

## All Agenda Items Common Planning Policy (January 2020)

### 1. Planning Policy Considerations

- 1.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the Development Plan (hereafter referred to as the 'DP'), unless material considerations indicate otherwise.

#### Development Plan

- 1.2 Section 38(3)(b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.
- 1.3 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
  - Made Neighbourhood Plans.
- 1.4 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The material considerations to be taken into account in considering the merits of these applications include the DP referred to above, the National Planning Policy Framework and the National Planning Policy Guidance, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.

#### Harborough Local Plan 2011 to 2031

- 1.5 The Local Plan was adopted in April 2019 and covers the period from 2011 to 2031.
- 1.6 Policy SS1 sets out the spatial strategy for Harborough which is to manage planned growth to direct development to appropriate locations, in accordance with the settlement hierarchy.
- 1.7 Local Plan Policies GD1 to GD 9 are general development policies.
- GD1 reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF).
  - GD2 sets out where In addition to sites allocated by the Local Plan and neighbourhood plans, development will be permitted within and adjoining the existing or committed built up area of Market Harborough, Key Centres, the Leicester Principal Urban Area (PUA), Rural Centres and Selected Rural Villages.
  - GD3 sets out for what purpose development will be permitted in the countryside.
  - GD4 sets out when subject to GD2 new housing will be permitted in countryside.
  - GD5 states that development should be located and designed in such a way that it is sensitive to its landscape setting and landscape character.
  - GD6 sets out Areas of Separation, shown on the Policies Map, between:
    - a. Great Bowden and Market Harborough; and
    - b. Bitteswell, Lutterworth and Magna Park.and that Development in the Areas of Separation will be permitted where it would not compromise, either alone or in conjunction with other existing or proposed development, the effectiveness of the Area of Separation in protecting the identity and distinctiveness of these settlements.

- GD7 sets out The Leicester/Scraptoft/ Bushby Green Wedge and Thurnby/Leicester/Oadby are defined on the Policies Map with the aims of:
  - a. preventing the merging of settlements;
  - b. guiding development form;
  - c. providing access from urban areas into green spaces/open countryside; and
  - d. providing recreational opportunities.
 and that Development within Green Wedges will be permitted subject to its criteria'.
- GD8 Good design in development sets out that Development will be permitted where it achieves a high standard of design, including meeting criteria set out.
- GD9 sets out Minerals Safeguarding Areas

1.8 Local Plan Policies H1 – H6 relate to Housing:

- H1 sets out:

In addition to delivery of existing commitments and completions and the allowance for windfalls, land for a minimum of 3,975 new homes will be provided during the plan period to 2031 in the following locations:

1. at Scraptoft about 1,200 dwellings in a Strategic Development Area on land north of Scraptoft, in accordance with Policy SC1;
2. at Market Harborough a minimum of 1,078 dwellings, in the following allocations:
  - a. Overstone Park - about 600 dwellings in accordance with Policy MH1;
  - b. East of Blackberry Grange, Northampton Road - about 350 dwellings in accordance with Policy MH2;
  - c. Bummill Farm - a maximum of 128 dwellings in accordance with Policy MH3;
3. at Lutterworth about 1,260 dwellings in a Strategic Development Area on land east of Lutterworth, in accordance with Policy L1;
4. at Fleckney about 130 dwellings, in an allocation: land at Arnesby Road in accordance with Policy F1;
5. at the following other Rural Centres, a minimum of:
  - a. Billesdon -10;
  - b. Houghton on the Hill - 20;
6. at the following Selected Rural Villages, a minimum of:
  - a. Bitteswell - 30,
  - b. Church and East Langton - 30,
  - c. the Claybrookes - 12,
  - d. Dunton Bassett - 40,
  - e. Hallaton - 30,
  - f. Lubenham - 5,
  - g. Medbourne - 30,
  - h. South Kilworth - 19,
  - i. Swinford - 31,
  - j. Tilton on the Hill - 35,
  - k. Tugby - 15.

- H2 sets out what Affordable Housing is required.
- H3 rural exception sites sets out when proposals for affordable housing on small sites in rural areas that would not normally be permitted for housing will be approved by exception.
- H4 sets out that the provision of well-designed specialist forms of accommodation in appropriate locations will be supported, taking into account housing needs.

