrastructure Delivery Plan and Viability Assessment it is challenging to come a view as to whether the Local Plan contains policies that positively propose ways of securing and delivering infrastructure.
19. For a Local Plan to be 'effective' it needs to be deliverable over the Plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by a Statement of Common Ground. The extent to which the lack of evidence base to identify measures and infrastructure to enable delivery of the Plan might hamper (or even thwart) the progress of sites moving forward at the planning application stage is unclear. This may be due to lack of earlier evidential understanding of the sites' impacts at the Local Plan stage or viability issues that only become apparent at the time of the application. Similarly, it is unclear to what extent this could affect 5 year housing land supply during the lifetime of the Plan.
20. In the absence of the Local Plan not setting out a clear strategy or any objective assessments to clarify how the education needs arising from new housing will be delivered (no housing trajectories, how land will be secured, or how new school developments or school expansions will be funded, particularly where dependent on several developers to contribute to a specific solution) it is not possible to say if the proposals and ambitions set out in the Local Plan are deliverable over the Plan period.
21. Neither is it possible to say if the infrastructure needed to satisfy the County Council's statutory duty for the planning of school places will be affordable by developers/promoters and in this context the question of viability may arise.
22. To have confidence in the Local Plan there should have been a stronger emphasis on joint working to address the strategic and operational delivery matters and this should have been considered at an early stage. It would also have been helpful if agreed principles could have been set out in a Statement(s) of Common Ground and/or strategic delivery document for the various developments.
23. The Local Plan has not been supported by a viability appraisal, which makes it difficult to understand how decisions can have been reached about the deliverability of site allocations. This is likely to be due to the underpinning evidence having not been undertaken yet to inform the viability appraisal. As such, it is difficult to demonstrate compliance with the NPPF (paragraph 68) which advises that planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. It is extremely difficult to know whether developer contributions will be able to fund school places (including early years and SEND) without understanding the viability implications of what is proposed.

24. Most of the Local Highway Authority's previous comments at the Regulation 18 stage have not been addressed in the draft Plan, which amongst other things still appears weak in reflecting the Government's decarbonising transport policies and in some cases uses phraseology that is inconsistent with that used in national policy.
25. Paragraph 11 of the National Planning Policy Framework (NPPF) on the presumption in favour of sustainable development sets out the expectations for plan-making; this includes Local Plans promoting a sustainable pattern of development that seeks to meet the development needs of the area, align growth and infrastructure, improve the environment, mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.
26. The Local Plan sets out a scale of development which seeks to meet the development needs of the Borough area (as the Leicester and Leicestershire SoCG dealing with the distribution of unmet need from the City has not yet been published the additional amount to be directed to Hinckley and Bosworth Borough cannot yet be planned for); however, the County Council cannot yet come to a view as to whether growth and infrastructure are aligned in the absence of several pieces of evidence (detailed transport modelling work, mitigation measures, mitigation strategy, Infrastructure Delivery Plan and whole plan Viability Assessment).

Conclusion

27. In conclusion the Local Plan is not considered to be 'justified', 'effective' or 'consistent with national policy', and given the concerns identified under these tests of soundness it is difficult to substantiate that it has been 'positively prepared'. As a consequence, the County Council reluctantly has to advise the Inspector that it considers the Local Plan is not sound.
28. For the County Council in its role as a key infrastructure provider for transport and education the lack of evidence and certainty (in terms of understanding mitigation, viability and deliverability), presents significant risk to the County Council. The focus needs to be on resolving where possible and minimising this risk through closer partnership working to prepare a robust sound Local Plan for Hinckley and Bosworth Borough.
29. Owing to the lack of suitable evidence and engagement, it is extremely difficult for the County Council to set out the range of modifications to the Plan that are needed to make the Plan sound. Until the evidence has been completed and is available to inform consideration of the changes needed to the Local Plan it is difficult to suggest key modifications.
30. One key modification the County Council is able to request at this time is for H&BBC to consider the introduction of a policy within the Local Plan on the provision and placement of new schools and acquisition/reservation of land for either new schools or the significant expansion of existing schools. Education will work with H&BBC to advise on specific content.
31. Furthermore, H&BBC should consider moving early years provision from a category of 'essential' infrastructure to one of 'critical' (Policy INF 01), and develop a sub-category for Post-16 provision as a discrete requirement (reference is currently only made to Secondary or Further Education).
32. A potential benefit of a delay for evidence to be completed and inform the Local Plan is that the SoCG setting out the distribution of unmet need to the Leicestershire districts

is likely to have been published and the opportunity can be taken to consider the additional scale and likely distribution of growth.

