



**CABINET - 22 OCTOBER 2024**

**LEICESTERSHIRE HIGHWAY DESIGN GUIDE REVIEW UPDATE  
AND CONSULTATION OUTCOMES**

**REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to seek the Cabinet's approval of the updated Leicestershire Highway Design Guide (summary attached as Appendix A) and to provide an update on the outcome of the public consultation that was undertaken from 24 June to 4 August 2024.

**Recommendations**

2. It is recommended that the Cabinet:
  - a) Approves the updated Leicestershire Highway Design Guide (LHDG) for implementation and publication;
  - b) Notes the outcome of the public consultation;
  - c) Authorises the Director of Environment and Transport to make future amendments to standards and guidance as considered necessary to the LHDG, following consultation with the Cabinet Lead Member;
  - d) Approves the trial of the Value of Trees toolkit within the updated LHDG.

**Reasons for Recommendation**

3. Updates to the LHDG are required following changes to national policy and guidance. A particular focus is needed on the Council's approach to facilitating active travel and environmental sustainability elements of highway that the Council adopts, alongside a detailed review of the commuted sums schedule and the LHDG policies.
4. The consultation detailed a number of matters that may result in minor amendments to guidance. Changes to the fundamental policy and principles that underpin the LHDG detailed guidance will not be required.

5. The authorisation of the Director of Environment and Transport to make future amendments to standards and guidance will enable the effective delivery of the future review schedule.
6. The Value of Trees toolkit is a critical element in helping to ensure that trees that the Council agrees to adopt in the future do not become a maintenance burden due to poor species choice and planting practice.

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

7. The Highways and Transport Overview and Scrutiny Committee considered a report on 6 June 2024 and its comments are set out in paragraph 84 of this report.
8. Subject to the Cabinet's approval, the LHDG is expected to be published as a microsite by December 2024 and the appropriate parties will be informed of its publication.

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

9. On 15 May 2019, the County Council declared a climate emergency, with a commitment to aspire to carbon net zero by 2030 for its own emissions. The Council's Environment Strategy sets out how it will reduce the environmental impacts of travel and transport, and the Net Zero Strategy and Action Plan states that the LHDG should be revised "to incorporate environmental and net zero carbon objectives in the final phase of development".
10. In October 2022, the Council published Net Zero Leicestershire Strategy and Action Plan setting out the ambition that Leicestershire should become a net zero county by 2045. That strategy document acknowledges that the 2045 target cannot be delivered by the Council working alone. Rather the strategy acknowledges that the Council should play a leadership role, convene partners and inspire commitment and action for net zero. The revised LHDG is consistent with that approach in the sense that, working with partners (such as developers) the Council can help to achieve desired environmental objectives.
11. The Council's Strategic Plan (adopted in March 2022) outlines the Council's five key outcomes for 2022 to 2026. As a tool for providing policies and guidance for development and the basis for the Council's highway observations as a statutory consultee in the planning process, the LHDG helps to support these outcomes, and particularly that of a "Strong Economy, Transport and Infrastructure".
12. In line with new national guidance, the Council adopted its Cycling and Walking Strategy in 2021, which presents a vision "for Leicestershire to become a county where walking and cycling are safe, accessible and obvious choices for short journeys and a natural part of longer journeys, helping to deliver healthier, greener communities". The LHDG supports this ambition through the provision of guidance on the design of new development that supports active travel.

13. The LHDG is a key supporting document of the Local Transport Plan 3 2011-2026 (LTP3) and emerging Phase 1 Local Transport Plan 4 2026-2030 (LTP4) and aligns with its developing themes and policies.
14. On 24 October 2023, the Cabinet resolved that the draft LHDG policies, principle and approach to commuted sums and road adoption be approved for the purposes of consultation, prior to the development of the detailed guidance.

### **Resource Implications**

15. The highway maintenance budget is under substantial pressure. At a time when the number of highway assets requiring maintenance is increasing and placing an additional burden on the Council's budget, there has been a real term, year on year reduction in funding for 12 of the past 13 years, when inflation is accounted for.
16. Leicestershire's population is projected to rise by 19% between 2021 and 2043, which will require growth in housing and associated highway infrastructure to support this increase. At the same time, the new National Planning Policy Framework (NPPF) and National Design Guidance emphasise that development should create "beautiful places" where street trees should be a prominent feature. These factors have the potential to increase the already significant pressures on maintenance budgets, putting into question the future affordability to the Council of maintaining ever more highway assets.
17. The highway maintenance budget is supplemented through developer contributions, the details of which are set out within the LHDG's commuted sums policy. It is considered that current rates charged within the LHDG do not reflect levels of inflation or changes in the national context. The LHDG refresh project will review the current commuted sums schedule.
18. Project activities, such as the production of limited palettes of materials acceptable for use within adopted highway (see Part B of this report paragraphs 48 to 49), will enable environmental sustainability considerations to be built into the new LHDG and will help to evaluate the durability and resilience of the assets that the Council agrees to adopt, which will minimise the impacts on the maintenance budgets.
19. As a result of new national policy and guidance with a focus on sustainability and prioritising cycling and walking, the draft LHDG may result in an increased scope of assets that require maintenance in the future, such as those related to active travel and Sustainable Drainage Systems (SuDS). New burdens will be sustainable within the business-as-usual process or funded through the usual commuted sums process.
20. The Director of the Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

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

None.

