

All Agenda Items Common Planning Policy (September 2018 onwards)

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.

a) 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 Core Strategy adopted November 2011;
- The saved policies of the Harborough District Local Plan adopted April 2001
- 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.

o Harborough District Core Strategy

1.5 The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028.

1.6 Policy CS1 sets out the spatial strategy for Harborough which is to "maintain the District's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services".

1.7 Policy CS2 sets out the housing land requirement and distribution.

1.8 Sun-section (b) of Policy CS2 advises all new developments should be of the highest design standard (in conformity with Policy CS11) and have a layout that makes the most efficient use of the land and is compatible with the built form and character of the area in which it is situated; contain a mix of house types; and have a minimum density of 30 dwellings per hectare.

1.9 Policy CS3 deals with delivering housing choice and affordability and sets out a requirement for all residential development to contribute towards meeting affordable housing needs and states that a minimum number of 30% of dwellings are expected to be affordable dwellings, with a minimum of 40% of dwellings to be affordable within the two highest value sub-market areas of Harborough Rural South West and Harborough Rural North and Central. *Planning Policy Guidance gives specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. This follows the order of the Court of Appeal dated 13 May 2016, which*

give legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. These circumstances include that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm

- 1.10 Sub-section (a) of Policy CS3 states that where it can be demonstrated that these minimum requirements would make the development of a site unviable, a reduced percentage of affordable dwellings and/or change of tenure split will be negotiated.
- 1.11 Policy CS5 advises that the majority of future development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services for longer journeys and where local journeys may be undertaken on foot or by bicycle.
- 1.12 Policy CS8 policy seeks to secure a high quality, accessible and multi-functional green infrastructure network across both rural and urban areas of Harborough district which contributes to healthy lifestyles and a rich, diverse natural environment.
- 1.13 Policy CS9 requires new development to be directed towards the most sustainable locations; it will support and encourage the use of sustainable materials and construction methods and suggests that new non-residential developments over a certain size threshold should provide a percentage of energy on site.
- 1.14 Policy CS10 advises development will be directed towards areas at the lowest risk of flooding within the District. All new development will be expected to ensure that it does not increase flooding experienced in other areas and that surface water run off should be managed in all developments to minimise the net increase in the amount of surface water discharged into the local public sewer system.
- 1.15 In recognition of the importance of good design and the built heritage of the District, Policy CS11 seeks to ensure that the highest standards of design in new development will be achieved to create attractive places for people to live, work and visit. Heritage assets within the District, and their setting, will be protected conserved and enhanced, ensuring that residents and visitors can appreciate and enjoy them.
- 1.16 Policy CS12 aims to deliver the strategic objectives of the Plan and where appropriate, development will be required to contribute to funding elements of the Infrastructure Schedule (contained in Appendix 2 of the Plan), either by means of planning obligations entered into at the time of granting planning permission or in due course.

o Harborough District Local Plan – April 2011

- 1.18 The Plan was adopted in 2001 with an original end date of 2006. A small number of policies have been “saved” beyond that time.

b) Material Planning Considerations

o The National Planning Policy Framework

- 1.19 The National Planning Policy Framework (hereafter referred to as ‘The Framework’) published in July 2018 replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 1.20 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.

1.21 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.

1.22 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-date⁷, 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 proposed⁶; 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.

1.23 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:

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 required⁹ over the previous three years.

- 1.24 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
- 1.25 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
- 1.26 The Framework (59) sets out the Government’s key housing objective, which is “to boost significantly the supply of housing”.
- 1.27 Paragraph 67 sets out how LPA’s should understand land available through a strategic housing land availability assessment.
- 1.28 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.
- 1.29 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.
- 1.30 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.
- 1.31 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..
- 1.32 Paragraph 98 seeks to protect and enhance public rights of way and access
- 1.33 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).
- 1.34 Paragraph 163 advises that in determining planning applications consideration should be given to ensuring flood risk is not increased elsewhere.
- 1.35 Paragraph 170-172 address the protection and enhancement of the natural and local environment
- 1.36 Paragraph 175-176 advises LPAs when determining planning “to conserve and enhance biodiversity”.
- 1.37 To prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location (Paragraph 180).
- 1.38 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)

1.39 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)

1.40 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.'

1.41 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.

1.42 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

1.43 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.

1.44 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.

1.45 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.