Further comments

33. The following comments form part of the County Council's wider response and do not necessarily relate to matters constituting compliance or soundness of the Pre-Submission Local Plan.

Transport

34. To put in place a Statement of Common Ground (SoCG) for transport, albeit at this time it would only be possible to identify areas where agreement has yet to be reached; set out the evidential work that is required; and reflect realistic timeframes for progressing the required work. Though it is noted this could be a moot action if the timeframes do not align with the anticipated timing of the Local Plan Examination.
35. Note a SoCG for transport will involve not just Leicestershire County Council as the Local Highway Authority (LHA) for roads in the Borough, but also Warwickshire County Council as the LHA for the adjoining Boroughs of Rugby, and Nuneaton and Bedworth, and National Highways as the Highway Authority for the A5. At present there is no defined position between these parties, such as a SoCG, to take the required work forward.

Education

36. The submission Draft Plan, provides insufficient information to provide a meaningful response regarding education infrastructure needs. That is to say that although the Plan provides detail of expected development sites, in the absence of detailed information to clarify the housing mix, expected dates for development and build trajectories it is extremely difficult to comment on education solutions. In this respect the County Council has sought the opportunity for early discussion with HBBC to help understand the draft site allocations. Although these discussions have now commenced, and initial findings are outlined further in this document, there still remains ambiguity about the above matters, and by implication the obligations and risks this may place on the County Council.
37. It should be noted that as a general point, the Regulation 19 draft Local Plan does not introduce any material changes from the Regulation 18 draft Local Plan in relation to education, and reference to schools, SEND or Early Years provision remains extremely limited, including within those sections referencing Education and Skills development. In this respect the importance of good education provision, whether through schools, early years or other specialist settings appears to be under-valued. Such educational settings have an important role to play in the development of thriving and sustainable communities, although referenced in the Reg 19 document as 'critical' or 'essential' infrastructure more should be said about why this is the case.

Developing additional school places

38. In accordance with the Education Act 1996 the County Council has a statutory duty to ensure a sufficient supply of school places, this may be interpreted as a duty to ensure that a school place is available in all localities for every child that needs one and mindful of their specific needs. The County Council also has a duty to ensure the

sufficiency of early years and childcare provision under the Childcare Act 2006 and 2016.

39. In the context of the above duty it should be noted that a number of existing schools within the Borough are currently operating at the upper limit of their site capacity and may not be readily able to provide school places which would arise from the allocation of substantial housing growth, particularly some of the schools in small, villages or rural centres. This might suggest that the Plan should make provision to either secure land for the expansion of schools, if available next to the school site or alternatively consider relocating housing development elsewhere, or in certain circumstances the development of a new school. The Borough Council are advised to exercise caution when considering the development of new schools as the cost for these may be disproportionate to the scale of development (it should be noted that the County Council is unlikely to be able to meet any funding gaps, unless there is evidence of increasing 'basic need' in the area for which DfE grant may have been secured). Developing new schools may also introduce surplus place capacity if not carefully planned, which will have a bearing to other developments, speculative or otherwise, in the given area.
40. For the avoidance of doubt singular or multiple developments of collectively 700 homes would ensure the viability of a 1 form entry, 210 place primary school, whereas for secondary developments would need to comprise circa 4500 homes to justify a 750 place school (excluding post 16 provision).
41. It is noted that paragraph 4.13 makes specific reference to a "minimum of 1500 homes" for a Garden Village or New Town, this would require a 420 place primary school, however, a settlement of this size would not sustain a new secondary school provision. Early discussion regarding potential location of any new settlement would therefore be welcomed in order to identify potential secondary education and Post 16 requirements and solutions.
42. In terms of SEND provision for pupils having an Education Health and Care Plan (EHCP) it is expected that provision will be attached to existing or new primary or secondary schools in the locality, accepting there will be circumstances where pupils with specialist needs may need to attend schools further afield, and which in some circumstances may be outside of the Borough.
43. From an Early Years perspective, the DfE encourage provision to be developed as part of new school, and placed in each locality to minimise travel and disruption to families. Where such provision cannot be developed on existing or new school sites, or where demand exceeds that which could be met via a school based solution then early years provision should also be considered for community hubs or similar buildings.
44. Where new school sites are proposed it is important to ensure that they are where possible placed central to developments they will serve (or at the centre of a single development), but mindful of any future need for expansion that may require additional land, in locations that are fully accessible and on sites that are of suitable gradient (avoiding excessive slopes/inclines), well drained, free from excessive noise, light, or air pollutants, so can take maximum benefit from their environments. Further details on site suitability for new or expanded schools can be found within the Leicestershire Planning Obligations Policy.
45. Any reserved sites for expansion of existing school, or the construction of new schools will need to reflect statutory guidance from the Department for Education regarding

