



CABINET – 22 OCTOBER 2024

STRATEGIC TRANSPORT PLANNING ISSUES ASSOCIATED WITH THE EMERGING CHARNWOOD LOCAL PLAN

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT, CHIEF EXECUTIVE AND DIRECTOR OF LAW AND GOVERNANCE

PART A

Purpose of the Report

1. The purpose of this report is to provide an update on the issues associated with the emerging Charnwood Local Plan (the Local Plan), including the outcome of the recent consultation exercise on the Charnwood Transport Contributions Strategy (CTCS), and the associated implications for the Local Highway Authority (LHA) in its role as a statutory consultee in the planning process. The Cabinet is also asked to approve the recommendations set out in the report to support future management of these issues.

Recommendations

2. It is recommended that:
 - a) The latest position regarding the Charnwood Borough Council Local Plan Examination and Charnwood Transport Contributions Strategy (CTCS) consultation be noted, including:
 - i. Charnwood Borough Council's (the Borough Council) statement in relation to implementation of the CTCS, as summarised in paragraph 30.
 - ii. The Borough Council's recent late submission to the Local Plan Inspectors explaining that the Borough Council 'is now minded to prepare' a Community Infrastructure Levy (CIL) to secure contributions to mitigate the impact of growth in Charnwood, including transport contributions to mitigate cumulative transport growth'. The letter is attached as Appendix A.
 - iii. The implications for the LHA, in its role of statutory consultee, arising from the likely timetable for developing a CIL, as set out in paragraphs 39-42, including the significant financial impact.

- b) It be noted that the Borough Council is the authority responsible for making the Local Plan and ensuring its effective delivery. As such, it is required to demonstrate that the identified highways and transport mitigation can be delivered and that the Local Plan objective to increase the use of sustainable travel modes can still be fulfilled.
- c) The Chief Executive, the Director of Environment and Transport, and the Director of Law and Governance, following consultation with the appropriate Cabinet Lead Members, be authorised to withdraw the proposed CTCS and take appropriate actions necessary to:
 - i. Mitigate the impacts arising from the interim period between likely Local Plan adoption and the adoption of CIL, estimated to be at least 12 – 18 months.
 - ii. Participate appropriately in the development and implementation of a CIL charging schedule in line with national guidance and seek to influence the adoption of a CIL as quickly as possible.
- d) The Cabinet approves the principles for future engagement of the LHA in other local plan processes, set out in paragraph 46, in light of the County Council's experience of the development of the Local Plan for Charnwood by the Borough Council.

Reasons for Recommendation

3. Until 13 September 2024, the County Council understood it had the support of the Borough Council in implementing the CTCS. This position was reflected in the formal observations of the LHA submitted in respect of planning applications being considered by the Borough Council's Plans Committee over the summer of 2024. However, the statement made to applicants by the Borough Council, summarised in paragraph 30 below, substantially alters this position and negates the need to undertake a detailed analysis of responses to the CTCS consultation. This is because the CTCS could only be implemented with the support of the Borough Council in its capacity as the Local Planning Authority (LPA).
4. The substantial number of sites allocated in the emerging Local Plan that have been (or could be in the near future) granted planning permission, without contributing to the delivery of the identified highways and transport measures, due to the lack of an agreed mechanism to secure strategic contributions, have the potential to undermine the delivery of the necessary infrastructure over the life of the Local Plan.
5. The need for a mechanism to allow effective mitigation of the cumulative impacts of planned growth has been a stated position of the County Council throughout the development of the Local Plan. As has previously been reported to the Cabinet, the Borough Council had not proposed a suitable way of achieving this and, in the absence of a proposal from the LPA, the LHA had sought to develop the CTCS to provide that mechanism. The delay to achieving this mechanism has caused a loss of developer contributions and could impact

the extent to which the Local Plan is effectively delivered, as set out in the emerging Local Plan.