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## **PART B**

### **Background**

21. The LHDG provides guidance regarding highways and transportation infrastructure for new developments in areas for which Leicestershire County Council is the Local Highway Authority (LHA). The Council's principal intention of having the LHDG in place is to have a consistent approach to development across Leicestershire.
22. The LHDG is also the basis for the Council's highway observations on planning applications as a statutory consultee in the planning process.
23. A full review of the LHDG has been undertaken. The review has considered all aspects of the LHDG and enabled the assessment of changes to national and local policies and guidance, including the NPPF in 2021, and decisions about how these changes might be integrated within the new guidance.
24. The key influencing factors on the development of the new LHDG, as detailed in the report presented to the Cabinet on 24 October 2023, are:
  - a) A change in emphasis within the latest NPPF, which necessitates that all planning authorities are required to create design guides or codes that are consistent with the National Design Guide and National Model Design Code, updated in 2021 and that the design guides or codes need to reflect an aspiration for places to be "beautiful, healthy, greener, enduring and successful".
  - b) The Local Transport Note 1/20 (LTN 1/20) promotes the prioritisation of active travel within the highway and provides guidance for local authorities on designing high-quality, safe cycle infrastructure.
  - c) It was announced that Active Travel England is to be made a statutory consultee on all planning developments equal to or exceeding 150 housing units, 7,500 m<sup>2</sup> of floorspace or an area of five hectares. Its role will be to ensure that new development includes provision for walking and cycling that meets the latest LTN guidance.
  - d) The Government's £32.9m Active Travel Capability Fund, which aims to help local authorities resource the delivery of high-quality active travel projects, is linked to a rating system based around the Government's assessment of a local authority's current level of preparedness and delivery record.
  - e) The publishing of the Council's Net Zero Strategy and Action Plan in response to the climate emergency. The Action Plan requires that environmental and net zero carbon objectives are integrated into the new LHDG.

- f) The financial pressures faced by both the Council and private developers brought on by high inflation and, in the case of the Council, a reduction in real terms of funding from the Government.
25. The Council is supportive of the national policies and guidance set out in paragraph 24 of this report and the Council has worked hard to integrate these ambitions, whilst carefully considering pressures on the already stretched maintenance budgets.
26. An LHDG Summary Report is attached as Appendix A to this report.
27. In recognition of the benefits that trees offer for communities and wildlife, the Council has produced a Value of Trees toolkit that aims to help reverse the decline of highway trees and hedgerows, which have suffered from the impacts of pests and diseases such as Ash dieback.
28. The toolkit was commissioned by the Association of Directors of Environment, Economy, Planning and Transport and funded by the Rees Jeffreys Road Fund, and provides guidance on:
- a) How to select the right tree species for specific locations;
  - b) Information about the monetary value of the different tree species in terms of the ecosystem services that they provide (carbon storage and sequestration, managing flooding and air pollution);
  - c) The life cycle costs of the trees (the cost of looking after the trees over their lifetime);
  - d) The best practice guidance on how to procure, plant and maintain the trees so that they thrive.
29. The toolkit has been integrated into the draft LHDG to encourage its application within new development. It is the Council's intention to apply a 10% discount on commuted sums for the future maintenance of adopted highway trees where the toolkit is used in the design of planting schemes. Historically, some tree planting within the highway has become a maintenance burden because the trees have been poorly planted or inappropriate species have been selected; this toolkit is expected to reduce this burden.

## **Key Changes to the LHDG**

### LHDG Principles

30. The following seven principles proposed for consultation form the foundation for LHDG policy and guidance, and establish the Council's primary function as the LHA and broadening role in supporting the environmental agenda:
- I Working Collaboratively;
  - II Facilitating Safe and Effective Highway;
  - III Creating Road Types for All Road Users;
  - IV Creating Durable and Easily Maintained Highway;

- V Encouraging Active and Sustainable Travel;
- VI Supporting Access for All;
- VII Tackling Climate Change and Protecting the Environment.