1.46 Annex A to the Framework advocates how the Framework should be implemented. In particular it advocates.

- o National Planning Practice Guidance

1.47 The National Planning Practice Guidance (hereafter referred to as the NPPG) published 6th March 2014 replaces 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.

- o New Local Plan

1.48 On 3 December 2012 the Council resolved to prepare a new Local Plan for Harborough District. This document will provide the strategic planning framework for the District by rolling forward the Core Strategy and setting out allocations to deliver the strategy. It will take into account updated evidence including requirement figures in relation to housing, employment land and retail floorspace and will reflect the National Planning Policy Framework's 'presumption in favour of sustainable development'. At its appendix A the 3rd December 2012 has a review of core Strategy and NPPF compliance which includes:

Review of Core Strategy

NPPF Compatibility - Policies in need of review:

Policy CS1: Spatial Strategy

As the overarching policy, CS1 should include reference to 'presumption in favour of development' and may need to be changed to reflect any other policy changes.

Policy CS2: Delivering New Housing

The policy should take into account of objectively assessed housing needs for market and affordable housing and ensure sufficient flexibility to adapt to rapid change. Not building on the G L Hearn report evidence leaves the Council open to attack at appeal.

Policy CS4: Providing for Gypsy, Traveller and Travelling Showpeople Needs

The needs set context for identifying and maintain a 5 year supply of specific, deliverable sites against locally set targets and develop sites/broad locations for 6-10 years and where possible 11-15 years.

Policy CS6: Improving Town Centres and Retail

CS policy needs to define town centres and primary shopping areas based on a clear definition of primary and secondary frontages in designated centres and include policies that make it clear which uses will be permitted in such locations.

Policy CS7: Enabling Employment and Business Development

CS7f needs to be reviewed to reflect para 28 of the NPPF (supporting a prosperous rural economy) as it is overly restrictive at present in its approach to controlling the type of employment / business development in countryside locations.

Policy CS 11: Promoting Design and Built Heritage

Both sections of the policy would benefit from updating in order to improve content and clarity in light of the NPPF. In respect of the historic environment, the policy makes no reference to impact on significance or substantial and less than substantial harm in line with NPPF.

Policy CS12: Delivering Development and Supporting Infrastructure

On-going work in relation to CIL setting has identified a high risk of a funding gap. This could impact on the ability to deliver infrastructure and this policy along with the Infrastructure Schedule may need to be changed to reflect this work.

Policy CS17: Countryside, Rural Centres and Rural Villages

Policy needs to reflect paragraphs 28 (supporting a prosperous rural economy) and 55 (new isolated homes in the countryside) of the NPPF as it is overly restrictive at present in terms of development in the Countryside.

- 1.49 As part of the Local Plan preparation process, an Options Paper was consulted on in September/October 2015. This document set out 9 alternative options for locating housing and employment across the District and other proposed policy approaches. In May 2016, following the assessment of the options, Executive recommended a more detailed analysis of 4 selected options as follows:

- Option 2: Core Strategy distribution
- Option 4 (amended): Scraftoft North Strategic Development Area
- Option 5: Kibworth North and East Strategic Development Area
- Option 6: Lutterworth East Strategic Development Area

- 1.50 On 18th September 2017 the Council approved the Harborough Local Plan 2011-2031 Proposed Submission for consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The period for submission of representations ran from Friday 22nd September to 17th November 2017. The document sets out allocations for housing, employment and retail use as well as identifying land which should be protected.

The Local Plan Proposed Submission establishes a housing requirement figure of 12,800 dwellings between 2011 and 2031. This is based on the District's objectively assessed housing need (identified through the Housing and Economic Development Needs Assessment, 2017) and a 20% contingency uplift to allow for possible future circumstances affecting the supply of housing in the District, including potential unmet housing need from other Leicester and Leicestershire Housing Market Area local planning authorities.

Taking into account completions, commitments, neighbourhood plan allocations and delivery on anticipated windfall sites, land for a minimum of 4,660 dwellings is provided for in the Local Plan through:

- East of Lutterworth Strategic Development Area: This allocation lies to the east of the M1 at Lutterworth and will deliver housing and employment in a sustainable and largely self sufficient settlement. The site will deliver approximately 2,750 dwellings of which about 1,500 dwellings will meet housing requirements up to 2031;
- Scraftoft North SDA: This allocation lies to the north of Scraftoft village incorporating the current golf course. This new neighbourhood will deliver approximately 1,200 dwellings up to 2031; and
- Allocations in Market Harborough and Fleckney.