- H5 Housing density, mix and standards includes new housing development will be permitted where, amongst other things, it makes efficient use of land; provides a mix of house types that is informed by up to date evidence of housing need; on sites capable of providing 100 dwellings or more, should meet the accessible and adaptable standards in Building Regulations; self-build and custom build housing will be sought on housing allocations capable of providing 250 or more dwellings.
- H6 provides for Gypsy, Traveller and Travelling Showpeople accommodation.

#### 1.9 Local Plan Policies BE1 to BE5 relate to Business and employment.

- BE1 states locations that in addition to the delivery of existing commitments, a minimum of 59 hectares for office B1(a) and (b), industrial B1(c) and B2, and storage and distribution B8 will be provided and where rural economic development will be permitted.
- BE2 sets policy for existing employment areas.
- BE4 sets out that where development will be permitted within the area of Bruntingthorpe Proving Ground.
- BE5 sets out that where development will be permitted within the area of Leicester Airport

#### 1.10 Local Plan Policies RT1 – RT4 relate to retail, town centres and tourism.

- RT1 provides for additional retail provision will be made for a minimum of 4,300 sq.m (gross) of convenience floorspace and a minimum of 10,100 sq.m (gross) of comparison floorspace. It includes Market Harborough and East of Lutterworth allocations.
- RT2 town and local centres sets out the vitality and viability of the following retail hierarchy of city, town, district and local centres will be maintained and enhanced.
- RT3 Shop fronts and advertisements sets out when New shop fronts and advertisements will be permitted.
- RT4 Tourism and leisure sets out policy to maximise and tourism and leisure opportunities for visitors and residents

#### 1.11 Local Plan Policies HC1 – HC3 Heritage and community assets.

- HC1 sets out that Development affecting heritage assets and their settings will a. be appraised in accordance with national policy; and be permitted where it protects, conserves or enhances the significance, character, appearance and setting of the asset, including where possible better revealing the significance of the asset and enabling its interpretation. It includes that where proposed development would lead to less than substantial harm to the significance of a designated heritage asset and/or its setting, this harm will be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In addition it includes that development within or affecting a Conservation Area will be permitted where it preserves or enhances the character or appearance of the Conservation Area, including local design and materials
- HC2 sets where development will be permitted at existing community facilities; for new facilities and which would result in the loss of existing community facilities.
- HC3 sets outs policy for public houses, post offices and village shops and includes when development involving the loss of an existing public house, post office or village shop selling primarily convenience goods will be permitted.

#### 1.12 Local Plan Policies GI1 – GI5 set out Green infrastructure policy.

- GI1 provides for Green infrastructure networks.
- GI2 sets out The District's open space, sport and recreation facilities and any future additional facilities provided as part of new development will be safeguarded and enhanced through improvements to their quality and use.

- G13 Cemeteries sets out ways the Council will ensure sufficient burial provision continues to be provided in the District.
- G14 provides for Local Green Spaces and that the construction of new buildings on Local Green Space will not be permitted other than where appropriate.
- G15 Biodiversity and geodiversity includes for nationally and locally designated biodiversity sites to be safeguarded.

1.13 Local Plan Policies CC1 – CC4 relate to climate change.

- CC1 relates to Major development and Strategic Development Areas.
- CC2 relates to renewable energy generation
- CC3 manages flood risk
- CC4 provides for major development sustainable drainage.

1.14 Local Plan Policies IN1 – IN4 relate to Infrastructure

- IN1 includes that major development will be permitted where there is, or will be when needed, sufficient infrastructure capacity to support and meet all the requirements arising from it.
- IN2 provides for sustainable transport.
- IN3 Electronic connectivity includes that major development will only be permitted where adequate broadband infrastructure is to be made available to all residents and/or users of the development, and should incorporate a bespoke duct network, designed and implemented in cooperation with a recognised network provider, and where viable, a fibre to the premises (FTTP) solution.
- IN4 states water resources will be protected and water services provided and what development will be permitted in respect of this.

