



# Charnwood Local Plan Examination Statement

Matter 1: Duty to Co-operate

Tuesday 28 June 2022

On behalf of **Barwood Development Securities Ltd**

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# 1 Introduction

## 1.1 Summary of Our Objections to the Draft Submission Plan

- 1.1.1 This Statement has been prepared by Stantec on behalf of Barwood Development Securities Limited ('Barwood Land'). Barwood Land has an interest in the site known as Phase 2 land at Peashill Farm, Ratcliffe Road, Sileby. The site is the subject of an outline planning application for residential development of the site for up to 175 dwellings, as an extension to the Peashill Farm Phase 1 development, construction of which is already well advanced.
- 1.1.2 Our Regulation 19 response to the Plan, submitted in August 2021, found the Plan to be unsound, for reasons which can be summarised briefly as follows:
- Policies DS1 and DS2 do not provide sufficiently for the housing needs of the borough and the Leicester urban area; and
  - Our client's site at Ratcliffe Road should be allocated under Policy DS3 of the Plan in place of or in addition to some of the sites in Sileby/Cossington which are presently proposed as allocations.

## 2 Response to the Inspector's Questions: Matter 1

### 2.1 Issue 1: Whether the Council has complied with the Duty to Cooperate in the preparation of the Plan

**Question 1.1: What are the relevant cross boundary strategic matters that have arisen through the preparation of the Plan (defined as matters having a significant impact on at least two planning areas)?**

- 2.1.1 Such matters clearly include the requirement to assess how Leicester City's existing unmet housing and employment needs should be distributed amongst adjoining Council areas, to comply with paragraph 61 of the NPPF, which requires that "any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for."
- 2.1.2 In this regard, as recently as mid-May 2022, the Leicester and Leicestershire Authorities Statement of Common Ground (SoCG) relating to Housing and Employment Land Needs (April 2022) was first published by one of the other Leicestershire authorities, along with a new Housing and Economic Needs Assessment (HENA) and an associated Sustainability Assessment (SA). The SoCG is now due to be considered formally by all of the authorities, including Charnwood BC at its Cabinet meeting of 9<sup>th</sup> June 2022. However, none of these new and crucial evidence base documents have yet been the subject of public consultation, nor have they even published on the Charnwood LP Examination website.
- 2.1.3 The SoCG shows that the scale of Leicester City's unmet housing need is significant. Appendix B to the SoCG indicates as follows for the City of Leicester between 2020 and 2036 alone (and noting that the Charnwood plan period currently runs to 2037):
- Local Housing Need: 39,424 dwellings
  - Total Theoretical Capacity: 20,721 dwellings
  - Shortfall: 18,703 dwellings.
- 2.1.4 To address this shortfall, Table 3 of the SoCG apportioned an average of 78 dwellings per annum (dpa) to Charnwood borough – equating to a total for the 2020-2036 period of 1,248 dwellings – a figure which, according to paragraph 3.23, of the SoCG is "subject to testing through each individual Local Planning Authority's plan making."
- 2.1.5 Furthermore, there are parts of the SoCG which are not agreed by all the authorities. Paragraphs 4.1 to 4.3 state that:

*"Hinckley & Bosworth Borough Council (HBBC) do not agree to the step in the HENA Housing Distribution Paper (2022) methodology from paragraph 6.21 to 6.24 and the subsequent table 6.9 which apportioned 197 dwellings per year of Leicester's unmet housing need. HBBC note the capping of the redistribution of Charnwood's numbers to 1189 and believe that the accommodation of the resulting 197 dpa shortfall should be tested as part of each LPAs Local Plan process, including the current Charnwood Local Plan. HBBC consider that an apportionment of 102 dwellings per year (85 dwellings per year lower than the apportionment in Table 3) to be an initial justified apportionment of Leicester's unmet need for HBBC to test through their Local Plan work and through further strategic work. HBBC disagrees with the methodology from para 6.21 to 6.24 and the subsequent table 6.9 as it is not suitably justified and does not follow the evidence. The use of stock growth is not a measure of deliverability. It does not consider housing need, does not reflect market demand or the deliverability of developing housing in a particular area. The capping of redistribution based on 1.4% stock growth levels is considered to be arbitrary and is not supported by the evidence. Para 6.24 seeks to justify the uplift for HBBC by referencing job opportunities, but this has already been considered earlier in the methodology.*

*HBBC is of the view that the June 2021 SoCG was clear that the apportionment of unmet need would be informed by 4 pieces of work. Only two of these pieces have been completed, the HENA and the SA. Therefore, as reflected in this Statement, the apportionment is a starting point for testing and may be amended based on the completion of the Strategic Growth Options and Constraints mapping work and the Strategic Transport Assessment and the subsequently updated Sustainability Appraisal and the outcome of any local plan 'testing'."*

