



CABINET – 13th May 2003

**LEICESTERSHIRE, LEICESTER AND RUTLAND STRUCTURE
PLAN**

**RESPONSES TO CONSULTATION ON THE PROPOSED
MODIFICATIONS AND TIMETABLE TO ADOPTION**

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose

1. To allow Cabinet to consider:
 - a) the responses of the Three Councils to representations made on the Proposed Modifications as set out in Appendix 1; and
 - b) the next stages in the preparation of the Structure Plan as set out in the timetable in Appendix 2.

Recommendation

2. It is recommended that Cabinet:
 - a) agrees the responses of the Three Councils to representations made on the Proposed Modifications and the proposed resulting policy actions as set out in Appendix 1; and
 - b) agrees that late objections to the Proposed Modifications should not be accepted (see paragraph 39).

Reason for Recommendation

3. To ensure that the Structure Plan is adopted without delay.

Timetable for Decisions

4. A timetable for proposed meetings is set out in Appendix 2.

Policy Framework and Previous Decisions

5. At its meeting on 8th March 2000 the County Council resolved that the Deposit Draft Structure Plan be approved for formal deposit.
6. At its meeting on 7th March 2001 the County Council resolved that approval be given to:
 - the placing on Deposit of the Proposed Pre-EIP Changes to the Structure Plan;
 - the reasoned responses and proposed policy actions in relation to the representations received on all Structure Plan policies as set out in the document entitled 'A Summary of Representations made on all Deposit

Draft Structure Plan Policies and the Responses of the Three Councils to the Representations'.

7. At its meeting held on 10th April 2001, the Cabinet agreed to suggest to the EIP Panel revised housing policies containing a revised distribution of dwellings and greenfield housing requirement based upon updated housing land availability and urban capacity information. This was published in a Supplementary Housing Report (May 2001).
8. In June and July 2001 an Examination in Public (EIP) was held. A Panel appointed by the then Department of the Environment, Transport and the Regions presided over the discussion and prepared a report. The Panel's Report was published in September 2001 setting out its recommendations on the matters discussed.
9. Following the Examination in Public and publication of the Panel Report, Proposed Modifications were prepared. At its meeting held on 22nd May the County Council agreed to place the Proposed Modifications on deposit.
10. The next stage in the preparation of the Structure Plan is for the Three Councils to consider the representations made in response to the Proposed Modifications. The key issues raised through consultation on the Proposed Modifications and the proposed course of action are set out in Part B of this report.

Resource Implications

11. The costs of the proposed work programme will be met from within existing budgets.

Circulation under Sensitive Issues Procedure

None

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PART B

Background

12. As indicated in paragraph 10, the next stage in the preparation of the Structure Plan is for the Three Councils to consider the representations made in response to the Proposed Modifications. Depending on the substance of the representations, the Three Councils may decide to respond to them in three ways:
- Adopt the Structure Plan with no further modifications;
 - Propose further modifications in response to objections;
 - Re-open the Examination in Public.
13. If it is decided to adopt the Plan with no further modifications, there are two courses of action that could be pursued by those who consider that the Plan or the procedures followed are unsatisfactory:
- If the Secretary of State considers a plan to be unsatisfactory, particularly in terms of its interpretation of national or regional policies, he may at any time before it is adopted direct the authorities to modify it. The authorities must then re-open the EIP or propose further modifications.
 - After the Plan has been adopted, there is a six week period during which an application can be made to the High Court to have the Plan quashed. This can only be done on the grounds that the Plan is not within the powers of the TCPA 1990 or the proper procedures have not been followed. It is not an opportunity for a person to object to a policy simply because he/she disagrees with it.
14. The implications of the above are considered later in this report, and the proposed timetable is attached in Appendix 2.

Representations on the Proposed Modifications

Main Issues

15. A schedule of policies, setting out summaries of all representations received and proposed responses to them, is attached as Appendix 1. A formal response from the Three Councils to all “duly made” objections will also need to be made and published as part of any future action.
16. A total of 704 representations were received from 200 respondents. 407 were objections, 249 supports, 34 general comments and 14 counter objections. The largest numbers relate to the housing allocation to Oadby and Wigston (54) and the housing allocation to Melton (48). The latter relate specifically to the new village south of Melton, allocated in the adopted Local Plan.
17. In addition to the overall quantity and distribution of housing the other main issues raised by objectors are as follows:
- The expansion of the Nottingham / Derby Green Belt into north-west Leicestershire;
 - Junction 24 / Donington Park;

- Park and Ride.

