

Decision under Delegated Powers

Officer Requesting Decision

Team Leader, Local Plans

Officer Making the Decision

Head of Planning & Regeneration

Recommendation

That approval is given to enter into a Service Level Agreement, with Planning Inspectorate with a commitment of £100,000, in 2022/23, towards the conducting of the examination of the Charnwood Local Plan 2021-2037.

Reason

To define the terms and conditions for Service Level Agreement between Charnwood Borough Council and the Planning Inspectorate in the conduct of the Local Plan examination.

Authority for Decision

At the full Council meeting on 21st June 2021, it was resolved that the Pre-Submission Local Plan, Sustainability Appraisal Report, Habitat Regulations Assessment, Statement of Consultation and the other supporting documents set out in Appendices A, B, D, E and F to the report (attached as an Annex) were approved for consultation and submitted to the Secretary of State for an Examination in Public (minute ref: 24).

Heads of Service have general delegated authority within the Constitution to take such action as may in their opinion be necessary or appropriate in connection with the implementation of decisions properly authorised by the Council.

Decision and Date



24 August 2021

Background

The examination is a formal stage in the preparation of the Local Plan and is carried out by the Planning Inspectorate on behalf of the Secretary of State. The examination considers representations made to the Local Plan, and assesses whether the plan meets legal and procedural requirements, and tests of soundness defined by national planning policy. The examination begins on the submission of the Local Plan to the Secretary State, anticipated to take place in October 2021. The hearing sessions are anticipated in new year / Spring 2022 and the examination will conclude when the final inspectors report is issued, anticipated for the Summer / Autumn 2022.

The Service Level Agreement has been checked by Legal Services and is considered legally sound, with the recommendation that the SLA should be amended to incorporate borough council policies on General Data Protection Regulation, Safeguarding and Modern Slavery.

Comments from HR

The report has no HR implications.

Financial Implications

The total estimated costs of the examination will run to an estimated £100,000, as set out in procurement plan approved by Cabinet on 11th March 2021. The cost of the examination is one of additional costs reported to SLT on 29th July 2021.

Risk Management

No specific risks have been identified with this report.

Key Decision: No

Background Papers: Planning Inspectorate Service Level Agreement

Service Level Agreement relating to
Charnwood Local Plan

Between

Charnwood Borough Council

and

The Planning Inspectorate

INTRODUCTION

1. This is an agreement between the Local Planning Authority (LPA) indicated above and the Planning Inspectorate. It sets out the steps each party will take to help deliver an efficient examination and reporting process. The parties do not intend to create legal relations by this agreement.
2. Both the Planning Inspectorate¹ and the LPA will use their best endeavours to adhere to the requirements set out in this Service Level Agreement and to progress all stages of the examination promptly. Where for any reason either party is unable to adhere to the agreement, or any details previously agreed need to be changed, the other party will be notified as soon as possible.
3. All correspondence from the LPA regarding this agreement or the examination should be directed through the Planning Inspectorate Plans Team. The team can be contacted by email at plans.admin@planninginspectorate.gov.uk.
4. Now that the plan has been published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, it is essential that the LPA maintains regular liaison with the Plans Team in relation to progress right up to the agreed submission date. This is to ensure that a suitable Inspector is available to examine the plan upon its submission. Failure to do so could result in the Inspector's appointment being delayed.
5. This Agreement incorporates the provisions contained in:
 - ANNEX 1: Data Sharing Agreement between the Planning Inspectorate and the Local Planning Authority
 - Annex 2 Charnwood Borough Council Modern Slavery Conditions of Contract
 - Annex 3 Charnwood Borough Council Safeguarding Conditions of Contract

DURATION

6. The duration of this agreement is for the lifetime of the examination of the plan.²

SUBMISSION OF DOCUMENTS

7. The Planning Inspectorate will:

¹ Including the appointed Inspector.

² The examination is concluded when the Inspector's final report is sent to the LPA.

