

## REPORT TO THE EXECUTIVE MEETING OF 13<sup>th</sup> November 2018

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<b>Meeting:</b>	<b>Executive</b>
<b>Date:</b>	<b>13<sup>th</sup> November 2018</b>
<b>Subject:</b>	<b>Local Plan Modification</b>
<b>Report of:</b>	<b>Strategic &amp; Local Planning Manager</b>
<b>Portfolio Holder:</b>	<b>Cllr King</b>
<b>Status:</b>	<b>For Recommendation</b>
<b>Relevant Ward(s):</b>	<b>All</b>

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### 1. Purpose of the Report

- 1.1 The purpose of this report is to enable the Executive to consider potential modifications to Policy BE2 – Strategic Distribution of the Harborough Local Plan (submission version) 2011-31.

### 2. Recommendations:

- 2.1 **That the Executive recommends to Council that Policy BE2 of the Harborough Local Plan 2011-31 (submission version September 2017) is modified to allocate land adjoining Magna Park to meet the limit of 700,000 square metres in Policy BE2 (Appendix A), subject to paragraph 4.7 of this report.**

### 3. Summary of Reasons for the Recommendations

- 3.1 The Council submitted the Harborough Local Plan 2011-2031 to Government for examination in March 2018. The examination hearings were held from 2<sup>nd</sup> to 11<sup>th</sup> October 2018. At the end of the hearings the Inspector expressed his preliminary views (without prejudice to his final report) that the plan is sound subject to certain modifications – it is normal for plans to require modifications.
- 3.2 Most of these modifications do not require additional work. However, following the submissions at the hearings, the Inspector has asked the Council to do some more work related to Policy BE2: Strategic Distribution (see Appendix A for the full Policy wording), to assist him in his consideration of the soundness of the Local Plan.

3.3 Policy BE2 allows development of up to 700,000 square metres of Strategic Distribution floor space adjoining Magna Park subject to certain criteria, but does not allocate a specific site (or sites) to meet this limit. It is a 'criteria based' policy. The Local Plan Inspector expressed some concern about managing such a significant matter through a 'criteria based' policy.

#### 4. **Key Facts**

4.1 The Inspector has asked the Council to decide what it wants to do concerning Policy BE2 and there are three reasonable options:

1. Remove Policy BE2 from the Plan;
2. A "*sub-optimal option*" (as described by the Inspector) of providing further evidence to fully justify a 'criteria based' approach in the existing policy;
3. Allocate a specific site (or sites) to positively manage any growth of Strategic Distribution in the plan period.

4.2 *Option 1: Remove the Policy* - carries with it significant risk as it would leave the Council in a similar situation as it has been for a number of years – without an up-to-date policy to manage planning applications for Strategic Distribution over the plan period. This could leave the Council more vulnerable to speculative applications for Strategic Distribution across the District.

4.3 *Option 2: Justify the existing 'criteria based' approach* – this was described by the Inspector as 'sub-optimal'. One of the Inspector's main concerns was that the policy as it stands did not amount to "*positive planning*" because it did not give certainty (to the community etc.) about what was going to happen at Magna Park. Without identifying a specific site it is very difficult to accurately quantify any local impact that development of up to 700,000sq m may have. As it stands the policy effectively leaves a large amount of development 'hanging' without an allocation. If the Council were to continue with this line, it would add significant delays to compile the necessary work, without any guarantee that it would satisfy the Inspector that the plan is sound.

4.4 *Option 3: Allocate* - The Inspector indicated that allocating a site (or sites) could be a positive way to proactively manage Strategic Distribution going forward. This would give the Council more control and make it less vulnerable to speculative applications in the future. It is however for the Council to justify the amount of Strategic Distribution uses that could come forward. It would be difficult to justify an amount different to 700,000sq m in the existing policy based on the available evidence. The submitted plan demonstrates that up to 700,000 sq m could be accommodated without undermining wider objectives, and evidence submitted with a planning application that meets this quantum of development (15/01531/OUT), demonstrated that there was sufficient headroom in demand for this amount of floor space. The planning

application did not attract any objections from statutory consultees - the only reason for refusal relates to landscape matters which were scheme specific (i.e. it wasn't refused because the 'principle' of development was unacceptable in this location which the local plan is dealing with now, or refused because of the quantum of development).

- 4.5 In summary, Option 1 could leave the Council open to further speculative applications. Option 2 is "*sub optimal*" and would result in potentially significant delays without any degree of certainty that approach will be sound. Therefore Option 3 appears to be the best way forward in terms of getting the plan adopted as soon as possible and helping the Council to positively manage speculative Strategic Distribution applications going forward.
- 4.6 **Officers advice is therefore that the Council allocates a specific site adjoining Magna Park to meet the 700,000sq m limit for Strategic Distribution in the existing Policy BE2 (Appendix A) to make the plan sound.** It should be noted that about 380,000sq m of the 700,000sq m already has planning permission.
- 4.7 If the Council chooses to allocate up to the 700,000sq m limit then the evidence submitted with the planning application adjoining Magna Park (15/01531/OUT) could be used to help justify allocating a site with minimal delays to the examination process. This evidence is already published as part of the planning application and will be added to the Local Plan evidence base. Some additional work may also be required to ensure the evidence is up-to-date and appropriate, including that there is sufficient headroom in demand to accommodate this amount of development at Magna Park without undermining other plans/programmes in the wider area. This additional work will be available for the Council meeting at which the matter is considered. Should any additional work required demonstrate that allocating up to the 700,000sq m limit would not be appropriate, it will be brought to Council for it to decide an appropriate way forward for Policy BE2.
- 4.8 This approach will allow the Council to present the full evidence base to justify the appropriate size of allocation that ought to be made at/adjoining Magna Park to meet the limit of 700,000sq m, in order to positively and soundly manage the growth of Strategic Distribution uses in the District. Any delays to the adoption of the Local Plan will also be minimised as the bulk of the evidence already exists and is publically available through the planning application process.