### Highway Development Management

31. The role of Highway Development Management (HDM) is to ensure that development proposals are delivered in ways that safeguard the efficient and safe functioning of the transport network and promote sustainable active travel. The “HDM Policy” and “Preparing Development Proposals” sections of the LHDG define the Council’s policy and the information required from developers (validation requirements) in relation to highway aspects of new development.
32. The current NPPF focuses on “Promoting sustainable transport” to ensure that:
  - a) Sustainable transport options are available for all modes, with priority given to active travel movements;
  - b) The assessment of whether a proposed highway access is safe and suitable will be undertaken with reference to risks associated with the characteristics of the location and specifics of the proposals;
  - c) Proposals for new development and any associated highways schemes or impacts do not raise unacceptable safety concerns;
  - d) Any negative impacts on the effectiveness of the transport network can be avoided or “cost effectively mitigated to an acceptable degree”.
33. As agreed by the Cabinet on 24 October 2023, to ensure that the HDM policy proposed for inclusion within the LHDG stands up to scrutiny and challenge, the HDM policies have been drafted to accord with these objectives.
34. The HDM policies drafted for consultation are:
  - a) **Policy 1 Sustainable Access for All Policy** - Development must be accessible for all highway users and maximise the uptake of sustainable travel choices.
  - b) **Policy 2 Access to the Highway Network** - The Council will apply a risk-based assessment of proposals for new accesses onto the existing highway network and alterations to existing accesses so that they do not result in unacceptable road safety and operational concerns.
  - c) **Policy 3 Highway Safety** - The Council will review relevant road safety information, to ensure that the scheme and development proposals do not raise unacceptable safety concerns, and the Road Safety Audit process has been satisfactorily undertaken.
  - d) **Policy 4 Development Impact Policy** - Significant operational and road safety impacts of development on the transport network must be mitigated to an acceptable degree.

35. On 24 October 2023, the Cabinet was advised that due to its limited weight compared with policies within the NPPF which the LHA relies on, Policy IN6 “Sustainability Standards for Residential Developments” is withdrawn from the LHDG. However, active and sustainable travel is covered under the proposed draft Policy 1. Additionally, developers would be expected to follow the strengthened guidance within the revised Preparing Development Proposals and Design Layouts sections at both the planning and technical approval stages.
36. Additionally, guidance relating to the validation requirements (evidence, such as transport assessments, relating to the impacts of development on the highway network) and road safety audits has been reviewed and updated.
37. Two new sections on traffic modelling and data collection have been produced for inclusion in the new LHDG.

### Highway Design Guidance

38. All technical guidance sections of the LHDG have undergone a detailed review and they have been cross-checked against current national and local guidance and standards.
39. The new Active and Sustainable Travel sections of the LHDG have been drafted to reflect LTN 1/20 and the NPPF’s step change towards prioritising cycling and walking within new development. An “Active Travel Matrix” has been developed to set out the Council’s approach within the Leicestershire context and to aid developers in decision making related to cycling provision. The Matrix considers how location (rural, urban or urban edge), road typology and local facilities might affect decision making, in addition to road speeds and traffic flows. The guidance reinforces that the highest level of provision will always be expected within Local Cycling and Walking Infrastructure Plan areas.
40. The proposed LHDG guidance on the provision of green infrastructure reflects the new and updated environmental legislation relating to the strengthened duty on public bodies to protect and enhance biodiversity.
41. Under new guidance from the Government, the Council would facilitate the provision of the appropriate new green infrastructure within the adopted highway, subject to a commuted sum, and strongly encourage the retention of valuable existing habitat. Green infrastructure might include tree planting, conservation grass verges, SuDS and the provision of wildlife crossing facilities.
42. Additionally, under new guidance from the Government, the Council would look to minimise avoidable maintenance burdens through:
  - a) Having a stricter specification requirement, including the trialling of the Value of Trees approach in design.
  - b) Having dedicated resources for the technical approval of the green infrastructure elements of highway development. It is considered that



there would be future maintenance savings in ensuring that tree planting and landscaping schemes are properly designed and delivered.

- c) Investigating the opportunity for pre-submission requirements related to green infrastructure for the inclusion in Section 38 agreements.
43. To help to decarbonise transport and contribute to the Council's net zero ambitions for the County, the Council is keen to support residents in switching to electric vehicles (EV).
  44. The County Council has worked with the district councils, businesses and other parties to develop a countywide EV Charging Infrastructure Strategy. This will define the role of the County Council and evaluate the options for a public charging point network in on-street and off-street locations.
  45. The draft LHDG defines the legal requirements for the provision of EV infrastructure in new developments. It also states the current position regarding the provision of on-street and off-street charging facilities in Leicestershire.