- a. Aim to appoint an Inspector as soon as possible upon the submission of a Local Plan and within the following timescales, provided the Planning Inspectorate has been both regularly updated in terms of expected submission dates³ and has received the material and matters listed in paragraph 7.
 - o Plans containing strategic policies: 1-3 weeks.
 - o Plans containing only non-strategic policies: 1-5 weeks.
- b. Appoint a further Inspector(s) or other specialist advisor(s) to assist the Inspector, if and when deemed necessary.

7. The LPA will provide:

- a. Electronic copies of:
 - o The Local Plan.
 - o Submission policies map (if the adoption of the Local Plan would result in changes to the adopted policies map).
 - o The Regulation 22(1)(c) consultation statement setting out how the LPA has complied with Regulations 18 & 19.
 - o The final Sustainability Appraisal Report.
 - o Representations in line with the requirements detailed in the Procedure Guide for Local Plan Examinations.
 - o A summary of the main issues made pursuant to Regulation 20.
 - o Supporting documents relevant to the preparation of the local plan.
- b. An estimate of the likely duration of any hearing part of the examination.
- c. The preferred date for the opening of any hearing part of the examination.
- d. The contact details of the appointed Programme Officer.

In addition, the LPA will provide paper copies of a limited number of examination documents where reasonably requested by the Inspector.

³ Failure to update the Planning Inspectorate of significant changes to the expected submission date and/or the late postponement in submission may result in an Inspector being appointed outside of the above timescales.

LPA's will be aware of the importance of complying with their data protection responsibilities under the Data Protection Act 2018 when they exercise their planning functions. To ensure an effective, open and fair examination, it is also important that inspectors and all other participants in the examination process are able to know who has made representations on the plan. LPA's should therefore ensure that they are able, lawfully, to process personal data held in relation to local plan consultations so that these representations can be 'made available' in line with the Regulations.⁴ This includes publication on the LPA's website without redaction of the names of those making representations and so they can be taken into account by the examining inspector. If this data is withheld it is very unlikely that it will be possible for the plan to be examined. In some cases, in order to run virtual events by means of video or telephone conference, the Planning Inspectorate may also need to know the e-mail address and/or telephone number of those making representations.

PROGRAMME OFFICER

8. The LPA will:

- a. Provide an appropriately trained Programme Officer⁵ to be in post at the date of submission of the Local Plan⁶ and retain them until the Inspector's Report is submitted for "Fact Check" and, where possible, until the close of the examination. We strongly recommend that the Programme Officer is in place by Regulation 19 i.e. publication stage. The Programme Officer must have had no connection with the preparation of the submitted Local Plan.
- b. Establish/ensure that the Programme Officer will have sufficient capacity to deal promptly with work concerning the examination whenever required.
- c. Notwithstanding that it employs them, ensure that the Programme Officer acts, and is seen to act, impartially and independently of the LPA (and other participants).

⁴ The Town and Country Planning (Local Planning) (England) Regulations 2012 – Regulations 20, 22 and 35

⁵ The Planning Inspectorate holds a list of experienced professional Programme Officers who might be available to work on the Plan and offers training periodically for new Programme Officers.

⁶ The Planning Inspectorate will not appoint an Inspector unless a Programme Officer has been appointed.

- d. Provide suitable accommodation for the Programme Officer, with IT and communication facilities, which, during the hearing part of the examination, should be close to the examination venue.
- e. Establish/ensure that the Programme Officer understands their responsibilities in respect of data protection and that their means of communicating with the LPA, Inspector, participants and representors will be secure. Ensure that all communication between the Inspector and the LPA or those making representations will be through the Programme Officer. Ensure that the LPA can lawfully 'make available' representations without redacting the names of those who made them. A data sharing agreement is attached in Annex 1 and is part of the agreement for the supply of services.
- f. Set up an examination website as soon as possible after submission in liaison with the Programme Officer and, in any case, by the time an Inspector has been appointed. The LPA must ensure that the Programme Officer is able to ensure that examination documents and information are uploaded promptly to the examination website as directed by the Inspector.