6. Whilst it is acknowledged that CIL is an appropriate mechanism and the County Council will be required to collaborate with the Borough Council on its development, the position of the County Council is that this has come too late in the process, despite the consistent and known position of the LHA that a mechanism was required not only for the Local Plan but also for those allocated sites coming forward ahead of the Local Plan that have been granted permission by the Borough Council.
7. There are a number of lessons to be learned flowing from the County Council's experience of the development of the Charnwood Local Plan as set out in the report. The proposed principles, set out in paragraph 46, have been developed in consultation with external experts to support the County Council in taking all available steps to ensure that clear and effective strategies for managing highways and transport impacts arising from planned growth are included in future local plans in Leicestershire going forward.

Timetable for Decisions (including Scrutiny)

8. It is currently anticipated that the Local Plan will be adopted by the Borough Council around the end of the 2024 calendar year.

Policy Framework and Previous Decisions

9. In June 2022, the Cabinet considered a report on highways and transportation matters relating to the Local Plan. The Cabinet approved, amongst other things, an area Transport Strategy based approach to deliver the borough-wide transport mitigation package, through three area strategies:
 - a) Loughborough and Shepshed,
 - b) Soar Valley,
 - c) North of Leicester.
10. In September 2022, the Cabinet considered the latest position on the Local Plan. It resolved that work towards an interim approach (prior to the Local Plan's adoption) to be taken by the Local Transport Authority (LTA) dealing with planning applications in Charnwood be approved. In addition, it resolved that the Borough Council's support, as the LPA, for the implementation of this interim approach be sought.
11. In November 2022, the Cabinet considered a report setting out the financial implications for the County Council delivering sustainable and inclusive growth. It agreed the approach and principles that the County Council would adopt to address and manage these risks.
12. In February 2023, the Cabinet considered a report on an interim approach to planning issues in Charnwood, which aimed to provide an initial basis for how the LTA could seek transportation contributions.

13. In December 2023, the Cabinet considered a report setting out the position of the Local Plan at that time, in particular the identified financial pressures associated with the strategy, including a major shortfall in funding of £120m.
14. In February 2024, the Cabinet considered a report on the Provisional Medium Term Financial Strategy (MTFS) 2024/25 – 2027/28 and noted the overall approach to developing the capital programme, including key principles.
15. The MTFS also noted that, when the expected developer contributions were received, they would be earmarked to the capital programme, to reduce the dependency on internal cash balances in the future. A key determinant in generating sufficient developer contributions is the approach taken by district councils in their capacity as the LPA. District councils will set the local planning context against which section 106 agreements will be agreed and will ultimately decide on whether to grant planning permission.
16. In September 2024, the Cabinet considered a report on the Government's proposed planning reforms, and in particular the proposed revisions to the National Planning Policy Framework (NPPF). It approved the County Council's NPPF consultation response, and in doing so noted that:
 - a) Whilst there are some potentially positive aspects to the proposed changes to the NPPF, there are also some concerns, particularly from a transport perspective, including that the amended NPPF fails to address significant challenges faced in enabling housing delivery and economic growth; and
 - b) Some of the proposed changes are unhelpful to the expedient and proper consideration of the transport impacts of planning applications through the development management process.

Resource Implications

17. The County Council has committed significant resources to engaging in, and supporting, a collaborative approach to strategic planning, which is intended to facilitate the delivery of growth within the County and mitigate the negative impacts of development, to the extent that it is reasonably possible to do.
18. The County Council took a balanced view and offered its 'in principle' support to the Charnwood Local Plan, on the basis that there would be an appropriate mechanism to secure developer funding towards the identified highways and transport infrastructure, therefore minimising the gap in funding and the associated risks to the County Council as far as possible. It was the County Council's understanding at the time that this would be achieved through a combination of modified Local Plan policies and the introduction of the CTCS. The County Council does not consider that the Local Plan policies alone can provide an effective mechanism. Whilst CIL will represent an appropriate mechanism, the delay in taking a decision to include a CIL in the Local Development Scheme means that the gap in funding for highways and

transport infrastructure is even greater. This is explained in more detail in paragraph 36.

19. The Director of Corporate Resources has been consulted on the content of this report.

Legal Implications

20. There are potential legal implications for the LHA in its role as statutory consultee. The Director of Environment and Transport is authorised to respond to planning applications in line with the responsibilities of this role. In consultation with the Director of Law and Governance, the Director of Environment and Transport will continue to review the approach and any associated risks in line with paragraphs 39-42.