#### Materials and Construction Guidance

46. The use of alternative materials can help to support local distinctiveness in new developments. However, the inclusion of these materials within new developments can also be the cause of future maintenance issues. Problems regarding the availability of like-for-like materials during future maintenance activities or statutory undertaker works can result in a patchwork appearance that undermines the original intention of their use.
47. The Department for Transport's Manual for Streets advocates that:
 

"One way of enabling designers to achieve local distinctiveness without causing excessive maintenance costs will be for highway authorities to develop a limited palette of special materials and street furniture. Such materials and components, and their typical application, could, for example, be set out in local design guidance and be adopted as a Supplementary Planning Document".
48. To consider how this guidance might be applied in Leicestershire, two limited palettes of surfacing materials have been developed comprising of:
  - a) A standard palette of materials that are easily available within the local supply chain, that have a history of successful use and that are easy to maintain.
  - b) An enhanced palette of materials that will offer a balance between a desire for local distinctiveness and the Council's requirements relating to environmental sustainability, performance and on-going maintenance. Items from the enhanced palette will usually attract a commuted sum for future maintenance.
49. It is proposed that any materials not included within the Material Palettes document, but that are being promoted for use by developers in new highway schemes, will be subject to an assessment by the Council. The developer will

be required to evidence that the material meets key criteria, such as availability, maintenance requirements and sustainability. This will help to minimise the impact on the maintenance budgets caused by poor quality or inappropriate materials.

50. A full review and, where required, update of the Council's Specification for Highway Works and standard drawings has been undertaken to ensure that they accord with national standards.

#### Approvals, Road Adoption and Legal Agreements

51. In October 2023, the Cabinet considered the scenario testing work that was undertaken regarding the options to revise the Council's approach to road adoption and commuted sums. It was resolved that the Council's current road adoption and commuted sums policy be retained.
52. However, to strengthen the Council's existing position on road adoption and the Council's approach to commuted sums, two new policies have been drafted for inclusion in the LHDG. They are:
  - a) The proposed **Policy 5 "Highway Adoption Policy"**, which sets out the Council's requirements before adoption of new highway is agreed. In addition to serving and/or fronting a minimum of six residential dwellings or multiple-building/multiple-occupation industrial and commercial developments, the new highway proposed for adoption must accord with all of the relevant policies, guidance and standards, including the LHDG.
  - b) The new **Policy 6 "Commuted Sums Policy"**, which defines that, "A commuted sum will be requested for the future maintenance of features, materials, drainage or areas that Leicestershire County Council has agreed to adopt but where the primary purpose is not the safe and efficient functioning of the highway."
53. Updated guidance has been produced by the Council to increase the clarity and effectiveness of the technical approval and legal agreement processes.
54. New guidance on how the network will be managed when access is required to the highway for construction purposes has been produced by the Council, which highlights how and when developers should communicate with the Council and the processes and permits that are involved.
55. Subject to the Cabinet approval, the new LHDG is scheduled to be published by December 2024.

#### Consultation

56. The LHDG is a technical document, primarily used by developers and their consultants and the Council's Engineering Services during the highway design process.

57. A public consultation on the LHDG draft documents took place from 24 June until 4 August 2024. In addition to the public consultation, engagement workshops were undertaken with developers, organisations representing disabled people and other groups, including Leicestershire Equalities Challenge Group, County Youth Forum Leicestershire (CYCLe) and the Royal National Institute of Blind People (RNIB).

#### Responses to the Public Consultation

58. A Consultation Report is attached as Appendix B to this report, which details the responses that were received and the level of support for each part of the LHDG. The consultation resulted in 40 survey responses and 22 responses via other means (such as by email and by phone). The majority of survey responses came from Leicestershire residents (54%), followed by developers (15%) and local authorities (10%). A number of charity and community organisations also responded, including those that were representing people with disabilities.
59. Overall, there was overwhelming support for the LHDG principles and high levels of satisfaction with all sections of the draft documents.
60. The survey sought the views of the consultees, through a series of open and closed response questions, on whether the LHDG:
- a) Principles were the correct ones and looked for comments regarding how they might be improved;
  - b) Provided clear and appropriate guidance regarding highway development management;
  - c) Provided clear and appropriate guidance regarding design layouts, materials and construction;
  - d) Guidance explained the process and requirements relating to adopting a new highway, technical approvals, committed sums and network management.
61. Further to a post-consultation review, minor changes have been made to the LHDG, none of which have resulted to significant changes to policy and principles.
62. Consultee responses fell broadly into four areas, with the responses outlined below.

#### Clarity of policy regarding the LHDG approach to the planning stage and highway development management

63. The part of LHDG relating to “Highway Development Management” includes sections on:
- a) Highway Development Management Policy;
  - b) Preparing Development Proposals;
  - c) Road Safety Audits;

d) Data Collection and Modelling.

64. Clarity regarding which version of the NPPF was being referred to and suggestions for alignment with the proposed changes that were currently under consultation.

Action/response – The draft LHDG has been prepared based on the latest published NPPF. Current proposed changes to NPPF (July 2024) are subject to consultation and the Council will review the LHDG should there be any amendments that contradict the published guidance.