statutory 'walking' distances from home to school of two miles for primary pupils and three miles for secondary pupils, and County Council policy relating to safe/available routes.

46. It should be noted that introducing further development sites not identified within the Local Plan can sometimes tip the balance when it comes to provision of new schools rather than the provision of extra places, therefore some flexibility should be built into the plan to address this.
47. It is suggested that HBBC consider the introduction a policy statement(s) within the Local Plan to deal with the provision and placement of new schools and acquisition/reservation of land for either new schools or the significant expansion of existing schools.
48. The Borough Council should further consider moving early years provision from a category of 'essential' infrastructure to one of 'critical' (Policy INF 01), and to develop a sub category for Post 16 provision as a discrete requirement (reference is currently only made to Secondary or FE).

Capital Funding Strategy for additional school places – new or expanded schools including land acquisition.

49. The report to the County Cabinet of 17th September 2021 in response to the Reg 18 consultation stated;

'the proposals from the emerging and updated district council Local Plans will lead to a demand for further schemes to be delivered, and as such further substantial pressures on the County Council's financial resources.

Further schemes can only be accommodated when sufficient confidence can be obtained that developer funding will be forthcoming to repay the County Council's investment.

The scale of the infrastructure, and the need for much of it to be needed in advance of development, will put pressure on the County Council to cash flow it in advance of funding being received from developers. However, given the wider pressures on the County Council's financial position, there is limited scope for this and there will inevitably be a need for prioritisation.

It is of paramount importance that early engagement and close working is undertaken between the County Council and other partners in the delivery of infrastructure and related proposals to help to partially mitigate some of these risks.

It is also crucial that there is flexibility wherever possible around timing of spend and what money is spent on as well as ensuring developer contributions to local infrastructure costs can be secured in a coordinated and equitable manner.

The Government's ambitions in the Planning White Paper (August 2020) will also need to be factored into the delivery of emerging Local Plans, necessitating adjustment and perhaps major changes to the mechanisms used to secure and deliver infrastructure.'

50. The report to the County Cabinet of 17th September 2021 in response to the Reg 18 consultation also stated;
- In terms of education matters a number of issues arise; New schools or significant expansion works will be expected to be progressed in parallel with new housing developments, to ensure that school places are available as new homes are occupied. The County Council will not have capacity to forward fund all new infrastructure works, this therefore places emphasis on developers not only meeting the full cost of all new schools or expansions but ensuring that S106 funds are released at a sufficiently early stage to allow works to progress. If this cannot be achieved then this may introduce a requirement for pupils from new developments to be transported to other schools nearby, in such circumstances the developer would be required to meet not only the costs off transport to alternative schools, but potentially also the costs of additional temporary accommodation if surplus places were not available. The County Council would seek to avoid such circumstances arising given the disruptive impact this will have to families and the continuity of pupil's education.
 - It is expected that some new schools or expansions will be dependent on S106 funding drawn from several developments, this could introduce a significant funding risk that either developments do not progress simultaneously or consecutively, or possibly that a particular development does not progress at all introducing a funding gap.
 - It is known that delivery of the Local Plan will be contingent on the expansion of schools in rural locations, often conservation areas, or on constrained sites, where normal design solutions cannot be applied. In such circumstances it is expected that developers will be required to meet the full costs of construction, and any additional works necessary to mitigate any other planning requirements.
 - The Local Plan makes no reference to the impact of EU exit or the Covid pandemic both of which have served to influence significant construction cost increases e.g labour shortages, materials availability and transport costs etc. It is too early to say how the construction market may be impacted longer term, this places an emphasis on the importance of frequent review and dialogue between the County and Borough Councils and other delivery partners to ensure that the full costs of schools development and any expected change to these are fully understood and mitigated for.
 - Where land is provided by a developer to enable the provision of a new school (or significant expansion) this is considered in addition to the cost of adapting or constructing school buildings to provide additional places. Where land is given by a single developer in circumstances where multiple developments contribute to the construction of a new school, then the contributions to be sought from the developer providing the land will be offset by the agreed educational value of the land, or alternatively matters relating to land costs will be agreed between the respective developers and without involvement of the County Council.
51. In view of the above it is suggested that the Borough Council consider including within the Local Plan a policy setting out expectations specifically in relation to the funding of additional school places and other education infrastructure, such that this mitigates financial risk to the County Council.