Circulation under the Local Issues Alert Procedure

21. A copy of this report will be circulated to all Members.

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Part B

Background

Charnwood Local Plan and Transport Evidence

22. The County Council has worked closely with the Borough Council over several years to develop the transport evidence base that underpins the Local Plan, including testing of its preferred spatial strategy and potential mitigation measures. Amongst other things, this evidence highlights cumulative transport impacts (i.e. impacts on a particular junction or part of the road network, whereby multiple Local Plan allocation sites have combined impacts). The County Council has consistently stated these impacts are significant and need to be addressed in the Local Plan.
23. The Cabinet has received several reports in relation to this work since the Regulation 18 consultation on the Local Plan took place in 2016 (this is the stage of Local Plan development where issues and options relevant to the local area are identified to help inform the plan strategy), through to the latest examination hearings earlier this year.
24. The reports have provided updates on a number of complex issues during this time. In addition, the evidence and the proposed planned approach to mitigation has been explored through the Local Plan's Examination in Public (EiP), with further information being available on the Local Plan's examination webpage. The remaining relevant issues can be summarised as:
 - a) The County Council has consistently set out its concerns that the dispersed nature of the proposed distribution strategy would give rise to significant impacts and the need for investment in sustainable travel that would have to be adequately addressed through the Local Plan, in order for the LHA to consider it sound.
 - b) The County Council has repeatedly highlighted the need for an appropriate mechanism to collect pooled contributions, to enable effective mitigation of the impacts of growth on the highway and transport network.
 - c) The County Council produced significant evidence demonstrating the impact and proposing suitable mitigation.
 - d) The County Council was also aware of viability concerns affecting the Local Plan. The County Council worked with the Borough Council to agree that if developer contributions could be maximised, the County Council was prepared to manage the risk of a funding gap over the life of the Local Plan, due to the overall benefits in taking a planned approach to growth. These benefits included being the most likely way of identifying and mitigating the impacts of growth, as it was acknowledged by the County Council that speculative development would also have impacts on the highway and transport network but there would be no approach to managing this.

25. The County Council raised these concerns as part of its formal consultation responses to the Local Plan and in ongoing dialogue with the Borough Council. In addition, the County Council wrote to the Inspectors overseeing the examination of the Local Plan to set out these concerns.
26. In the absence of a positive proposal from the LPA to address these concerns, the LHA received the Cabinet's approval, most recently endorsed in December 2023, to seek to proactively address them through proposing modifications to the submitted Local Plan alongside the implementation of the CTCS, subject to a public consultation.
27. The County Council also began using the available evidence to support discussions with applicants of live planning applications to try to take a pragmatic approach in the interim period, prior to the adoption of the Local Plan.
28. The County Council therefore undertook a public consultation on the draft CTCS from 10 July to 23 August 2024.

Consultation Outcomes and Significant Recent Changes in Circumstances

29. The consultation took place over 6 weeks and received 24 responses. In general, the majority of responses raising concerns highlighted issues that were previously set out to the Cabinet, including the impact of the CTCS on viability and whether the approach was compliant with the CIL regulations.
30. However, on 13 September 2024, the County Council received a notification that the Borough Council had issued a statement to applicants regarding the County Council's requests for highways contributions. Although the statement was made in relation to the specific applications, it represented a withdrawal of the Borough Council's support for the CTCS as a basis for seeking strategic contributions through Section 106 agreements, on the grounds that the LPA were unable to satisfy itself that the CIL tests has been met.
31. This now negates the need for a detailed analysis of the consultation responses, because, without the support of the LPA, it is not possible to implement the CTCS in practice.
32. The Borough Council then notified the County Council of its letter dated 4 October to the Local Plan Inspectors (attached as Appendix A), which sets out its proposal to develop a CIL.
33. These actions taken by the Borough Council represent a significant change to the basis on which the County Council had been proceeding in relation to the Local Plan and dealing with live planning applications. In light of these changes, County Council officers have undertaken an assessment of the implications for the LHA. These implications can be categorised into three areas:
 - i. The County Council's position in respect of the Local Plan.

- ii. The immediate issues associated with live planning applications.
- iii. The LHA's approach to future local plan engagement.