65. It was suggested that greater clarity regarding the draft guidance was required.

Action/response – The Council has reviewed policy and made minor changes. In particular, the Road Safety Audit section received the lowest level of favourable responses, with consultees suggesting that the guidance regarding the thresholds for requirement of these audits could be improved.

Similarly, greater clarity was requested as to when the use of modelling services would be required to support submissions. Flexibility is required relating to application of the guidance and following review it is felt that the current guidance is appropriate.

66. It was suggested that Policy 1, regarding sustainable access for all, might negatively impact on the approval of rural development proposals, where opportunities to link into existing active travel facilities might be more limited.

Action/response – New policy reflects a changing national position relating to sustainability, and whilst there is scope for the strengthening of clarifying policy, this should not alter the original intention of the policy itself.

The LHDG will take a reasonable approach to assessing active travel requirements within new developments. An Active Travel Matrix sets out the criteria that must be considered when assessing the need for active travel facilities; this includes the location of the development (including whether it is in a rural or urban setting) and the proximity to existing facilities.

Queries and concerns regarding the adherence to highway design and construction standards and guidance

67. The parts of LHDG relating to “Design layouts” and “Materials and Construction” set out the guidance on a range of matters that include active travel, geometry relating to road design, acceptable materials for construction of the highway and provision of parking.
68. Consultees welcomed the prioritisation of the highway designed to benefit pedestrian and cycle movement and accessibility for all users.
69. Consultees suggested that some of the guidance should be strengthened, in particular, regarding green and blue infrastructure. Green and blue

infrastructure is an approach to planning which seeks to integrate features such as green spaces and water bodies into urban and rural areas, often with multiple associated benefits for communities.

Action/response – The Council has reviewed guidance and made amendments to the relevant sections regarding blue infrastructure and environmental mitigation. Existing LHDG guidance relating to the historic environment has been combined into a new section.

70. Accessibility concerns were raised regarding pavement parking and shared surfaces (highways that do not include pavements with a raised kerb).

Action/response - Shared space is a design approach to the streets that intend to better accommodate people who walk and cycle and reduce the dominance of motor vehicles; part of the approach is often interpreted by designers as being streets where footways do not have raised kerbs.

In Leicestershire, shared space primarily applies to quiet residential streets, with low traffic volumes and speeds. However, concerns have been raised regarding the principles and practice of provision of shared space, particularly by organisations that represent people with disabilities. Research undertaken by the RNIB has shown that those with visual impairment feel unsafe within shared spaces.

The Council will further assess its guidance on shared surface streets through:

- a) A desktop study of the latest research and guidance.
- b) Collaboration with disability groups and other relevant stakeholders, including, but not limited to, those representing people with visual impairments.
- c) A review of best practice delivered elsewhere and engagement with industry experts.

As a result of this work, the Council intends to further develop its guidance on the design of shared surfaces.

71. Consultees suggested that greater certainty was required regarding whether guidance was mandatory, particularly relating to active travel.

Action/response – The LHDG active travel guidance presents the Council's expectations regarding provision that complies with LTN 1/20 within various common scenarios and road typologies in Leicestershire. It is recognised that in some circumstances, there may be constraints to a developer adhering to the guidance, and therefore a level of flexibility, subject to the Council's agreement, must be retained.

72. A concern was raised regarding some of the technical guidance, particularly where it appears to conflict with the LHDG principles.

Action/response - The Council has assessed the specific issues raised during the consultation and made minor amendments where appropriate.

73. The draft LHDG presents standard and augmented (layouts with added value, such as the inclusion of green infrastructure or active travel facilities for example) options for delivery of road types that meet requirements for adoption. Consultees asked under what circumstances the alternatives would be required.

Action/response - The Council will facilitate and encourage the provision of the augmented standard. The requirement for provision should be identified at the planning stage in discussion with the relevant local planning authority and the County Council. The type of provision will depend on the aspirations for the development and local plan policy. The design should accord with the active travel guidance and the highway should be constructed to an adoptable standard.

Appropriateness and clarity of guidance relating to approvals, agreements and processes.

74. Guidance relating to approvals, agreements and processes includes sections on:
- a) Highway adoption (Section 38);
  - b) Working on adopted highway (Section 278);
  - c) Commuted sums;
  - d) Network Management.
75. The policy wording is considered imprecise by some consultees and the robustness of the commuted sum guidance in relation to Section 278 agreements was questioned.

Action/response – The Council has reviewed the guidance and strengthened the wording regarding Section 278s and commuted sums without changing the intention of the LHDG policy.

76. It was stated by consultees that some of the changes made to the guidance around bonds and developer maintenance periods were unreasonable and that the guidance did not fully consider the viability of development.

Action/response – The requirements have been evaluated against those that were provided by other authorities, and the requirements have been found to be fair and, in some cases, more lenient.