HEARING PART OF EXAMINATION

- 9. The Planning Inspector and the LPA will work to ensure that any hearing part of the examination will commence as soon as is reasonably practical after submission, subject to the LPA satisfactorily complying with the requirements set out in paragraphs 7 and 10.
- 10. The LPA will:
 - a. Provide accommodation and facilities for the hearing part of the examination including working accommodation for the Inspector⁷.
 - b. Arrange car parking facilities for the Inspector, if possible and requested to do so, where the use of public transport is not practicable.
- 11. The LPA should ensure that suitable accommodation is provided for the hearing sessions. This should be capable of accommodating all likely participants and anyone who wishes to attend to observe. Wherever possible the venue should be provided with wi-fi for participants capable of allowing access to examination documents and access to catering facilities.
- 12. The Planning Inspector will:

⁷ It is acceptable for the Inspector and Programme Officer to share an office, but it should be separate from any other uses in the building.

- a. Set out the procedure for the hearing part of the examination and the timetable for any additional material required by the Inspector.
 - b. If necessary, postpone the opening of any hearing part of the examination where the LPA has failed to make the provisions required under paragraph 13, or where any issues identified by the Inspector warrant a postponement. The Inspector will conduct the examination in accordance with the principles set out in the Procedure Guide for Local Plan Examinations.
13. The LPA will ensure all procedural requirements as described in the Regulations have been met, including those set out in Regulation 24 relating to the notification of the opening of the hearings.

DELIVERABLES - THE INSPECTOR'S REPORT

14. The Planning Inspectorate will:

- a. Advise the LPA of the estimated date of the delivery of the report as soon as it is reasonably possible to do so.⁸ Any change to the estimated date will be confirmed to the LPA.
- b. Send the Inspector's draft report to the LPA for factual checking.
- c. Where possible and subject to the availability of the Inspector, provide the final report within 10 working days after receipt of the fact check report back from the LPA.
- d. Within 40 working days of sending the Inspector's draft report to the Council, send the LPA an invoice to cover the cost of work up to the completion of the report.

15. The LPA will:

- a. Seek correction of errors on matters of fact or seek clarification of the draft report within 10 working days of its receipt for factual checking.
- b. Send an electronic copy of the Local Plan adoption statement to the Planning Inspectorate at plans.admin@planninginspectorate.gov.uk within 5 working days of the date of the resolution to adopt the plan.

TERMINATION

16. Please note in circumstances where a plan is withdrawn at any stage prior to completion of the Inspector's report, this will result in full

⁸ It will usually only be feasible to provide a likely date for the report towards the end of the examination.

liability to the LPA of any costs incurred up to the point of withdrawal. Either party may terminate this Agreement by giving three months written notice. This period of notice may be varied where both parties agree in writing. During this notice period, price and invoicing arrangements (as described in paragraphs 17-18 of this Agreement) will continue.

COST

17. The Planning Inspectorate will invoice the LPA approximately 6 months after submission and then every subsequent 6 month period during the examination on a case-by-case basis for the costs of any Inspector's time used in the determination of the Local Plan at the daily rate of £993.00 per day plus any associated travelling time and travel and subsistence costs, in accordance with the Inspectorate's Travel and Subsistence Policy. For the avoidance of doubt a daily rate is based on 7.4 hours per day. Where hours are incurred below or over this level, a part-day charge per person will be incurred at a percentage of the daily rate. The current daily fee for an Inspector can be found in Statutory Instrument 2006/3227.⁹
18. The LPA will pay the invoice from the Planning Inspectorate within 30 working days of its receipt.

SIGNED FOR THE COUNCIL:

Name:

Date:

Position:

SIGNED FOR THE PLANNING INSPECTORATE:

_____ *Stephen Davies* _____

⁹ Town and Country Planning (Costs of Independent Examinations) (Standard Daily Amount) (England) Regulations 2006.