- 2.1.6 Given the circumstances referred to above, it is clear that there is still considerable uncertainty regarding the additional housing numbers to be accommodated in the Charnwood Plan to meet its share of the Leicester unmet need. This will need to be tested for soundness through the current Examination process; however, it is apparent that both the Council and all interested parties have not had sufficient time to review the new SoCG, the HENA and the SA ahead of the deadlines for the Examination Hearing statements and the Hearings themselves.
- 2.1.7 We therefore contend that examination of the Plan should pause to allow all parties to review the SoCG, the HENA and the SA and the consequent implications for the quantum of development needed and its most sustainable spatial distribution across the whole county. We also contend that, once all of the authorities have formally considered the SoCG, the Charnwood Local Plan should be modified to reflect the increased housing requirement (noting that this may still increase above 78 dpa, particularly given the objections of HBBC) and consulted upon accordingly. Unless that is done, we consider that the Council will fail to comply with the Duty to Cooperate.
- 2.1.8 We consider that the Plan's housing requirement should increase from the figure of 17,776 dwellings in Policy DS1 to a minimum of 21,246 dwellings to allow for:
- An additional 1,248 dwellings arising from Leicester's unmet need for 2020-2036 (16 years x 78 dpa = 1,248); and
  - An additional 2,222 dwellings (2 years x 1,111 dpa – the current applicable annual housing need for Charnwood under the Standard Methodology) arising from the extension of the Plan period to 2039, as we propose and explain under Questions 1.8 and 1.21 below.
- 2.1.9 Whilst Policy DS1 makes provision for 19,461 dwellings, this would leave a shortfall of 1,785 dwellings which would need to be provided for by means of additional housing allocations.

**Question 1.2: What outcomes have resulted from engagement and cooperation on the relevant strategic matters and how have these informed the Plan's policies, including in relation to:**

**a. Housing**

**b. Employment**

**c. Highways and Transport**

**d. Flood risk**

**e. Infrastructure including renewable energy**

**f. Green Infrastructure and the natural environment**

**g. Site allocations with cross boundary impacts**

- 2.1.10 There are as yet no such tangible outcomes, the April 2022 SoCG, HENA and SA only just having been published. There can be no agreed outcomes until all of the authorities have formally considered the SoCG, at which time we consider that the Charnwood Local Plan should be modified to reflect the increased housing requirement and consulted upon accordingly.

**Question 1.3: Is the process of cooperation demonstrated with clear evidence, including Statements of Common Ground as expected by National Planning Policy Framework paragraph 27 and the Planning Practice Guidance? Do the Statements of Common Ground identify the relevant strategic matters, actions in relation to cross boundary issues, and the outcomes of actions taken?**

- 2.1.11 No, the SoCG of April 2022 contains no outcomes of actions taken and has not yet been formally considered by the authorities involved.

**Unmet need**

**Context** – The consultation on the City of Leicester’s draft Local Plan in December 2020 indicated a potential unmet need of 7742 dwellings and 23 hectares of employment land from 2019 to 2036. The revisions to the standard method for assessing local housing need in December 2020 to incorporate the cities and urban centres uplift of 35% increased the unmet housing need between 2020 and 2036 by an additional 9712 dwellings. The apportionment of unmet need is a key element of the Duty to Cooperate across the eight Leicestershire authorities.

**Question 1.4: When will the Statement of Common Ground on Housing and Employment Need (SCG-1) be updated to apportion the unmet need for housing and employment from Leicester to 2036?**

- 2.1.12 The SoCG has been updated and published in April 2022 but it has not yet been formally considered by the various authorities.

**Question 1.5: What liaison has taken place between the Leicester and Leicestershire authorities to address the unmet need for housing and employment since the announcement of the cities and urban centres uplift in December 2020? Where is this documented?**

**Question 1.6: Paragraph 3.25 of SCG-1 states that the Leicester & Leicestershire authorities agree that there is a sufficient supply of employment land in the Charnwood Local Plan to accommodate the unmet need for 23 hectares of employment land to 2036. However, page 96 of the Statement of Consultation (SD/13) indicates that the Plan does not accommodate unmet need for employment. What is the correct position?**

- 2.1.13 We await the Council’s response on these points.

**Question 1.7: If the outcome of cooperation on the Statement of Common Ground is that none of the unmet housing need will be apportioned to Charnwood, would there be any implications for the Plan or for Policy DS2?**

- 2.1.14 We consider this question is no longer applicable given the publication of the April 2022 SoCG.