*Potential consequences of not allocating land at/adjoining Magna Park for an appropriate amount of Strategic Distribution in the Local Plan*

- 4.9 The main likely consequence of failing to make a positive allocation for evidence based additional Strategic Distribution provision in the locality of Magna Park could be that the District is more susceptible to speculative planning applications or the Local Plan is not found to be sound. This would apply to the whole Plan as the Inspector is

unable to find most of the Plan sound: he must find the whole plan sound and the Inspector has indicated in the Examination Hearings that he considered there to be an “*element of unsoundness*” in the current ‘criteria based’ approach to managing growth at Magna Park in Policy BE2 of the submitted Local Plan.

- 4.10 This means that the Council would not be able to adopt the Local Plan and would not have an up-to-date Local Plan in place. In officers’ opinion this could have far reaching consequences for the Council concerning the extent to which the Council would be able to positively manage development in its area. Applications would fall to be considered against the ‘tilted balance’ in the presumption in favour of sustainable development in the National Planning Policy Framework. It would be highly likely that the Council would receive significant numbers of speculative planning applications for housing and employment (including Strategic Distribution) across its area that it would find difficult to manage.
- 4.11 It is this scenario that the Council have been seeking to remedy during the last few years by preparing an up-to-date Local Plan. There is a risk that the effort, time, committed resource and careful consideration of the submitted plan would be wasted with potential considerable associated reputational damage.

*Relationship with the planning appeal for planning application (15/01531/OUT) due to be heard in March 2019*

- 4.12 If the Council allocates Strategic Distribution uses on land subject to the planning appeal, then it would not prevent the Council from defending its decision to refuse permission at the forthcoming planning appeal.
- 4.13 The reasons for refusal were related to landscape impact of the particular proposal before the Planning Committee at the time and not to the ‘principle’ of Strategic Distribution uses in this location.

**5. Resource Issues**

- 5.1 The bulk of the additional work required to allocate up to the 700,000 sq m limit for Strategic Distribution uses in Policy BE2, already exists as evidence to support planning applications. It is anticipated that any additional work could be funded from existing budgets, should the Council choose this option.

**6. Equality Implications**

- 6.1 The Local Plan will support the sustainable provision of new homes and jobs and assist the Council in meeting its duties under the Equality Act 2010 and Housing Act 2004.

- 6.2 An Equalities Impact Assessment has been prepared relating to the Local Plan and was submitted to Government with the Local Plan. This will be updated as appropriate during the Examination.

## **7. Risk Management Implications**

- 7.1 A timely decision will help to avoid delay to adopting the Local Plan with consequent beneficial effect on the following Corporate Risks:
- 7.2 CR 08 Risk of challengeable planning decisions being taken relating to planning applications for residential development / Risk of planning appeals being upheld relating to residential planning applications.
- 7.3 CR 10 Local Plan Risks: lack of a sound Local Plan may lead to sporadic development and the inability to defend appeals.
- 7.4 Other risks are outlined in Section 4 above, including the risk of the Local Plan being found unsound and the risk of speculative applications.

## **8. Consultation**

- 8.1 Consultation has taken place with the Local Plan Executive Advisory Panel on earlier versions of the emerging Local Plan and on its constituent policies. Consultation has also taken place with other Council services, including detailed discussion with Development Management. There has also been liaison with statutory consultees and Duty to Cooperate partners. A further round of consultation on any main modifications to the Local Plan (including Policy BE2) will be carried out as part of the examination process.

## **9. Options Considered**

- 9.1 Options considered are set out from paragraph 4.1 above. Other options include withdrawing the Local Plan which is not considered reasonable given the resource that has been devoted to it so far and the potential development implications for the district.

## **10. Background Papers**

Harborough Local Plan 2011-2031 (submission version September 2018)

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Information Issued Under Sensitive Issue Procedure: N

**Ward Members Notified: N/A**

**Appendices:**

**Appendix A: Policy BE2 from the Harborough Local Plan 2011-2031 (submission version September 2018)**

**Appendix A – Harborough District Local Plan 2011-2031 (submission version) Policy BE2:**

**BE2 Strategic distribution**

1. Magna Park, as identified on the Policies Map, is safeguarded for strategic storage and distribution (Class B8). Proposals for redevelopment at the existing site will be permitted where:
  - a. each unit has at least 9,000 sq.m. gross floorspace; and
  - b. any new building or the change of use of an existing building(s) is for Class B8 and ancillary use only; or
  - c. the proposal for any non-strategic storage and distribution use is small-scale, proportionate in scale to the strategic storage and distribution use and ancillary to the use of individual plots.
2. Additional development of up to 700,000 sq.m. for non rail-served strategic storage and distribution (Class B8) use will be permitted where it would:
  - a. form an extension of, or be on a site adjoining, Magna Park;
  - b. support or at least have no adverse impact on the viability and deliverability of existing or further Strategic Rail Freight Interchanges (SFRIs) within or serving neighbouring authorities and Leicestershire;
  - c. increase employment opportunities for local residents, including training and apprenticeships;
  - d. include measures to enable an increase in the proportion of the workforce commuting from locations within Harborough District;
  - e. not lead to severe traffic congestion anywhere on the nearby strategic and local road network, particularly the A5, whether within Harborough District or outside; and
  - f. ensure 24 hour operations do not have an unacceptable environmental, community or landscape impact in the immediate and wider surrounding area.