Education - Other policy matters

Policy statement CLT 01

52. This policy statement defines expectations for community facilities and states;
- *Community facilities are identified and defined through the Community, Cultural and tourism Facilities Review¹ and include the following:*
 - *A community, village, parish or church hall*
 - *Places of Worship*
 - *Educational facilities including primary schools (Infants and Juniors); secondary schools; grammar schools; independent schools and colleges / further education facilities including training facilities*
 - *Healthcare Facilities including Health/medical Centres and GP Surgeries*
 - *Libraries*
53. The County Council recognises the value of schools as a focus for community use (predominantly outside of school hours and during school holidays). All new schools to be developed as part of the Local Plan delivery will be established as academy (free) schools meaning they will be operated by Academy Trusts (as charitable companies/commercial entities) directly controlled by the DfE. In practice schools will seek to make their facilities available to the community via normal lettings procedures.
54. The Borough Council are therefore advised that is very unlikely that academies will be able to enter into agreements with the District or other organisations regarding shared use or joint management agreements for facilities located on school sites, where such are deemed to present (in view of the Trust, the County Council or the DfE) a financial risk to the effective operation of any school. Such arrangements should therefore be avoided.

Policy statement NAT 02

55. The County Council welcomes the intention set out within clause 12.12; *The Green Infrastructure Strategy (2020) identifies that the southern green wedge could benefit from enhancement in regard to its function of providing a 'green lung' to the local community through encouraging and facilitating the use of land for allotments/community gardens, community woodlands and orchards and an environmental education centre for children*
56. Such environmental education centre would support the work of Forest Schools and play an important role in raising awareness of the natural environment for children and young people.

Specific Site Allocations

57. Although specific site details are not referenced in the Local Plan discussions with Borough Council policy and planning officers have productively helped to give consideration of potential delivery challenges. It is noted that the list of sites provided in the Scrutiny list is less comprehensive than information subsequently provided nevertheless the following matters should be noted;
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Ratby 20-00462/20-00711

58. Site allocation for 210 dwellings plus existing planning application will cause issues. Local primary school is not able to be extended. A new school would require a minimum of 700 dwellings, the nearest available schools would be those in Groby or Kirby Muxloe but neither are considered to be ideal alternatives.

Barlestone BARL01H/O2H/20-00470

59. Whilst it may be possible to extend this school, due to the confined nature of the site the cost of the extension is likely to be over and above the normal cost multiplier used for extending schools. This could mean that there could be viability issues particularly on one of the sites which is understood to be 100% affordable housing. As any extension is dependent on contributions from a number of developments there is real concern about the availability of sufficient funds to enable work to commence early on the school extension – the County Council would not be able to forward fund such works.

Newbold Verdon 20-0043/NEW01H

60. The school has potential to extend by 105 places which is the equivalent of 350 dwellings it may however require extra land to do this and this should be investigated further as should any cost implications due to Sport England requirements and possible issues with the proximity of the scheduled monument. Unfortunately, the school is too far from Barlestone to accommodate pupils unable to be accommodated at that school.

Market Bosworth 21-00379/MKBOS02H/20-01187

61. There is limited scope for expansion at this school, possibly catering for c350 dwellings. As with other areas if there were to be development of a minimum of 700 dwellings there may be scope for a new school provided that the land for this is provided at no cost to Leicestershire County Council i.e. the cost of land acquisition should be apportioned between the various developments, and contributions reduced where provided by a particular developer.

Sheepy Magna SHE01H/SHE02H

62. Although this is a confined site there could be potential for pupils to be accommodated at the primary school however this could entail push back from pupils from out of catchment and consideration would have to be given as to the need for section 106 contributions to address any issues caused by this. There may also be transport implications for the Secondary pupils at this village.