The Council has increased the required minimum developer maintenance period to better reflect the need to ensure the quality of design and the durability of adopted assets and materials in the long-term. The change brings parity with the conditions applied to utility companies.

77. Concerns have been raised by the consultees regarding the timescales for the delivery of highway adoptions.

Action/response - The Council has made changes to the guidance in the interest of all parties, with the intention of accelerating the highway adoption process. The Council will consider opportunities for offering timescales for the approvals, although these timescales can be variable depending on the scale and complexity of the proposals.

Early discussions are taking place regarding the development of the service level agreements between the Council and developers. The Council has made improvements to the legal agreement processes in the draft guidance with the intention of reducing delays.

A trial pre-submission service has been developed that would offer an opportunity for development review by the Council at the planning stage to enable an early indication of the likely acceptability of new highways that are offered for adoption.

78. The new network management guide is a positive development, offering a more standardized framework compared to previous LHDG versions.
79. A suggestion has been made that a chargeable, enhanced service should be provided by the Network Management team to help resolve issues through early engagement. Additionally, it has been mentioned that, where the Network Management team has been required to intervene relating to traffic management issues on site, then time spent in resolving these issues should be recoverable.

Action/response – It has been agreed to develop a chargeable service that will create positive outcomes for delivery of traffic management on construction sites. Any costs relating to avoidable issues on site will be recovered by the Network Management team.

#### Communication and collaborative working

80. Consultees stated that there should be closer relationships built between all parties and the draft guidance should provide more detail about how greater collaboration would work.

Action/response – In accordance with Principle 1 “Working Collaboratively”, the Council, as the LHA, will work closely with all parties. Guidance regarding the Council’s collaborative approach has been expanded.

81. Consultees requested that the Council ensured that the guidance was easy to read and accessible for all users.

Action/response – The Council has aimed to ensure that the language used within the LHDG is appropriate for the primary audience. The LHDG has been primarily produced for the use as the guidance by developers and their

designers, and therefore the LHDG needs to include the appropriate technical language relating to road design.

A verifying process has been undertaken to ensure that the LHDG documents are accessible. The Council will review the document formatting to ensure that any accessibility issues are resolved.

82. Consultees asked for clarity regarding the point at which the new published LHDG would apply to development.

Action/response - Ultimately, all development must be designed and assessed under the latest published LHDG guidance. As a general principle during the transition period, where formal advice has not been issued by the Council either at the planning stage (the Council's highway observations) or as part of technical approval, then the new guidance will apply (whether or not a planning application has been submitted). However, the Council will adopt a reasonable approach to assessing whether the new LHDG guidance must be strictly adhered to following the changeover, or whether the development designed under the old guidance (prior to publishing) is acceptable.

There may be circumstances where applying the new guidance is considered by the Council to be unreasonable, unfeasible or that it is not in the interest of Leicestershire's communities (as might apply to any development at any time). Examples might be:

- a) Where the Council has agreed an access strategy that informs the internal layout of a development, where the old guidance has been applied.
- b) Where it would be deemed unlawful under public law principles (or estoppel) to seek to enforce the new design guide in light of any representations or promises made to developers.
- c) Where development is phased and the significant majority of the phases have been delivered, the guidance might be considered redundant in terms of benefits to demand that the final phase meets the new guidance.

83. It will be the responsibility of the developer to provide a rationale for consideration at the point of submission to the Council.

#### Comments of the Highways and Transport Overview and Scrutiny Committee

84. A summary of the draft LHDG guidance has been considered by Highways and Transport Overview and Scrutiny Committee on 6 June 2024. The following comments and officer responses were made:

- a) A query was raised regarding the responsibility for air quality. Climate adaptation had been considered as part of the LHDG and a flexible approach to the use of materials was the general ethos to drive better outcomes overall to decarbonise the highways operation. The materials used in constructing and maintaining highways also now could have a positive impact on air quality. The Council's duties in relation to air quality management have been strengthened under the Environment Act 2021



and the Council expects to work collaboratively with the district councils on air quality issues.

- b) A question was asked about the guidance regarding garage sizes. The Environment and Transport Department cannot control the specification for the garages being built, however, the Department would only count a garage as a parking space where it meets the LHDG minimum criteria.
- c) It was asked how Section 106 developer contributions could be leveraged. This is governed by the NPPF and the need for compliance with Community Infrastructure Levy which requires that contributions are directly related to the impact of the development.
- d) The issue of pavement parking was raised. New developments must provide adequate off-road parking and suitable road layouts which encourages appropriate parking and this was noted as a part of the design considerations.
- e) It was noted that new public rights of way were a concern to communities. Consideration had been given to where links needed to be made to and from new developments to the existing network. The equalities impact assessments carried out informed the LHDG with greater emphasis towards sustainable modes of transport.