18. Two petitions have also been received:

- Opposing the greenfield housing allocation to Oadby and Wigston set out in Housing Policy 2;
- Supporting representations of support for a number of the Proposed Modifications submitted by a residents group in Ratby.

The Quantity of Housing Land (Housing Policy 1)

19. The main issue, including an objection from GOEM, relates to the method of calculation of the total amount of housing, particularly that the completions between 1996 and 2001 should be included.

20. It is considered that the methodology used by the Three Councils is sound and consistent with Regional Planning Guidance.

The amount distributed to districts (Housing Policies 1 and 2)

21. Many objections were made to district totals, including the proportion allocated in the CLPA. GOEM was particularly concerned with the distribution outside the CLPA, particularly that the allocations to NW Leicestershire and Melton were overly influenced by the inclusion of committed sites (allocations in local plans without planning permission).

22. Four District Councils have supported the housing allocations to their areas (Blaby, Charnwood, Harborough and Hinckley and Bosworth); three have objected (Melton, NW Leicestershire and Oadby and Wigston).

23. It is considered that the distribution of housing to the districts is consistent with the locational strategy of the Plan and takes account of the local circumstances in each district. It is also a distribution which takes account of the challenging housing provision total allocated to Leicester.

Melton's Housing Allocation (Housing Policy 1)

24. Objections have been received regarding the proposed housing allocation to Melton borough, including from Melton Borough Council. A particular issue raised in the objections has been the New Village site south of Melton Mowbray, which is an allocated site in the Melton Local Plan. A planning application has been submitted for the development; however the developers have secured an indefinite postponement of the inquiry until the Structure Plan is adopted.

25. Since lodging its objections to the Proposed Modifications Melton Borough Council has informed the Three Councils that if the adopted Structure Plan includes a housing allocation not in accordance with the Examination in Public Panel recommendations then the Council intends to take the matter to Judicial Review, subject to Counsel's advice.

26. It is considered that the allocation to Melton reflects Melton Mowbray's status as a Main Town, and provides an appropriate balance of housing and employment in the Borough.

Oadby and Wigston's Housing Allocation (Housing Policy 2)

27. There has been considerable opposition, including a petition, to the greenfield housing land allocated in Housing Policy 2 to Oadby and Wigston.
28. Significantly, all other districts partly in the CLPA (i.e. Blaby, Charnwood, Harborough and Hinckley and Bosworth) are generally supportive of the allocation to their respective districts.
29. It is considered that the allocation to Oadby and Wigston is appropriate for its location on the edge of the Leicester and Leicestershire Urban Area, whilst reducing the impact on greenfield land, compared with the Panel recommendation.

Green Belt (Strategy Policy 18)

30. GOEM and others have objected that extension of Nottingham / Derbyshire Green Belt designation into part of north west Leicestershire is unnecessary because the land is protected by other policies, and that it would pre-empt review of Regional Planning Guidance.
31. It is considered that green belt extension is appropriate and consistent with Regional Planning Guidance.

Burbage Green Wedge (Strategy Policies 6 and 7)

32. Although Burbage Parish Council has again objected to the lack of a Green Wedge south of Burbage, Hinckley and Bosworth Borough Council has withdrawn an earlier objection and now supports the modifications to Green Wedge policies.
33. It is considered that the Policies remain appropriate and should not be modified.

Junction 24 / Donington Park (Strategy Policy 17)

34. Despite the approach of the Three Councils being generally consistent with Regional Planning Guidance, a number of objectors wished to see the more detailed and permissive policy of the deposit draft Structure Plan re-instated.
35. A letter has also been received from the Chairman of the Board of Donington Park, requesting clarification of the terminology in the policy, particularly its geographical coverage.
36. It is considered that the Policy gives an appropriate degree of protection for the Junction 24 area. It is the view of officers that consideration should be given to the terminology and area covered when the Explanatory Memorandum is revised.