Stoke Golding 19-01324/STG01H/20-00779/21-00656

63. The primary school has a limited site with no potential for expansion. The school takes some out catchment pupils therefore it is anticipated that any new housing would have to be dealt with by accommodations elsewhere for pupils displaced by the new houses and may require the extension of a school in Hinckley including the proposed new school at Normandy Way. Subject to the school identified there may also be a need for transport costs as it is not expected that an 'available' walking route will exist.

Hinckley HIN01H/HIN02H/15-00188/18-00563/20-00527/20-00765/19-00982/19-01320/18-01237/17-00772/20-01317/19-00445/21-00225/18-00302

64. The majority of the schools in Hinckley have now been extended to their sites capacity which leaves the proposed new school in Normandy Way as a potential for expansion. The necessity for this was considered at the time that the planning application was received for the current housing development and provision was made for the recreational land, believed to be owned by Hinckley and Bosworth Borough Council, to be sited next to the school thus allowing a swap with any future development to enable the school site to be extended to two hectares with the playing field land to be allocated elsewhere on the additional site thus making one coherent playing field provision together with the school provision being two hectares.

Burbage BUR01H/BUR02H/19-01405/App K2420

65. This has been an area of significant growth. Sketchley Hill Primary School at 630 is at the limits of its site and the largest size Primary School we would wish to see in Leicestershire. The Infant School is on a confined site and not suitable for extension. The complexity of extending the Junior School to meet needs in this area should not be underestimated as it may require significant changes to both Infant and Junior Schools.
66. Dependent upon the number of dwellings proposed it may be worthwhile considering the provision of a new Primary School in the area, however the issue of timing of contributions would need to be addressed at a very early stage identifying how the funding for the school could be accumulated prior to the building of the school and possibly prior to the commencement of development of some of the sites which will ultimately contribute towards the cost of the school.

Secondary School places

67. This would appear to be far less complex as most sites have the ability to extend, although the effects of other local districts plans may be significant. For example we have asked for a new Secondary School at Stoney Stanton should a large development in Blaby District proceed. If this is agreed it would be our intention that places would be provided to enable pupils currently living in Stoney Stanton and Sapcote to attend that school rather than be transported to Hinckley or Earl Shilton. This would require a mechanism to divert S106 funds for extra places at Hinckley or Earl Shilton to the new school at Stoney Stanton on the basis that the withdrawal of the Stoney Stanton and Sapcote pupils will provide places for the pupils from the new housing in those areas.
68. This strategy is a sustainable solution reducing traffic and the environmental impact.
69. It should be particularly noted that in terms of Hinckley town, the only school currently having places is the Hinckley Academy, nevertheless this school is shortly to commence a major re-development programme, which when complete is likely to reduce the overall capacity of the buildings. Further details are being sought from the academy trust responsible for the school to establish the full impact of the DfE funded re-development works.

Strategic Planning

70. The publication of an up-to-date Sustainability Appraisal (SA) to accompany the Regulation 19 Local Plan is required (legal compliance). Recognising the iterative

relationship between the Sustainability Appraisal and the draft Local Plan there could be adjustments required to the draft Local Plan as part of this process. An up-to-date SA should also help in the process of understanding and reducing risk.