Name: Stephen Davies

Date: 12/07/2021

Position: Operations Manager - Plans, Inquiries and Costs

ANNEX 1: DATA SHARING AGREEMENT BETWEEN THE PLANNING INSPECTORATE AND THE LOCAL PLANNING AUTHORITY

In the examination and reporting of plans, both the LPA and the Inspectorate¹⁰ have data controller responsibilities.¹¹ Each organisation will therefore act as data controller for the personal information that it holds.

What information needs to be shared and why

The personal information that is exchanged for the purpose of examining and reporting on the plan (or reasonably required in support of that purpose) is underpinned by the requirements in Town and Country Planning (Local Planning) (England) Regulations 2012.

The personal information exchanged will primarily be the names of individuals making representations on the LPA plan and any personal information provided in the representation itself. However, in some cases, in order to run virtual events by means of video or telephone conference, the Planning Inspectorate may also need to know the e-mail address and/or telephone number of those making representations.

Communicating to people how we share data

The LPA will provide a privacy notice that meets the requirements of data protection legislation, particularly article 13 of the GDPR. This will include the provision of information to the Inspectorate/Inspector in respect of any examination. The notice should be made available on the examination website.

Guidance about the role that the Inspectorate plays in the examination process, and the Inspectorate's privacy notice, is available from <https://www.gov.uk/guidance/local-plans>. LPAs may wish to include this in notifications to individuals or other information regarding the examination.

Security measures to protect the data

As data controllers, the LPA and Inspectorate each retain responsibility for protecting the personal information they hold. This includes ensuring appropriate and proportionate organisational and technical measures are in place for the processing of personal information.

¹⁰ Including the Inspector

¹¹ The Data Controller is the Ministry of Housing, Communities and Local Government

The exchange of information between the Inspectorate and LPA (including the Inspector and programme officer) will be through agreed contact details and/or postal couriers and any portable electronic storage devices will be encrypted.

The LPA has responsibility for appointing the programme officer, the information they hold on the LPAs behalf and ensuring their secure processing of that information.

The LPA also retain responsibility for any information published on any website that it maintains in respect of the plan and examination.

Data subject rights and other information requests

Requests from data subjects will be dealt with by recipient, based on the information they hold and their obligations. Where appropriate, the recipient will contact the other organisation with regards to the request and seek their views.

Each organisation, as a data controller, retains responsibility for the final decision regarding the release of any personal data, or other actions relating to personal data and meeting data subjects' rights.

Each organisation, as a public authority, is responsible for answering requests for information under the Freedom of Information Act/Environmental Information Regulations, seeking the views of the other organisation where appropriate.

Retention and disposal

The Inspectorate will normally retain casework information relating to the examination for a period of approximately 3 months following the LPAs decision as to whether they adopt their proposed plan, or until any legal challenge or complaint has been concluded. The Inspector's report is kept for approximately 5 years.

The LPA will inform the Inspectorate whether the plan is adopted and will separately define how long it retains information relating to its plan.

Annex 2 Charnwood Borough Council Modern Slavery Conditions of Contract



Definition:

Modern Slavery Act: the Modern Slavery Act 2015 together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

1. Modern Slavery, Child Labour and Inhumane Treatment

1.1.1 The supplier shall ensure that all work carried out by its staff or Sub-contractor staff is voluntary and workers shall have the freedom to terminate their employment at any time without penalty, given notice of reasonable length.

1.1.2 The Supplier shall not use, nor allow its Sub-contractors to use forced, bonded or involuntary prison labour.

1.1.3 The supplier shall ensure that its Staff and Sub-contractor Staff shall not be charged any fees or costs for recruitment, directly or indirectly, in whole or in part, including costs associated with travel, processing official documents and work visas in both home and host countries.