Green Wedges (Strategy Policy 6)

37. Members will be aware that consultation has recently been carried out on two park and ride sites, including one at Glenfield that would be located in a Green Wedge. No modification has been proposed in respect of the location of park and ride sites in Green Wedges. Nevertheless, some objections were received in relation to this matter.

Minor Changes

38. Minor changes are proposed to a few other policies in response to the representations received. Officers have sought legal advice, and consider that they do not, individually or cumulatively, materially affect the content of the proposals, so can therefore be incorporated without issuing further modifications.

Late Objections

39. Six objections were received outside the specified consultation period, all dealing with housing quantity and distribution issues. These issues had been raised by other respondents. The 1999 Development Plan Regulations make clear that the Three Councils are not obliged to consider late representations, although they may use their discretion to do so. Given that the objections do not raise any new issues it seems unnecessary for the Three Councils to make any special case for consideration of these late objections, and it is therefore recommended that the late objections are not accepted.

Implications for the Future Timetable

40. It is considered that the Plan is now fundamentally sound. No new issues have been raised which would justify the re-opening of the Examination in Public, and the Reasoned Responses summarised above and set out in the attached policy templates are sufficiently robust to justify adopting the Plan without further modifications. However, Members should be aware that threats do remain, particularly direction by the Secretary of State, and High Court Action.

41. Any decision on the future course of action should also be taken in the light of the new Planning and Compulsory Purchase Bill (currently before Parliament) which sets out proposals for the abolition of Structure Plans. The Government has made clear, in guidance published recently to cover transitional arrangements, that work on plans as advanced as this one should continue under current procedures. Government expects the commencement date of the new Act will be Spring 2004 and that Plans adopted by that time can be 'saved' for a period of 3 years. The Plan would thus form part of the statutory development plan until at least 2007.

42. The scenarios can be summarised as the following:

- a) The Structure Plan proceeds to adoption according to the attached timetable;
- b) Further Modifications are proposed by the Three Councils (for example a redistribution of the proposed housing). Further consultation would be required which would be likely to lead to further counter objections. This would involve a serious delay to the proposed timetable, raising questions about the value of continuing to take forward the Structure Plan in the light of its abolition under the new Planning Act due to come into force in spring 2004;

- c) The Secretary of State directs the Three Councils to modify the Plan. Further Modifications would then have to be proposed as in b)above;
- d) There is a High Court Challenge by Melton Borough Council and/or others. This can only be done after the Plan has been adopted. The High Court can only consider whether the Plan is within the powers available under the Act and whether proper procedures have been followed, not whether the Plan has been amended in accordance with particular objections. It is the opinion of officers that all the proper procedures have been followed. However if a High Court Challenge by Melton Borough Council were to be successful, the housing figure for Melton could be reduced or deleted altogether. It may not then be possible to review the housing figures under the current arrangements.

Background Papers

Leicestershire, Leicester and Rutland Deposit Draft Structure Plan 1996-2016, (May 2000);

Report of the Panel, (September 2001);

Leicestershire, Leicester and Rutland Deposit Draft Structure Plan 1996-2016: Proposed Modifications, (June 2002).

A copy of the background papers has been placed in the Cabinet Office.

Appendices

Appendix 1 Schedule of proposed responses of the Three Councils to representations made on the Proposed Modifications.

Appendix 2 Proposed timetable to adoption.

APPENDIX 2

PROPOSED STRUCTURE PLAN TIMETABLE

	County	City	Rutland
13 May	Cabinet		
28 May	Scrutiny Commission		
3 June			Cabinet
4 June	District Briefing		
4 June	Joint Member Steering Group	Joint Member Steering Group	Joint Member Steering Group
24 June	Cabinet		
7 July			Full Council (TBC)
9 July	Full Council		
10 July		Full Council (TBC)	
18 July	Notice issued of intention to adopt Plan after 28 days		
15 Aug	Adoption of Plan		
22 Aug	First notice (of two) stating date of adoption and the date it became operative Start of six week period during which an application can be made to the High Court to have the Plan quashed		
Sep			
3 Oct	End of six week period during which an application can be made to the High Court to have the Plan quashed		