71. Due to the further time that will be taken for the consultation required on an up-to-date SA, it is likely it will provide the opportunity to consider in this draft Local Plan a higher scale of housing provision which takes into account the unmet need to be directed to Hinckley and Bosworth Borough from the City. This is because the Leicester and Leicestershire Statement of Common Ground (SoCG) setting out the distribution of unmet need to districts is expected to be published in mid 2022.
72. An Infrastructure Delivery Plan and Viability Assessment need to be prepared for the Local Plan. It is recognised that until the detailed transport modelling work is completed on the preferred strategy and allocations in the Local Plan (understood to be currently underway) the mitigation measures and subsequent mitigation strategy are not available to inform an Infrastructure Delivery Plan and Viability Assessment. Once this work is complete these two pieces of further work need to be progressed and made available.
73. An up-to-date assessment of Gypsy and Travellers' housing needs is required to inform gypsy, traveller and travelling showpeople accommodation in the Borough. The evidence base for the Local Plan refers to the 2016 Gypsy and Traveller Accommodation Needs Study which although embraced the updated definition of gypsies and travellers for the purposes of planning policy the evidence is now over five years old. It is noted the Local Development Scheme refers to a Gypsy and Traveller Allocations and Site Development, Development Plan Document being prepared, with consultation on scope, issues and options in September/October 2023 through to a programmed date for adoption of November 2025. Working jointly with other districts in Leicestershire to expedite this work is encouraged.
74. Aware of the five-year housing land supply situation in the Borough (4.46 years supply at 1 April 2021) and the need to progress an up to date Local Plan to guide future development and protect and enhance the environment; however, there are omissions in the Local Plan evidence base which means the Local Plan is not considered to be currently underpinned by a proportionate evidence base.
75. Support the inclusion of Policy SS03 Local Plan Review within the Local Plan, which specifies that within six months of the publication for consideration through respective governance processes of the Statement of Common Ground dealing with the distribution of unmet housing and employment need to the districts H&BBC will publish a review of their Local Plan.
76. The spatial strategy, urban/rural split for future housing and employment growth and allocations are now defined in the Regulation 19 Local Plan. The absence of the detailed transport modelling work at this time places more emphasis on an urban focus within the Local Plan, as these areas are generally more sustainable locations for growth (containing services and facilities) and provide more opportunities for sustainable forms of travel.
77. The reliance on the two Sustainable Urban Extensions (SUEs) at Barwell and Earl Shilton is noted for the delivery of urban focused growth. However; what happens if either of the two SUEs are unable to deliver during the plan period? This could result in a reliance on smaller non-strategic sites not in or adjacent to urban areas and

pressures for unplanned infrastructure and associated increased risk to the County Council.

78. With regards to employment land it is noted the Employment Land and Premises Study 2020 indicates the Borough has a sufficient supply of employment land to meet needs up to 2036 and that the majority of this future supply is strategic scale distribution and warehousing, with a more limited supply of smaller scale local needs employment land. The protection of existing employment sites in three categories (Key Employment Areas, Fit for Purpose Employment Areas and Lower Quality Employment Areas) is supported, though it appears no allowance has been made to make good the shortfall created by sites falling into alternative uses thereby reducing the net land available for employment. To provide further resilience and flexibility consideration should be given to allocating further smaller scale local needs employment land.
79. Reference to the Strategic Warehousing Statement of Common Ground (November 2021) is sought and the commitment to work with partners in Leicester and Leicestershire to be on the 'front foot' in guiding the provision of future strategic warehousing.
80. It is suggested that a free-standing paper is prepared, similar to that prepared by Charnwood BC, outlining the journey that has taken place to date, which would provide clarity on how the spatial strategy has evolved from the evidence base.
81. It would be useful to know the view of National Highways on the content of the Regulation 19 Local Plan.

Ecology

82. The latest consultation from DEFRA on the secondary legislation needed for Biodiversity Net Gain contains some proposals that could not have been taken into account in previous Local Plan drafts however there are some instances where policies could be out of sync with legislation in the future.
83. The Plan Vision for Places - Environmental Objectives: 6. Natural Environment is "*To conserve and enhance the natural environment, protect biodiversity and deliver a network of green infrastructure that connect and contribute to the Nature Recovery Network.*" The reference to the NRN is new, and welcome, but the national policy is stronger than this and I think a better wording would be: "*To conserve and enhance the natural environment, ensure developments bring about net-gains in biodiversity, protect wildlife and irreplaceable habitats, and deliver a network of green infrastructure where natural open space is integrated within development and which connects and contributes to the Nature Recovery Network..*" At the moment it is not considered to be in accordance with national policy.
84. The policy NAT01 Green Infrastructure refers to the "latest Borough Council Green Infrastructure Strategy" but there is reference in the text to the GI strategy 2020, which has omissions on biodiversity importance and some inappropriate recommendations (e.g. management of private gardens, and 're-wilding' of highways verges – the latter is still referred to in the text, but is fairly meaningless as a concept.) It is not felt that this is an acceptable evidence base for biodiversity elements of GI.
85. NAT03 has been amended to include mature plantation woodlands and offsetting woodland planting, and makes more sense now. The text still doesn't have reference to the fact that tree-planting schemes should be informed by ecology surveys of the

intended site, and that trees and woodlands should not be planted on habitats of local biodiversity value, such as species-rich grasslands, as described in the local BAP.