**Question 1.8: If the Statement of Common Ground concludes that more housing is needed in Charnwood to meet Leicester’s unmet need, does the development strategy set out in Policy DS1 represent a robust and appropriate approach for the distribution of further housing, employment and other development in the longer term?**

- 2.1.15 No, the distribution of new homes set out in Policy DS1 does not represent the most sustainable or deliverable pattern of development or means of accommodating housing needs, as is required by paragraph 11a of the NPPF. The April 2022 SoCG provides evidence that housing provision in the Plan should exceed that currently proposed under Policy DS1. Indeed, as explained under Question 1.1 above, we consider that Policy DS1 should provide for a minimum of 21,246 dwellings rather than 19,461 dwellings and that it is also unsound for the following reasons:

- the Plan should have a longer timeframe than 2021-2037, as we explain further under question 1.21 below. A greater number of new homes would then need to be provided and additional housing sites allocated. This would have advantages in meeting housing needs more comprehensively and also ensuring greater flexibility and control over the supply of housing sites, thereby avoiding the Local Plan becoming quickly out of date, due to the absence of a 5 year housing land supply;
- in this context, we note from the Council's published 'Charnwood Five Year Housing Land Supply: 31st March 2022' that there is currently a deliverable housing supply of only 3.04 years, in conflict with paragraphs 60 and 68 of the NPPF. We also question the optimistic delivery trajectory which finds (in Appendix 2 of the Plan) that, if completions from proposed allocations are included, there would actually be a housing supply of 5.37 years. In particular, we consider that the delivery trajectories shown for the three SUEs are unrealistic and over ambitious, noting that construction work on these sites has only just commenced and all three require major infrastructure to be provided ahead of housing completions. Consequently, we submit that the Plan should allocate additional sites, particularly those for up to around 200 dwellings which can deliver housing early in the plan period, such as our client's site at Sileby;
- the Service Centres, including Sileby, have a scale, population and range of services and facilities such that more than 14% of all new homes should be located there; and
- by definition, the 'other settlements' and 'small villages and hamlets' are less sustainable, being much smaller and having fewer facilities and services, therefore the proposal in Policy DS1 that they should accommodate over 5% of all new homes (some 950 dwellings) is flawed and this proportion should be significantly reduced or removed.

**Question 1.9: Are there any other issues that could trigger the need for a Plan review apart from Leicester's unmet need?**

- 2.1.16 Yes, if the Plan is not paused and reviewed as we suggest, there are likely to be other such issues arising from the Strategic Growth Corridors and Constraints Mapping work and the Strategic Transport Assessment when they are published.

**Question 1.10: Will Policy DS2 be effective in its submitted form and are any main modifications necessary to improve its clarity in relation to timescales and its effectiveness? Should the policy include a reference to strategic warehousing and distribution needs?**

- 2.1.17 If the Plan is paused, reviewed and modified as we suggest, then Policy DS2 will not be required and should be deleted.
- 2.1.18 If Policy DS2 is adopted in its current form it will not be effective in that it will result in a delay of at least 3 years, quite probably more, before a revised Plan with additional housing allocations is submitted for Examination. In turn, this will result in delays in the actual provision of housing on the ground and therefore delays in significant housing needs being met, which is contrary to the Government's objective set out in Paragraph 60 of the NPPF "of significantly boosting the supply of housing".

**Question 1.11: What is the role and status of the Strategic Growth Plan (EB/DS/6)? What consultation has been undertaken and is it subject to external scrutiny? How much weight does the Strategic Growth Plan have for plan making purposes?**

- 2.1.19 In December 2018 the Leicester and Leicestershire Strategic Growth Plan to 2050 (the SGP) was approved by the ten founding partner organisations, including Charnwood Borough Council. The SGP is a non-statutory plan which identifies broad locations for ambitious strategic scale development and the significant infrastructure required to facilitate it and is to be used as part of the evidence base to inform new and emerging local plans throughout the County.