## **Conclusions**

- 85. A number of key changes have been made to the LHDG as part of the refresh project, including:
  - a) The development of seven LHDG principles that lay the foundation for the detailed guidance;
  - b) The inclusion of new HDM policy relating to sustainable access for all;
  - c) New guidance on data collection and modelling, network management and EV charging;
  - d) New approaches to facilitating active travel and green infrastructure (including SuDS);
  - e) New materials palettes, setting out acceptable materials for new adopted highway;
  - f) Updated standard drawings;
  - g) A more streamlined and effective technical approvals process.
- 86. Consultation and engagement activity has been undertaken throughout the LHDG's development process. Feedback has been and will continue to be considered prior to publishing the LHDG. Whilst there is scope for the strengthening of clarifying the guidance, it is not considered that any agreed changes will alter the original focus and intention of the LHDG policy and principles.

## **Equality Implications**

87. A full Equality Impact Assessment (EIA) (attached to this report as Appendix C) has been undertaken on the LHDG guidance. As part of this process, consultation and engagement took place with a number of organisations representing protected characteristic, including:

- a) The Leicestershire Equality Challenge Group;
- b) The Council's Disabled Workers Group;
- c) The RNIB;
- d) The CYCLe Youth Forum;
- e) Vista (a local charity, working in Leicester, Leicestershire and Rutland for with people with sight loss).

Feedback has been taken into consideration as part of the LHDG review.

88. The key findings of the EIA and consultation were that:

- a) Overall, the LHDG has the potential to have significant benefits for protected characteristic groups in terms of positively influencing the accessibility of highway through the provision infrastructure that offers a greater range of travel options and an attractive environment that people want to spend time in.
- b) The greatest potential for impacts from LHDG guidance relate to accessibility for disability and age protected characteristics groups. This relates to the potential for particular vulnerability to issues relating to health (for example, the accessibility of the highway, travel choice and air pollution).
- c) Significant updates have been made to LHDG guidance relating to prioritising active travel within the new highway, including:
  - i. HDM Policy 1, which states that development must be accessible for all highway users and maximise the uptake of sustainable travel choices.
  - ii. Principle 5: Encouraging active and sustainable travel.
  - iii. Principle 6: Supporting inclusive highway accounts for the need of inclusive design in streets.
  - iv. New active travel design layouts and materials guidance.

89. For some protected characteristic groups, the fear of crime is an important factor relating to the likelihood of using the highway. This was emphasised during discussions with CYCLe Youth Forum. The design of the highway can influence personal safety and perceptions of safety.

90. The draft LHDG addresses these issues through signposting to the national guidance that developers should apply whilst designing the highway elements of their development. The green infrastructure sections of the LHDG offer guidance on the creation of attractive environments that do not compromise safety, or the perceptions of safety.

91. Rural isolation is an important factor relating to the use or otherwise of the highway. Concerns were raised regarding the dissatisfaction of the provision of passenger transport services (such as the cost, frequency, convenience, and attractiveness as a form of transport).
92. In addition to the work undertaken during the project, and further to the HDM Policy 1 and the LHDG Principle 5, the LHDG encourages the use of sustainable modes of transport, including cycling and walking and passenger transport services. Accessibility considerations are accounted for within the Gear Change and the LTN 1/20 Cycling Infrastructure Design guidance for active travel, and the National Bus Strategy and Bus Service Improvement Plan for passenger transport, and these have been reflected in the LHDG.
93. This consideration is also accounted for within the LHDG Principle 1 consideration of those with additional accessibility needs when accessing active travel and the LHDG Principle 6 focus on ensuring that development layouts ensure passenger transport access.
94. Design solutions should also allow for the appropriate future proofing in terms of connectivity to surrounding areas to enable future growth to take place in a sustainable manner. To safeguard the interests of communities and residents, highway and transportation infrastructure will only be adopted where it is designed to publicly maintainable standards, in accordance with the Council's Highway Asset Management Policy and the standards set out in the LHDG.
95. In Leicestershire, there are 11 total Air Quality Management Areas (managed by the district councils) spread across the County. Poor air quality can disproportionately impact children and older people.
96. The LHDG Principle 4 aims to create durable and easily maintainable places which are designed to help design decisions to facilitate health, wellbeing, net zero and biodiversity net gain through adherence to the NPPF and the National Design Code.
97. The LHDG will also include new guidance on the provision of EV charging facilities that accord with the Council's Electric Vehicle Charging Strategy.
98. The above proposals may reduce the use of private vehicles for travel and thereby result in a reduction in poor air quality.
99. Additionally, the draft guidance proposes the facilitation of more detailed guidance regarding the provision of green infrastructure within the highway. Some tree species are known to reduce particulate pollution and thereby improve air quality.
100. EIA outcomes and recommendations have been made for future action. This includes the development of the Council's approach to shared surfaces, as highlighted in paragraph 70 of this report.