86. NAT07 – all seems OK although DEFRA are intending to publish guidance on what constitutes as irreplaceable habitat as far as BNG is concerned. This may be different to what we feel is irreplaceable as far as local biodiversity is concerned. In view of this I think it would be best to amend this part of the policy: *“Irreplaceable Habitats. Proposals which are likely to result in the loss or deterioration of an irreplaceable habitat (such as ancient woodland, ancient or veteran trees, old species-rich grassland, including that marked by ridge and furrow, and species-rich hedgerows that meet Hedgerow Regulations ecological criteria, and habitats defined for Biodiversity Net-gain purposes as irreplaceable. . . etc. “*
87. NAT08 – The phrase ‘Biodiversity net gain should be additional to any habitat creation required to mitigate or compensate for impacts on protected local/national BAP priority species’ isn’t in accordance with the latest information in the current DEFRA consultation on the secondary legislation for BNG. This info wasn’t available for earlier consultation on the Local Plan. DEFRA indicate that habitats protected, enhanced or created as part of mitigation for protected species can also (under certain conditions) ‘count’ towards the required net-gains. See the ‘Additionality’ text in the consultation, pp71 et sq. <https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/>. If this proposal is taken through into the secondary Regulations, which appears likely, this statement in the Local Plan policy would not be in accordance with legislation.
88. NAT08 – **Recommend wording as follows:** ‘Within a BNG plan, impacts on irreplaceable habitats or those flagged as of high or more distinctiveness within the standard metric should be avoided, or mitigated to reduce the impacts to negligible. In exceptional circumstances, compensation may be acceptable, and will require a bespoke solution of creating or enhancing habitats of equal or more distinctiveness off-site or off-site, to the quantity and quality required to satisfy the conditions within the metric’. This principle is covered in the Regulations consultation referred to above – and irreplaceable habitats are now proposed to be excluded from the metric (see pp30 et seq.: “When exempted from mandatory biodiversity net gain, development, or parts of development proposals, on irreplaceable habitats would still require bespoke compensation to be agreed with the relevant decision maker.” It’s difficult to know how to include this in the policy as the Regulations are still not drafted, but I think the intention is clear, and I suggest that it would be in accordance with national policy and emerging legislation if my recommended text was included.

Public Health

89. Life expectancy figures are now very outdated and on Page 15 of the Local Plan there is reference to health generally being good (with some challenges) and “most recent data suggests that the life expectancy at birth for males is 81.06 and for females is slightly higher at 83.9 (2016-2018). These are slightly higher than England’s averages of 79.6 and 83.2 respectively over the same time period”. There is no reference to inequality within this life expectancy, which (using 16-18 data) shows that there is a difference of 9.5 years in males and 7.7 years in females between H&B Borough’s most and least deprived communities.
90. Suggest addition to PMD07 - “Leicestershire County Council are working to establish a standard Health Impact Assessment (HIA) procedure for Leicestershire around health considerations in planning which HBBC will align with”.

91. There is no reference to HIA under Policy TDC02.

Communities

92. Vision; suggest adding a sentence to the first para relating to communities – e.g. “It is welcoming and inclusive and a place with strong local resources where people are friendly, active in the community and support their neighbours.”
93. Social objective 3 – Infrastructure – a reference could be made to building social capital – community interaction and mutual support including between different communities which can be supported by good design and local infrastructure that encourages contact and mixing.
94. The Community Facilities and public house policies are welcomed. Is there a role for an allotments policy/designations to support community capital, active lifestyles/health and wellbeing, sustainable development?
95. Suggest that a Social Value Statement is made a requirement for major developments. <https://socialvalueportal.com/social-value-in-planning-paper/> The local plan could include a social value policy including requirements for submitting proposals to maximise social value associated with development and for reporting on implementation/delivery.

Minerals and Waste

96. Policy PMD08 has no regard to impacts of waste facilities or links to Leicestershire Minerals and Waste Local Plan.

Multi Agency Travellers Unit

97. The Gypsy and Traveller Accommodation Needs Study is now 5 years old and should be considered out of date now. In the study new pitches were counted that have not been built and the assessment itself recommended a review of the data sets in 2018 that I am not aware took place.
98. The Transit issue is not addressed in the evidence base, we have a joint working group to identify Transit sites in Leicestershire. The broad aim of the working group is to provide between 1 and 3 transit sites across the whole of Leicestershire strategically one in the north one in the south and one in the City. It would be useful for the Local Plan to reflect this rather than relying on the evidence documents saying there is no local need in Hinckley Borough.