1.15 Part C of the Local Plan Places and sites has policies relating to:

- Scraftoft, Thurnby and Bushby.
- Market Harborough
- Lutterworth
- Fleckney
- The Kibworths

### Neighbourhood Plans

1.16 Made Neighbourhood Plans are part of the Development Plan (see above). The District currently has 20 'made' Neighbourhood Plans (April 2019).

### The National Planning Policy Framework

1.17 The National Planning Policy Framework (hereafter referred to as 'The Framework') most recently published in February 2019 replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.

1.18 The overarching policy objective of the Framework is the presumption in favour of sustainable development. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 8). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (paragraph 10). The presumption in favour of sustainable development is at the heart of the Framework.

1.19 The Framework indicates that where development accords with an up to date DP it should be approved (paragraph 11). The weight to be accorded to housing supply

policies are subject to the ability of the LPA (hereafter referred to as the 'LPA') to demonstrate a 5 year housing land supply and this is discussed in more detail below.

1.20 Paragraph 11 of the Framework states Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 states: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.

1.21 Paragraph 13 states the application of the presumption has implications for the way communities engage in neighbourhood planning. Paragraph 14 states:

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply<sup>8</sup>:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

d) the local planning authority's housing delivery was at least 45% of that required<sup>9</sup> over the previous three years.

1.22 Paragraph 109 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe

1.23 Paragraph 110 states that developments should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport

1.24 The Framework (59) sets out the Government's key housing objective, which is "to boost significantly the supply of housing".

- 1.25 Paragraph 67 sets out how LPA's should understand land available through a strategic housing land availability assessment.
- 1.26 Paragraph 72 states The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities.
- 1.27 Paragraph 124 states good design is a key aspect of sustainable development creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this.
- 1.28 Paragraph 127 advises that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 1.29 Paragraph 128 states applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot..
- 1.30 Paragraph 98 seeks to protect and enhance public rights of way and access
- 1.31 To support the move to a low carbon future, new development should comply with adopted local plan policies on the requirements for decentralised energy supply and seek to minimise energy consumption (Paragraph 153).
- 1.32 Paragraph 163 advises that in determining planning applications consideration should be given to ensuring flood risk is not increased elsewhere.
- 1.33 Paragraph 170-172 address the protection and enhancement of the natural and local environment
- 1.34 Paragraph 175-176 advises LPAs when determining planning "to conserve and enhance biodiversity".
- 1.35 To prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location (Paragraph 180).
- 1.36 In determining applications (paragraph 192), LPA's should take account of:
  - the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 131)
- 1.37 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be (paragraph 193)

- 1.38 Paragraph 57 makes reference to viability and states:  
'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'
- 1.39 Paragraph 29 states Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. Paragraph 30 states once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.
- 1.40 The Framework advises LPA's to approach decision-taking in a positive way to foster the delivery of sustainable development (paragraph 38) and seek to approve applications for sustainable development where possible
- 1.41 Paragraph 47 reiterates Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which requires all applications to be determined in accordance with the DP unless there are material considerations which indicate otherwise and advises the Framework is a material consideration in planning decisions.
- 1.42 In respect of planning obligations, the Framework (56) advises that these should only be used where it is not possible to address unacceptable impacts through a planning condition. They should, in addition, meet all of the following tests, which mirror those in the Community Infrastructure Levy Regulations 2010:
1. necessary to make the development acceptable in planning terms;
  2. directly related to the development; and
  3. fairly and reasonably related in scale and kind to the development.
- 1.43 Paragraph 55 advises planning conditions should be kept to a minimum and imposed only where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 1.44 Annex A to the Framework advocates how the Framework should be implemented.

#### National Planning Practice Guidance

- 1.45 The National Planning Practice Guidance (PPG) published 6th March 2014 replaced a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process. The NPPG complements The Framework.

- b) Other Relevant Documents
  - o Community Infrastructure Levy Regulations

1.46 The Community Infrastructure Levy (hereafter referred to as 'CIL') is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities to help deliver infrastructure to support the development of their area.