### **Cross Boundary Infrastructure**

**Question 1.12: Have the Plan's transport impacts been considered on a cross boundary basis, including the role of active and sustainable travel modes? What is the role of the Strategic Transport Assessment which is currently underway? Is this separate from the assessment of the specific impacts of the Plan's proposed growth on the strategic and local highway network as outlined in EB/TR/11, 12 & 13?**

**Question 1.13: Is the need for new burial space a strategic cross boundary matter, and if so how is it being dealt with?**

**Question 1.14: Are there any relevant strategic matters that have not been considered on a cross-boundary basis? If so, why?**

2.1.20 We have no specific comments but await the Council's response on these points.

**Question 1.15: In overall terms, is there evidence to demonstrate that, during the preparation of the Plan, the Council has engaged constructively, actively and on an on-going basis with relevant authorities and prescribed bodies on relevant strategic matters? Has the Duty to Cooperate been met in a manner consistent with paragraphs 24 - 27 of the Framework?**

2.1.21 As stated under question 1.1 above, critical parts of the Plan's evidence base have only just been published and these have not yet even been formally considered by the local authorities involved. We contend that examination of the Plan should therefore pause until the implications for the quantum of development needed and its most sustainable spatial distribution across the whole county have been reviewed and addressed. Unless that is done, we consider that the Council has failed to comply with the Duty to Cooperate as required by the NPPF.

## **2.2 Issue 2: Whether the Plan has been informed by a Sustainability Appraisal**

**Question 1.16: Is it clear how the Sustainability Appraisal (SD/5 & 6) has informed the preparation of the Plan and its policies at each stage, and how mitigation measures have been dealt with?**

**Question 1.17: Does the sustainability appraisal robustly test the plan against reasonable alternatives for the scale and distribution of housing, employment, retail and other types of development set out in Policy DS1?**

**Question 1.18: What alternative spatial strategy options were considered, which were discounted and are the reasons for this clear? What was the purpose of the 'additional focussed assessment' in Appendix G of the Sustainability Appraisal and how has this informed the development strategy in Policy DS1?**

**Question 1.19: Have any concerns been raised about the Sustainability Appraisal and, if so, what is the Council's response to those? Have the requirements of the Strategic Environmental Assessment Directive been met?**

2.2.1 The latest Sustainability Appraisal of April 2022 has only just been published and the Examination process should be paused to allow all parties time to review it so that the above questions can be properly addressed.

## 2.3 Issue 3: Whether the Plan has been prepared in compliance with other legal requirements

**Question 1.20: Is the Habitats Regulations Assessment (SD/8) robust and have the requirements of the Conservation of Habitats and Species Regulations 2017 been met? Are any main modifications necessary for legal compliance with the Regulations?**

- 2.3.1 The latest Sustainability Appraisal of April 2022 has only just been published and the Examination process should be paused to allow all parties time to review it so that the above questions can be properly addressed.

**Question 1.21: Are any adjustments to the Plan period necessary for consistency with the NPPF's provision that strategic policies should look ahead for a minimum 15 year period from adoption?**

- 2.3.2 Yes. The Local Plan should cover a longer period than 2021-2037, for the following reasons:
- Paragraph 22 of the NPPF requires strategic policies in Local Plans to cover “a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities”.
  - The Plan will not be adopted in 2022. A Plan of this scale and complexity is highly controversial and will inevitably require re-consultation on Main Modifications in our view, such that it will not be adopted until late 2023 at the earliest and more likely it will be 2024. Therefore, the plan period should run until 2039 to be sure that it complies with the NPPF.

**Question 1.22: Has the submitted Local Development Scheme (SD/16) been updated as set out in the Council's letter (Exam 2) and has the Plan been prepared in accordance with the scope, timescale and content set out in the revised document?**

**Question 1.23: Has consultation on the Plan been carried out in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's adopted Statement of Community Involvement (SD/14)?**

- 2.3.3 No. The latest SoCG, HENA and SA of April 2022 have only just been published and the Examination process should be paused to allow all parties time to review it so that the above questions can be properly addressed.

**Question 1.24: Does the Plan include policies designed to ensure that the development and use of land in the Borough contributes to the mitigation of, and adaption to, climate change in accordance with the legislation?**

**Question 1.25: In what ways has Plan preparation and the Plan's content had regard to the aims expressed in S149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?**

**Question 1.26: Has the preparation of the Plan complied with the Planning and Compulsory Purchase Act 2004 (as amended) Part 2 and the Town and Country**

**Planning (Local Planning) (England) Regulations 2012 (as amended) in all other respects, including in terms of:**

- **Having regard to the Planning Practice Guidance<sup>3</sup> that the preparation of the Plan should take into account policies and proposals in Neighbourhood Plans;**
- **Making clear which policies will be superseded if the Plan is adopted.**

**Question 1.27: Do the strategic policies (page 3 of the Plan) provide an appropriate framework for the preparation of Neighbourhood Plans and what is the up-to-date position with Neighbourhood Plan preparation in the Borough?**

**Question 1.28: Has Plan preparation had regard to the additional matters set out in Section 19 of the 2004 Act and in Regulation 10 of the 2012 Regulations?**

2.3.4 We have no specific comments, but we await the Council's response on these points.