Adults and Communities

99. Under Town Centres, libraries are not included in the list of cultural and leisure uses, this needs to be amended.

Environment

100. The target date for carbon neutrality in the Borough remains as 2050 and it seen as a missed opportunity to not bring this forward to 2045 to align with the County target.

101. Energy capacity study remains dated at 2014 - so it is unlikely to reflect current and future energy needs of the borough given the transition to electricity for heating and transport.

Comments from the County Council as a landowner

102. The Hinckley & Bosworth Local Plan (Regulation 19) is not considered to be legally compliant on the basis that it is not accompanied by a compliant Sustainability Appraisal and is not consistent with the regulatory requirements for consultation, there is no viability appraisal to support the Local Plan. Paragraph 68 of the National Planning Policy Framework (NPPF) advises that planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability.
103. The Local Plan is also not considered to be sound, it is considered not to meet the 'justified', 'effective' and 'consistent with national policy' tests of soundness.
104. Whilst the vision's statement to focus development on the urban area is supported, as currently framed the vision statement is not sufficiently clear and should specifically reference the urban area as forming the settlements of Hinckley, Burbage, Barwell and Earl Shilton as set out in the proposed settlement hierarchy at Table 4. This would provide important clarity about where future development over the period to 2039 will be directed.
105. The thirteen Spatial Objectives covering social, environmental and economic objectives are broadly supported, however, it is considered that the spatial strategy and proposed allocations set out in the plan fail to deliver on these objectives in not taking the opportunity to allocate land north of Hinckley on land east and west of Stoke Road as part of the plan's strategy. It is considered Economic Objective 11 should be amended to include reference to both deliverable and developable sites to be consistent with the NPPF.
106. The approach to affordable housing is considered inconsistent with guidance set out at paragraph 008 Reference ID: 67-008-20190722 of the Planning Practice Guidance, which is clear that once the total affordable need has been established, this can then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, and an increase in the total housing requirement included in the plan may need to be considered where it could help to deliver the required number of affordable homes.
107. It is understood the Housing Market Area (HMA) authorities will soon issue the Statement of Common Ground confirming the agreed distribution of unmet needs (mid 2022). This could have significant implications for the plan. The Council should therefore not progress the plan to submission until the implications of the Statement of Common Ground are considered. It would then be more appropriate to address the implications of any identified unmet need being directed towards Hinckley and Bosworth through a revised Regulation 19 consultation.
108. The Plan should also make appropriate provision for a flexibility allowance to deal with uncertainties in delivery. It is considered that a flexibility allowance of some 15% would represent a reasonable approach to dealing with uncertainty and ensuring the delivery of housing requirements over the plan period.

109. Any additional provision should be directed towards the Hinckley urban area as the most sustainable location for further growth, and this could be achieved through the allocation of a strategic housing site north of Normandy Way Hinckley capable of delivering a sustainable mixed-use development of at least 1,500 homes. This would be policy compliant with Policy SS04 Strategy for Hinckley, to support its role as a sub-regional centre and key market town, and the most sustainable location for strategic level growth and Policy HO01 on the Provision for New Housing.
110. To reflect these factors several amendments to policies and paragraph wording in the Local Plan are suggested, and include:
- Paragraph 1.10 and 1.11: Consult on a compliant Sustainability Appraisal together with an appropriate Viability Appraisal;
 - Paragraph 3.7: Amend the Vision Statement to clarify the urban area consists of Hinckley, Burbage, Barwell and Earl Shilton as set out in the proposed settlement hierarchy;
 - Section 4: Increase the scale of development;
 - Policy HO01 of the Local Plan: Include an additional allocation under Policy HO01 on land north of Normandy Way, Hinckley;
 - Policy HO 03 National Space Standards: In order not to be a constraint on delivery the policy ought to include transitional arrangements in respect of previously allocated sites where the site's viability and associated land values have already been established;
 - Policy HO 06 Self Build: The provisions outlined within paragraph 7.23 should be included within the main policy in order to provide more clarity;
 - Policy HO 10 Rural Exception Sites: Whilst generally supported, it is considered that there is an inconsistency within the policy, as drafted, in that any available plots within smaller settlements are likely to be brought forward as windfall market housing and would not meet the affordable needs of the locality;
 - Policies EP 02 and TDC 01: It is noted in policy EP 02 that no land will be allocated for out of town offices. Accordingly any office development will be directed to town centre locations. However, Policy TDC 01 is silent on the future office requirements, allocations or guidance as to design etc.

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