The Local Plan was subsequently submitted to the Secretary of State, via the Planning Inspectorate, for independent examination on 16th March 2018. This is in accordance with the Local Development Scheme (December 2017). An examination hearing is scheduled to commence October 2018.

b) Other Relevant Documents

o Community Infrastructure Levy Regulations

- 1.51 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.

- 1.52 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

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

- 1.53 Although publication of the NPPG 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.

- o Supplementary Planning Guidance

1.54 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 and link them to CS policies as applicable, until a new Supplementary Planning Document is produced.

- o 5 Year Housing Land Supply Statement

1.55 The Council produces bi-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 following July 2018 NPPF concludes that the Council now has a 6.94 year housing land supply.

The adopted Core Strategy (2006 to 2028) sets a housing target of 350 dwellings per annum, based on the now revoked Regional Spatial Strategy. However, the Core Strategy is more than five years old and therefore the five year supply is calculated using the local housing need figure of **542 dwellings per annum**, as required by paragraph 73 in the NPPF:

*"Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies³⁶, or against their **local housing need where the strategic policies are more than five years old³⁷".***

The Leicestershire Strategic Housing Market Assessment (hereafter referred to as the SHMA) requirement is 475 dwellings per annum. The Leicester and Leicestershire Housing and Economic Development Need Assessment (**HEDNA**) now supersedes the SHMA and becomes the latest up to date evidence of housing need used to inform the submitted Local Plan. The HEDNA OAN figure of 532 dwellings per annum is currently subject to Examination by the Planning Inspectorate. The **Local Housing Need** of 542 per annum has been arrived at by using the standard methodology set out in the 2018 NPPF and the Housing Delivery Test rulebook. Post local plan adoption, subsequent five year housing supply position statements will be calculated using housing requirement figures drawn from the adopted version of the Local Plan.

- o Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) and The Leicester and Leicestershire Housing and Economic Development Need Assessment (HEDNA) and Local Housing Need.

1.56 The Leicester and Leicestershire Strategic Housing Market Assessment (hereafter referred to as the SHMA) uses population and economic forecasts to predict the number and type of new homes needed to accommodate the growing population in the period to 2031 and to 2036 which will inform the new Local Plan for the District. The HEDNA recommends that meeting the full objectively assessed need for housing in the District requires building 10,640 dwellings between 2011 and 2031, or 532

dwellings on average per year during this period. This compares to the a total requirement of 7,700 dwellings planned for in the Core Strategy between 2006 and 2018, or 350 dwellings on average per year during this period. Similarly, following the publication of the updated NPPF (July 2018), the Local Housing Need calculation concludes an annual requirement 542 dwellings until a new Local Plan is adopted. This significant uplift in the number of dwellings required for the District is an important material consideration in the determination of this application.

o Strategic Housing Land Availability Assessment

1.57 The Strategic Housing Land Availability Assessment (hereafter referred to as the 'SHLAA') identifies Sites within the District with potential for housing; assesses their housing potential in terms of suitability, availability and achievability and assesses when they are likely to be delivered

o Planning Obligations Developer Guidance Note

1.58 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.

1.59 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.

1.60 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

1.61 The Statement of Requirements for Developer Contributions in Leicestershire is the County Council's developer contributions policy document. The document was approved as Leicestershire County Council policy in November 2014.

o District Wide Landscape Character Assessment and Landscape Capacity Studies)

1.62 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)

 - o Leicestershire Local Transport Plan
- 1.63 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.
- 1.64 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.
- o Leicestershire County Council 6C's Design Guide
- 1.65 The 6Cs Design Guide (hereafter referred to as 6CsDG) deals with highways and transportation infrastructure for new developments
- o 6C's Green Infrastructure Strategy
- 1.66 The 6C's Green Infrastructure Strategy (hereafter referred to as '6CsGIS') was prepared on behalf of a partnership of local authorities and agencies for the East Midlands, setting out a strategic spatial framework needed to safeguard, manage, and extend networks of Green Infrastructure.
- 1.67 The 6CsGIS indicates a Sub Regional Green Infrastructure Corridor along the Grand Union Canal and an Urban Fringe GI Enhancement Zone.

Planning (Listed Buildings and Conservation Areas) Act 1990

- 1.68 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

- 1.69 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.