1.1.4 The supplier shall not confiscate or withhold staff identity documents or other valuable items, including work permits and travel documentation as a means to force staff employment or to restrict their freedom of movement.

1.1.5 The Supplier warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world and that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.

1.2 The supplier shall:

1.2.1 make reasonable enquires to ensure that its officers, employees and Sub-contractors have not been convicted of slavery or human trafficking offenses anywhere around the world.

1.2.2 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act

and include in its contracts with its Sub-contractors anti-slavery and human trafficking provisions where applicable;

1.2.3 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;

1.2.4 shall not use, nor allow its employees or Sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Sub-contractors;

1.2.5 Shall not use the threat of physical abuse, sexual violence, harassment and intimidation against an employee's or sub-contractor's family members, or close associates.

1.2.6 shall not use or allow child or slave labour to be used by its Sub-contractors;

1.2.7 shall report the discovery or suspicion of any slavery or trafficking by it or its Sub-contractors to the authority, the Buyer and Modern Slavery Helpline.

Staff payment

1.3 The Supplier shall:

1.3.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment and shall be provided all legally mandated benefits;

1.3.2 ensure that all Supplier Staff are provided with written Information in a language that they understand about their employment conditions in respect of wages, the particulars of their wages for the pay period concerned each time that they are paid, working hours and other working and employment conditions before they enter employment.

1.3.3 Wage payments shall be made at regular intervals and directly to staff, in accordance with national law, and shall not be delayed, deferred, or withheld.

1.3.4 Only deductions, advances, and loans authorised by national law are permitted and shall only be taken with the full consent and understanding of staff.

1.3.5 All staff shall retain full and complete control over their earnings.

1.3.6 not make deductions from staff wages:

(a) as a disciplinary measure

(b) to keep workers tied to the employer or to their jobs

(c) without expressed permission of the worker concerned;

1.3.7 record all disciplinary measures taken against its staff; and

1.3.8 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

Staff hours of Work

1.4 The Supplier shall:

1.4.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;

1.4.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;

1.4.5 All overtime shall be purely voluntary, unless part of a legally recognised collective bargaining agreement.

1.4.6 Supplier staff shall not be required to work overtime under the threat of penalty, dismissal, or denunciation to authorities, a disciplinary measure, or for failure to meet production quotas.

1.4.7 The supplier will ensure that the use of overtime is used responsibly, taking into account:

(a) the extent;

(b) frequency; and

(c) hours worked;

by individuals and by the Supplier Staff as a whole;

1.4.8 The total hours worked in any seven-day period shall not exceed 60 hours, working hours may only exceed 60 hours in any seven-day period in exceptional circumstances where all of the following criteria are met:

(a) this is allowed by national law;

(b) this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce; appropriate safeguards are taken to protect the workers' health and safety; and

(c) the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

1.4.9 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

Staff Freedom of movement:

1.5.1 The supplier shall ensure that staff's freedom of movement shall not be unreasonably restricted, staff shall not be physically confined to the workplace or any related premises, nor should a mandatory residence in employer-operated facilities be made as a condition of employment

1.5.2 The supplier shall ensure that staff are not subjected to coercive or any other means or behaviour to restrict staffs' freedom of movement or personal freedom.

Annex 3 Charnwood Borough Council Safeguarding Conditions of Contract



Definitions:

Regulated Activity: in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider: shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006

1. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

1.1 The parties acknowledge that the Supplier is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.

1.2 The Supplier shall:

(a) ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and

(b) monitor the level and validity of the checks under this Clause 1.2 for each member of staff

(c) not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.

1.3 The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Supplier in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable

Groups Act 2006 and any regulations made thereunder, as amended from time to time.

1.4 The Supplier shall immediately notify the Authority of any information that it reasonably requests to enable it to be satisfied that the obligations of this Clause 1.1- 1.5 have been met.

1.5 The Supplier shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to [the service users OR children OR vulnerable adults.

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