I: The County Council's Position in Respect of the Charnwood Local Plan

34. As a result of the events set out above, the County Council can no longer pursue the CTCS. To avoid any confusion on this point, it is recommended that the CTCS be formally withdrawn, and the County Council's position be updated to agree with the Borough Council that the introduction of a CIL is the most appropriate mechanism for addressing the impacts identified by the LHA throughout its engagement on the Local Plan.
35. It should be noted that the evidence base and proposed schemes that formed the basis of the CTCS proposal will be relevant to the development of a CIL schedule and therefore should not be considered abortive work. However, further work is likely to be required, and officers will work in accordance with the guidance on collaborative working in the development of CIL. As this will be the first time the County Council has been involved in the development of a CIL, further training and potentially external support may be required.
36. The delay in the Borough Council's decision to implement a CIL and update the Local Development Scheme accordingly means that there could be a significant lag between the adoption of the Local Plan and the adoption of the CIL schedule, with the latter likely to take a minimum of 12 -18 months. As previously set out, a number of allocated sites (30 applications, totalling 2,347 dwellings) have already been granted planning permission whilst the Local Plan has been in development. In addition, at the time of writing, the County Council understands a further 17 applications, totalling over 1,300 dwellings, have progressed through the planning process to an advanced stage. Viability evidence commissioned to support the previous work on the CTCS suggests that these could represent £15m in 'lost contributions' if they are determined in the absence of a suitable mechanism for managing cumulative impacts.
37. Therefore, the County Council considers that an intervention is required to prevent development coming forward, ahead of Local Plan and CIL adoptions, without proportionate contributions to the necessary infrastructure and to ensure that a CIL can be an effective means of mitigating the impact of growth on the highways and transport network.
38. County Council officers wrote to the Local Plan Inspectors to set out this position on 11 October 2024. A copy of the letter is available at Appendix B.

II: The immediate Issues Associated with Live Planning Applications

39. The County Council, in its role as LHA, is a statutory consultee in the planning process. There is a requirement for this response to be a technical response provided in respect of LHA responsibilities only.
40. Officers have therefore considered the statement issued by the Borough Council to applicants in relation to the requests of the LHA and have provided

updated observations to the LPA. The LHA's position is that evidence has been produced that demonstrates that the cumulative impact of Local Plan growth will have a severe impact on the highways and transport network. The appropriate mitigation for this is to seek contributions to address these impacts where those sites form part of the distribution strategy put forward as part of the Local Plan for Charnwood. In advance of a clear understanding on the inclusion of CIL in the Local Development Scheme, and in the absence of a clear policy framework to achieve this, the LHA considers that any further planning applications seeking to be determined in advance of the examining Inspectors' report should be considered as premature and as such, should be deferred for the time being.

41. This has formed part of the LHA's substantive response to the LPA in respect of specific applications on the agenda for consideration at the Charnwood Plans Committees in October 2024. This will be kept under review until such time as further correspondence from the Inspectors is forthcoming.
42. Following the receipt of the Inspectors' report, or any direct response to correspondence regarding CIL and the Local Plan, the LHA will review its position and update its statutory consultation responses accordingly.

III: The LHA's Approach to Future Local Plan Engagement

43. In light of recent events, the County Council has internally reviewed the current situation with the Local Plan and has sought external expert legal advice. This review has also considered what could have been done to avoid applications being determined ahead of appropriate policy frameworks being in place to mitigate the impact of development, particularly where those impacts arise from significant growth spread over a number of smaller dispersed sites.
44. This exercise concluded that it is ultimately the responsibility of an LPA to assess the responses to the consultation and continue to ensure that they promote a sustainable, viable and deliverable Local Plan Strategy. It is also the LPA's responsibility to ensure that there is an appropriate approach in place to secure the delivery of transport measures required to mitigate, to the extent that it is reasonably practicable, the cumulative impact arising from the Local Plan's spatial strategy. The County Council has fulfilled its responsibilities in providing clear and evidence-based responses to the consultation process and working collaboratively with the LPA in the development of the Local Plan.
45. The County Council has been clear and consistent in raising its concerns, but it is acknowledged that the County Council attempted to offer a compromise solution when, with the benefit of hindsight, the appropriate solution would instead have been for the LPA to consider implementing a CIL at the time when the issues were first highlighted, and the transport evidence was produced.
46. To allow for positive engagement on future local plans, it is proposed the LHA be guided by the following principles, which will be reviewed and revised in the light of any changes in the Government's policy or guidance:

- i. LPAs should keep Local Development Schemes up to date to allow appropriate resource planning to be undertaken.
- ii. The County Council will no longer offer the conditional support of the LHA to a local plan at consultation stage based on the delivery of future work, where that is critical to the LHA's view on the plan's soundness.
- iii. Support will only be explicit for local plans when the draft plan has sufficient policies to reflect the challenges of that plan, specific to highways and transport and is based on a proportionate evidence base.
- iv. In order to receive support, the draft plan will have to demonstrate that the impact on the highways and transport networks (or requirements of highways and transport policy) arising from the distribution strategy have been identified, that what is required to facilitate the growth sustainably has also been identified and the plan includes an effective delivery plan with reasonable prospects of success.
- v. Where evidence demonstrates significant cumulative impacts arising from planned growth, the appropriate delivery mechanism for infrastructure which is critical to the successful delivery of the Plan growth is a Community Infrastructure Levy (CIL), which should be developed concurrently with a Local Plan if it is to receive the support of the County Council.
- vi. Where sufficient viability has not been demonstrated via a CIL (or appropriate prioritisation of available funding has not taken place), the County Council will object to the plan on the basis that the growth cannot be delivered sustainably.
- vii. Active and sustainable travel modes need to be considered as part of the access strategy in the site selection process.
- viii. Sites cannot be considered sustainable by the LHA where the only feasible travel choice to key services is by car and provision for sustainable travel modes should be made as part of the access strategy to avoid this being the case.
- ix. A plan where a significant proportion of the sites allocated are not accessible by sustainable travel modes, without sufficient plans to provide either new services or appropriate links, may give rise to objection from the LHA.

Conclusion

47. Overall, it remains the County Council's position that it is in the best interests of Charnwood communities to have an up-to-date Local Plan in place and thus, for the County Council to continue to work with the Borough Council to seek to achieve this, within the previously agreed principles and those set out above, recognising the inherent challenges associated with this approach.

48. However, it is also the responsibility of the LHA to ensure that the potentially negative impacts associated with the delays to the adoption of the Local Plan and an evolving position of the LPA in regard to CIL implementation are minimised, as far as possible. Therefore, the LHA will continue to take appropriate action to reflect this responsibility. The LHA considers that any further planning applications seeking to be determined in advance of the examining Inspectors' report should be considered as premature and as such, should be deferred for the time being.

Equality Implications

49. There are no equality implications arising from this report.

Human Rights Implications

50. There are no human rights implications arising from this report.

Environmental Implications

51. The LPA has produced several documents assessing the environmental impacts of the Local Plan and these have been considered as part of the Local Plan's examination process. However, it is important that the necessary highways and transport measures are delivered as set out in the Local Plan, to ensure those assessments are reflective of the Local Plan Strategy in practice.

Partnership Working and Associated Issues

52. The County Council has worked collaboratively and with good faith with the Borough Council to support the development of the Local Plan.

Background Papers

Report to the Cabinet on 24 June 2022: Charnwood Local Plan (2021 to 2037) – Highways and Transportation Matters and Supplementary Report

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6775&Ver=4>

Report to the Cabinet on 23 September 2022: Charnwood Local Plan (2021 – 2037) Latest Position

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6776&Ver=4>

Report to the Cabinet on 25 November 2022: Managing the Risk Relating to the Delivery of Infrastructure to Support Growth

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6751&Ver=4>

Report to the Cabinet on 10 February 2023: Interim Approach to Planning Issues in Charnwood Borough

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7073&Ver=4>

Report to the Cabinet on 9 February 2024: Provisional Medium Term Financial Strategy 2024/25 – 2027/28

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7503&Ver=4>

Report to the Cabinet on 13 September 2024: Proposed Response to Consultation on the National Planning Policy Framework

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7509&Ver=4>

Appendices

Appendix A – Charnwood Borough Council’s letter to the Planning Inspectors

Appendix B – Leicestershire County Council’s letter to the Planning Inspectors