101. The Cabinet is reminded of its public sector equality duty under Section 149 of the Equality Act 2010. This requires decision makers to have due regard to the need to:

- a) Eliminate unlawful discrimination, harassment, and victimisation.
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not.

102. The rationale for the consultation was to ensure that the decision makers could better understand the views of affected stakeholders, including persons with protected characteristics. The updated LHDG seeks to take proper account of the divergent needs and views of different groups. It is also to be noted that the LHDG sits alongside the NPPF which itself requires that development should address the needs of persons with disabilities.

### **Human Rights Implications**

103. The refreshed LHDG will complement other policies and offer the same, or better, outcomes for Leicestershire's communities. A human rights screening of the LHDG confirmed that there are no human rights concerns arising from the recommendations in this report.

104. It is relevant in this context that caselaw has established that Article 8 of the European Convention on Human Rights (which protects an individual's right to a private and family life) encompasses a right to effective protection by state authorities from the serious adverse effects of climate change on lives, health, well-being and quality of life. Central to revisions to the LHDG is a focus on sustainability and active travel which helps to support environmental objectives.

### **Health Impact Assessment**

105. A Health Impact Assessment (HIA) has been undertaken to evaluate the potential health effects of the LHDG. The full HIA is attached as Appendix D.

106. The HIA assesses the demographics of Leicestershire to better understand the potential impacts of applying the LHDG in relation to 10 main themes, such as social cohesion, transport, education, air quality and access to public services.

107. The HIA shows that, overall, the LHDG is successfully discharging its duty of care to maintain the safety and functionality of all of the publicly maintained highways in relation to health, and that the LHDG is unlikely to widen inequalities. A number of positive outcomes were also identified by the HIA.

108. The HIA has identified some areas for consideration which would make the LHDG more robust in terms of improving health and reducing inequalities.

Several key recommendations have been proposed to enhance the health and wellbeing of communities while promoting sustainable development, including:

- a) Emphasising the integration of high-quality active travel opportunities within new developments, aligning with the LHDG Principle 5, "Encouraging Active and Sustainable Travel". This requires developers to prioritise the design and construction of durable, low-maintenance active travel facilities, which ensures that there is accessibility for all users, and particularly for vulnerable groups such as the elderly, youth and disabled individuals;
- b) That developers consider issues relating to social cohesion from the earliest design stages. This includes the use of green infrastructure and designing out crime, referencing best practice national guidance;
- c) Ensuring the principles of circularity, such as reusing materials and minimising waste, are embedded within the LHDG, reflecting a commitment to reducing the environmental footprint of highway construction;
- d) That the LHDG should include specific provisions to address the needs of groups that are less mobile and those without access to private transportation, therefore enhancing overall mobility and reducing health inequalities.

109. The Council will further consider how these recommendations can be implemented within the LHDG.

### **Strategic Environmental Assessment**

110. A Strategic Environmental Assessment (SEA) has been undertaken as part of the LHDG Refresh project. The primary role of the SEA (attached as Appendix E to this report) is to provide a high level of protection to the environment, to contribute to the integration of environmental considerations, and promoting sustainable development throughout the preparation and adoption of the LHDG.

111. The SEA assessed that the draft LHDG would largely result in positive environmental outcomes and, where the potential for negative impacts were identified, mitigation measures have been recommended for further consideration, including:

- a) Broadening out the LHDG principles to include issues such as blue infrastructure and the importance of protecting soil quality;
- b) That the design guidance should include details regarding blue infrastructure, such as avoiding negative impacts on migratory fish species;
- c) Making policy more environmentally robust;
- d) Minimising waste through the construction process.

## **Background Papers**

26 January 2023 - Highways and Transport Overview and Scrutiny Committee, Policy, Principles and Engagement.

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=1293&MId=7171&Ver=4>

24 October 2023 - Cabinet LHDG Principles and Policy development

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7079&Ver=4>

6 June 2024 - Highways and Transport Overview and Scrutiny Committee, pre consultation update

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=1293&MId=7457&Ver=4>

Department for Transport's Manual for Streets

<https://assets.publishing.service.gov.uk/media/5a7e0035ed915d74e6223743/pdfmanualforstreets.pdf>

Leicestershire County Council Cycling and Walking Strategy

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2021/7/27/Cycling-and-walking-strategy.pdf>

Local Transport Note 1/20 "Cycle Infrastructure Design"

<https://www.gov.uk/government/publications/cycle-infrastructure-design-ltn-120>

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Value of Trees toolkit

<https://www.leicestershire.gov.uk/environment-and-planning/tree-for-every-person/tree-charter-and-our-tree-management-strategy>

## **Appendices**

Appendix A - LHDG Summary Report

Appendix B - LHDG Consultation Report

Appendix C - Equality Impact Assessment

Appendix D - Health Impact Assessment Report

Appendix E - Strategic Environmental Report