1.47 Regulation 122 of the CIL Regulations 2010 introduced into law three tests for planning obligations in respect of development that is capable of being charged CIL. This includes most buildings. Obligations should be:-

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

#### Circular 11/95 Annex A - Use of Conditions in Planning Permission

1.48 Although publication of the PPG cancelled Circular 11/95, Appendix A on model conditions has been retained. These conditions are not exhaustive and do not cover every situation where a condition may be imposed. Their applicability will need to be considered in each case against the tests in paragraph 206 of the Framework and the guidance on the use of planning conditions in the NPPG.

#### Supplementary Planning Guidance

1.49 A series of guidance notes were adopted as Supplementary Planning Guidance (hereafter referred to as 'SPG') to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed (19th December 2011) to retain the said SPGs new Supplementary Planning Document (SPD) is produced.

#### 5 Year Housing Land Supply Statement

1.50 The Council produces annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest position (June 2019) concludes that the Council now has a 7.04 year housing land supply.

#### Planning Obligations Developer Guidance Note

1.51 The Planning Obligations Supplementary Planning Document (SPD) was adopted September 2016 and published January 2017. It sets out the range of infrastructure, services and facilities that the Council will normally seek to secure via planning obligations in relation to development proposals within the District.

1.52 The SPD advises if the requirement for developer contributions or for the provision of infrastructure result in viability concerns being raised it will be the responsibility of the applicant to provide an independent financial viability assessment to substantiate the situation. If the assessment is accepted as reasonable the Council may request lower contributions for a particular Site provided that the benefits of developing the Site outweigh the loss of the developer contribution.

1.53 There are two supporting documents associated with this SPD:



- Provision for Open Space, Sport and Recreation 2015 which provides details of the arrangements for assessing contributions to open space; and
  - Assessment of Local Community Provision and Developer Contributions (October 2010) which provides additional evidence to support the case for developer contributions to local indoor community and sports facilities.
- o Statement of Requirements for Developer Contributions in Leicestershire
- 1.54 The Statement of Requirements for Developer Contributions in Leicestershire is the County Council's Planning Obligations Policy (July 2019).

#### District Wide Landscape Character Assessment and Landscape Capacity Studies)

- 1.55 These assessments included an identification of Landscape Character Areas and a detailed analysis of the sensitivity of land around the edge of settlements and capacity to accommodate future development principally in landscape terms
- o District wide Landscape Character Assessment (September 2007)
  - o Market Harborough Strategic Development Area Landscape and Visual Assessment (June 2012)
  - o Leicester PUA Landscape Character Assessment and Landscape Capacity Study (September 2009)
  - o Lutterworth and Broughton Astley Landscape Character Assessment and Landscape Capacity Study (December 2011)
  - o Market Harborough Landscape Character Assessment (April 2009)
  - o Rural Centres Landscape Character Assessment and Landscape Capacity Study (July 2014)

#### Leicestershire Local Transport Plan

1.56 The 3rd Leicestershire Local Transport Plan (LTP3) covers the period 2011-2026. It sets out the transport vision and longer term strategy for the County and identifies priorities and objectives to help deliver the vision. Objectives include tackling congestion, improving access to facilities for all, reducing the impact of transport on the environment, and improving road safety.

1.57 The LTP3 focuses, in particular, on the need to tackle congestion by increasing the use of public transport, walking and cycling with less growth in car mileage. This would be achieved by improving access to facilities including employment, education, health care and food shops.

#### Leicestershire Highway Design Guide

1.58 The Leicestershire Highway Design Guide deals with highways and transportation infrastructure for new developments

#### National design guide (October 2019)

1.59 The national design guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. It forms part of the government's collection of planning practice guidance and should be read alongside the separate planning practice guidance.

#### Planning (Listed Buildings and Conservation Areas) Act 1990

- 1.60 Sections 66 & 72 impose a duty on Local Planning Authorities to pay special regard/attention to Listed Buildings/assets and Conservation Areas, including setting, when considering whether to grant planning permission for development. For Listed Buildings/assets, the Local Planning Authority shall “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” (Section 66) and for Conservation Areas “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area” (Section 72).

#### Public Sector Equality Duty

- 1.61 Section 149 of the Public Sector Equality Act 2010, introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

#### Highway Works and adoption.

- 1.62 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. For further information, including contact details, are available on the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide](http://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide)