



## Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Council 30 January 2024

Wards affected: All Wards

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### Leicester and Leicestershire Statement of Common Ground relating to housing and employment needs

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Report of Director (Community & Development Services)

#### 1. Purpose of report

- 1.1 To seek approval from Members to sign up to the Leicester and Leicestershire Statement of Common Ground to assist in preparation of a new Local Plan for Hinckley & Bosworth.

#### 2. Recommendation

- 2.1 That the Council become a signatory to the Leicester and Leicestershire Statement of Common Ground relating to housing and employment needs (Appendix A).

- 2.2 That Council notes that in becoming a signatory to the Leicester and Leicestershire Statement of Common Ground relating to housing and employment needs (Appendix A) the following apply:

- That the Council cannot progress its Local Plan within the current planning system without becoming a signatory;
- That the Council is signing up to 102 dwellings per annum, not 187 dwellings per annum, as set out in Appendix A; and
- That Council notes that Leicester City's unmet need stands at approximately 18,700 dwellings from 2020 to 2036. This identified unmet need results from a total need of 39,421 dwellings to 2036, a figure increased in 2020 through the Government imposed uplift of 35% to the 20 largest cities, adding in 9,712 dwellings or 607 to be delivered per annum to Leicester City's need.

### **3. Background to the report**

- 3.1 Planning legislation and the National Planning Policy Framework set out a requirement that all planning decisions, both delegated and made by Members, are taken in accordance with the development plan.
- 3.2 The development plan for the Borough consists of the Core Strategy, adopted in 2009, the Site Allocations and Development Management Policies DPD (SADMP), adopted in 2016 together with area action plans for Hinckley Town Centre, Earl Shilton and Barwell. The Core Strategy sets the overall planning framework for development in the Borough, including housing and employment targets based on the since-revoked East Midlands Regional Plan. A new local plan is being prepared to replace the Core Strategy and SADMP.
- 3.3 The Council previously consulted on a Regulation 19 Local Plan document in February and March 2022 and prior to this consulted on a draft local plan in summer 2021. At present, a new local plan has not been progressed to submission to the Secretary of State and in taking decisions on planning applications the Council relies upon policies contained within the Core Strategy and the SADMP.
- 3.4 Whilst policies of the SADMP are in broad accordance with the National Planning Policy Framework, a new local plan is required to allocate residential and employment development in the Borough, protect relevant important built heritage and open spaces and provide certainty for both residents and developers for long term growth. The Council continues to update its evidence base including working closely with neighbouring local planning authorities to provide consistency and value for money.
- 3.5 In progressing a new local plan the Council has to demonstrate that the plan is both sound and legally compliant. These are the key tests of an independent Examiner appointed by the Secretary of State during the Local Plan Examination in Public. The NPPF sets out that local plans are sound if they are positively prepared, including as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

#### Duty to Cooperate

- 3.6 The Duty to Cooperate is a legal requirement on local planning authorities for progressing new local plans. Should the Council, in submitting a new local plan for Examination, be found to be non-compliant with the Duty to Cooperate then the plan will not be progressed through Examination. For the Borough, the Duty to Cooperate applies to both neighbouring local planning authorities, including those outside of the county, and across Leicestershire as the identified Housing Market Area (HMA). This need to address planning matters across boundaries and outside of the Borough is because movement

of residents and employers is not limited to administrative boundaries, with movement of people and businesses across administrative borders.

- 3.7 The Duty to Cooperate has been present since 2011 following the revocation of regional planning. The Council's Core Strategy, adopted in 2009, is based on housing targets from the East Midlands Regional Plan which addressed matters of housing need across housing market areas. With the removal of regional planning, the Duty to Cooperate provides the legal basis for local planning authorities working to produce local plans, including housing and employment targets, that reflect the needs and constraints of neighbouring local planning authorities.
- 3.8 In order to demonstrate meeting the Duty to Cooperate to a Local Plan Examiner, statements of common ground are used to provide a record of partnership working. Statements of Common Ground are live documents that form part of the evidence base for a Local Plan and demonstrate that Local Plans have been produced in collaboration with others, including neighbouring local planning authorities and relevant statutory consultees on a topic basis where appropriate. Statements of Common Ground are encouraged in the NPPF to ensure that local plans are found sound through being effective.

#### Statement of Common Ground

- 3.9 The Leicester and Leicestershire Statement of Common Ground (SoCG) (Appendix A) has been produced collaboratively by all Leicestershire local planning authorities and seeks to resolve the issue of Leicester City Council's demonstrated unmet housing and employment needs. Leicester City have declared an unmet need for both housing and employment as their housing and employment requirements exceed their available land to build on within the administrative boundary. Leicester City Council submitted their Local Plan to the Secretary of State in September 2023 and their unmet need will be tested through their Examination in Public, likely to be in early 2024.
- 3.10 The SoCG seeks to apportion Leicester City's unmet need for housing and employment to 2036 and has been prepared by all district and borough councils in Leicestershire together with Leicestershire County Council. At present, all local authorities have signed the SoCG, including the County Council, with the exception of this Council. Harborough District Council deferred a decision on signing the SoCG at recent meetings in September, November and December 2023, however approved a recommendation to sign on 18 December 2023.
- 3.11 Leicester City's unmet need stands at approximately 18,700 dwellings and 23 hectares of employment land from 2020 to 2036. This identified unmet need results from a total need of 39,421 dwellings to 2036, a figure increased in 2020 through the imposed uplift of 35% to the 20 largest cities adding in 9,712 dwellings or 607 to be delivered per annum. The Leicester City Local Plan seeks to deliver approximately 21,000 dwellings through a combination of building on remaining greenfield sites, particularly to the northern and western areas to the administrative boundary, increasing density where possible and

building on brownfield / previously developed land. The Leicester City Local Plan proposes over 70% of new allocations to be on brownfield / previously development land sites.

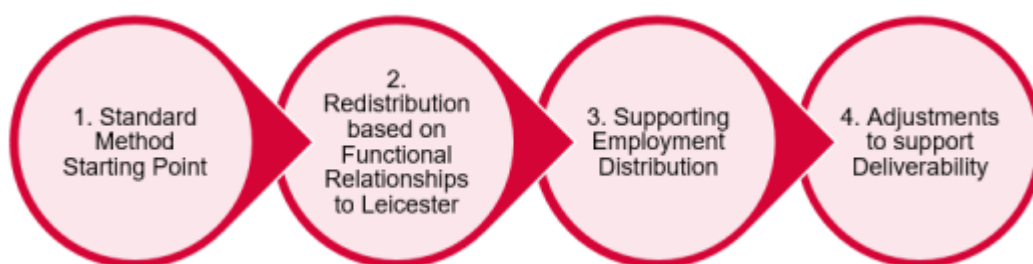
- 3.12 The identified unmet need of 18,700 dwellings will be tested through the Local Plan Examination process and will be particularly challenged by any landowners, developers and agents seeking to promote development sites within the city boundary. Whilst this will be tested, there is no current reason to challenge the unmet need figure proposed by the City Council. This figure has been demonstrated in their evidence base to be robust.
- 3.13 Should this unmet need figure be amended through the City's Examination then the SoCG will be amended to reflect this accordingly. Irrespective of the outcome of the City's Local Plan Examination, this Council will still have to demonstrate compliance with the Duty to Cooperate through its own local plan process.

#### Evidence supporting the SoCG

- 3.14 The SoCG is informed by a housing market area wide evidence base, including the following documents:

- Housing and Economic Needs Assessment (HENA) (Appendix B)
- Sustainability Appraisal (Appendix E)
- Strategic Growth Options
- Strategic Transport Assessment

- 3.15 The HENA Housing Distribution Paper (Appendix C) identifies the following steps in assessing the distribution of homes/unmet housing need across L&L:



The HENA considers housing provision across the HMA as a whole, having regard to a range of factors including, the functional relationship of each District/Borough with Leicester City, the balance of jobs and homes in each district/borough, and deliverability of the distribution of development, at a strategic level.

#### Redistribution of unmet need

- 3.16 For Hinckley & Bosworth, the starting point of the Local Housing Need (standard method) is 472 dwellings per annum. This figure is derived from the standard method as set out in national planning policy guidance and forms the

basis of the Council's 5 year housing land supply calculation. When the functional relationship of migration and commuting with Leicester City is factored in, an allocation of 102 dwellings per annum is added to the starting point to take account of Leicester City's unmet need. This is strongly informed by the proximity of Leicester City to Hinckley & Bosworth. There is no adjacent boundary between Hinckley & Bosworth Borough and Leicester City but they still have a commuting and migratory relationship, in consideration of supporting employment distribution, to promote a balance in the delivery of jobs and homes at a local level and limit the need to travel.

- 3.17 In addition to an identified additional 102 dwellings per annum to be redistributed to the Borough from Leicester City, a second stage of redistribution relates to supporting deliverability. At this stage, the HENA reviews the distribution made by the previous stages and considers the deliverability of that distribution of development in relation to the existing housing stock growth for each of the local authority. Informed by annual growth in housing stock, the HENA proposes limiting stock growth at 1.4%. A final adjustment of an additional 85 dwellings per annum is made to the figure for Hinckley & Bosworth, with North West Leicestershire and Blaby the only other increases in the county, bringing the total to an additional 187 dwellings per year, or a total of 659 dwellings per year.
- 3.18 With regards to employment need, whilst there is an unmet need for 23 hectares of employment land within the HMA, the HENA Employment Distribution Paper (Appendix D) concludes that Charnwood Borough is best able to suitably meet this unmet need to 2036. This reflects the existing over-supply of employment land compared to Charnwood Borough's own needs; combined with the availability of employment sites and land in close proximity to the City.
- 3.19 The resulting distribution of unmet housing need across the Leicestershire HMA is demonstrated below:

| <b>Local Planning Authority</b>                | <b>Annual unmet housing need distribution (2020-2036 – dwellings per annum)</b> |
|--|---|
| Blaby District Council                         | 346   |
| Charnwood Borough Council                      | 78  |
| Harborough District Council                    | 123   |
| <b>Hinckley &amp; Bosworth Borough Council</b> | <b>187</b>  |
| Melton Borough Council                         | 69  |
| North West Leicestershire District Council     | 314   |
| Oadby & Wigston Borough Council                | 52  |
| <b>Total</b>                                   | <b>1,169</b>  |

Table 1: Distribution of unmet need 2020-2036

- 3.20 Taking into account the above identified redistribution of unmet need, this results in the following proposed housing provision, per annum, for each local planning authority.

| LPA                            | Local Housing Need (2022)(pa) | Unmet Need (pa) | Proposed redistributed provision (pa) | Total provision (pa) |
|--------------------------------|-------------------------------|-----------------|---------------------------------------|----------------------|
| Leicester City                 | 2,464                         | 1,169           | 0                                     | 1,295                |
| Blaby                          | 341                           |                 | 346                                   | 687                  |
| Charnwood                      | 1,111                         |                 | 78                                    | 1,189                |
| Harborough                     | 534                           |                 | 123                                   | 657                  |
| <b>Hinckley &amp; Bosworth</b> | <b>472</b>                    |                 | <b>187</b>                            | <b>659</b>           |
| Melton                         | 231                           |                 | 69                                    | 300                  |
| NW Leicestershire              | 372                           |                 | 314                                   | 686                  |
| Oadby & Wigston                | 188                           |                 | 52                                    | 240                  |
| Total                          | 5,713                         |                 | 1,169                                 | 5,713                |

Table 2: Leicestershire HMA housing need and proposed redistribution of unmet need

- 3.21 As set out in the SoCG signed now by eight local planning authorities, Hinckley & Bosworth Borough Council do not agree to the final step in the HENA Housing Distribution Paper (Appendix C) which considers deliverability (including housing stock growth) and apportions the additional 85 dwellings per annum of Leicester's unmet housing need. This position is not shared by the other authorities within the HMA. As such this is reflected in the matters of disagreement of the SoCG in Appendix A.

#### Implications for Hinckley & Bosworth

- 3.22 Signing up to the SoCG (Appendix A) as currently written, and signed by other local planning authorities, would be agreeing to take on the identified additional **102 dwellings per annum**, not the further redistributed 85 dwellings per annum, leaving the total redistributed housing provision for the Borough as **574 dwellings per annum** (472+102).
- 3.23 The Borough's current housing need is identified through the standard method as 472 dwellings per annum and forms the basis for calculating the Council's 5yr housing land supply. Signing up to the SoCG will not impact upon this figure for calculating the Council's 5yr housing land supply until a new local plan is adopted to a new housing target figure, instead providing a new housing provision target for plan making through the new Local Plan.
- 3.24 For the Council's new Local Plan, signing up to the SoCG and accepting an annual housing target of 574 dwellings per annum will result in a plan requirement (2020-2041) of 12,054 dwellings in total plus a suitable buffer.

This contrasts with a total provision of 9,912 dwellings (plus buffer) should the Council not sign the SoCG or 13,839 dwellings (plus buffer) should the Council take the full redistribution of 187 dwellings per annum (659 per annum total). As of March 2022, the Council could demonstrate a supply (commitments and completions) of 5,827 dwellings.

- 3.25 The majority of identified housing need is therefore generated from the Borough's own identified needs.
- 3.26 Becoming a signatory to the SoCG means that the Planning Policy Team will test the delivery of 12,054 dwellings for the Plan period through appropriate evidence for the new local plan. This evidence will include land availability, sustainability appraisal of options, infrastructure capacity and testing capacity of development options on the highway network. In an event that the evidence suggests that the plan delivery figure of 12,054 cannot be accommodated in the Borough within the Plan period, then the distribution of unmet need will be reviewed and updated as necessary.

#### Planning reform

- 3.27 Despite recent publicity around planning reform and the progress made by the Levelling Up and Regeneration Act 2023 ("The Act") through Parliament, the Duty to Cooperate remains in place as a legal requirement. This will ultimately be replaced by an alignment test, however there is no detail published as to what any alignment test will require and it is considered that a requirement for considering unmet need and for cooperation between local planning authorities for plan making will remain.
- 3.28 Whilst the Act proposes repealing the Duty to Cooperate, this will not come into force for current local plans, i.e. local plans being progressed under the current planning system and to be submitted to the Secretary of State by June 2025. Officers are currently working to this date with the Local Development Scheme being adopted in December 2022 and currently being updated. This has recently been confirmed in correspondence from Rachel McLean, Minister for Housing and Planning (Appendix G).
- 3.29 The Government published the new NPPF on 20<sup>th</sup> December 2023. Para. 11 (b) for the presumption in favour of development sets out that:
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area<sup>7</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.

- 3.30 Footnote 7 (para.11 (b) i.) then sets out a series of identified constraints that can be used as justification for restricting the scale of development in a plan area and include SSSIs, green belt, AoNBs, National Parks, ecology constraints and areas at risk of flooding or coastal change. Whilst the borough does include a limited number of SSSIs and limited ecology and flooding constraints, overall these list of constraints are not considered, at this stage, to be sufficient to justify the Council moving away from meeting its identified housing needs and any needs that cannot be met within neighbouring areas.
- 3.31 Signing up to the SoCG will enable the Council to demonstrate compliance with the Duty to Cooperate. It is noted that as written the Council will be signing up to an initial redistribution of 102 dwellings per annum rather than the 187 dwellings per annum identified when taking into account housing stock growth, thus leaving a further 85 dwellings per annum as unmet need across Leicestershire (1,360 in total 2020-2036). This additional 85 dwellings per annum will then be tested through the Council's Local Plan Examination as to whether this is justified and deliverable in the Borough in accordance with the Local Plan evidence.

## Risks

- 3.32 Should the Council not sign up to the SoCG, this carries a significant risk should the Council wish to continuing progressing its new Local Plan under the current planning system, with this considered to result in failing to meet the Duty to Cooperate, with any plan therefore not progressing.
- 3.33 Consequently, the Council will remain vulnerable to speculative development as at present, with the Council not being able to demonstrate an up to date development plan nor a five year housing land supply. The titled balance for decision making (National Planning Policy Framework para 11 (d)) will therefore remain in place for all planning applications for housing development until a new local plan is adopted.
- 3.34 Should the Council not sign up to the SoCG another option would be to not progress a new local plan under the current planning system, instead awaiting the LURB to gain royal assent and instead pause work on the Local Plan and await the new plan making reforms (currently subject to consultation until 18<sup>th</sup> October). Under the new planning reforms, Local Plans will be sped up to be a 30-month process from start to finish. As a two-tier authority, the Council is unlikely to be a pilot for any new planning reforms, instead the 30-month timescale would likely instead start in late 2025 at the earliest, with the Council having to have been selected for a particular 'wave', with adoption of a new local plan unlikely until 2028 at the earliest, more likely into 2029 or 2030 depending on which 'wave' the Council is invited to participate in. In the intervening time period, the Council would remain subject to the tiled balance with an out of date development plan.
- 3.35 In recently signing up to the SoCG last month, Harborough District Council obtained advice from both Kings Counsel (KC) and separate independent consultant advice, making both publicly available. The KC advice to



Harborough advised that there are no disadvantages to entering into the SoCG and considerable advantages in doing so, going as far to conclude that:

*'the balance of advantages is so great that it would at least be arguably irrational to refuse to do so'.*

- 3.36 The KC advice also highlights the flexibility built into the SoCG at para 5.4 with regards to any material changes in circumstances and advises that plan making should continue under existing provisions before the LURA is implemented, including meeting the Duty to Cooperate. Further, the advice received by Harborough is from a starting point of currently having an up to date adopted Local Plan and a 5yr housing land supply.
- 3.37 A further risk of not progressing the new Local Plan within the current planning system is a risk of Ministerial intervention. In September 2023 the Housing and Planning Minister wrote to Spelthorne Borough Council issuing a notice under section 27 of the 2004 Planning and Compulsory Purchase Act, preventing them from withdrawing their local plan from examination. This marked the first ministerial intervention in a local plan process in four years. Whilst further progressed and having submitted their local plan for examination, the intervention was justified as their last local plan was adopted in 2009 and that their replacement plan was at an advanced stage. Further ministerial intervention has subsequently taken place at Erewash Borough Council in November 2023, West Berkshire in December 2023 and the Secretary of State has also recently written to seven local planning authorities without an adopted Plan since 2004 requesting an urgent timetable.
- 3.38 As set out above, the Council's current plan consists of the Core Strategy, adopted in 2009, and the SADMP, adopted in 2016. Should the Council not sign the SoCG and not seek to progress the Local Plan, the risk of Ministerial intervention may increase given this recent precedent.
- 3.39 The SoCG has currently been signed by all parties in Leicestershire except for Hinckley & Bosworth. Not signing the SoCG at this time could also risk the progress of neighbouring local planning authority local plans, not just that of Leicester City that has been submitted but also North West Leicestershire Borough Council, Blaby Borough Council, Oadby and Wigston Borough Council and Harborough District Council and create a risk to the current good practice of positive partnership working across Leicestershire.

#### **4. Exemptions in accordance with the Access to Information procedure rules**

- 4.1 To be taken in public session.

#### **5. Financial implications [CS]**

- 5.1 None arising directly from the report.

## **6. Legal implications MR**

6.1 Set out in the report

## **7. Corporate Plan implications**

7.1 People

2. Maximise people's potential through employment and skills support

Place

2. Keep our town centres vibrant and viable

4. Improve the quality of existing homes and enable the delivery of affordable housing

Prosperity

1. Boost economic growth and regeneration by encouraging investment that will provide new jobs and places to live and work all over the borough

2. Support the regeneration of our town centres and villages

3. Support our rural communities

4. Work with partners to raise aspirations and boost opportunities for training, employment, and housing

6. Ensure businesses are supported to safeguard and maintain local employment opportunities

7. Provide direct investment in economic opportunities where opportunities arise and subject to the business case

## **8. Consultation**

8.1 Relevant internal consultations have taken place. External consultation on this matter is not required or appropriate. Consultations will take place separately on the emerging Local Plan as it progresses.

## **9. Risk implications**

9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

| Management of significant (Net Red) risks      |   |                  |
|--|---|------------------|
| Risk description                               | Mitigating actions  | Owner            |
| DLS.37 Consult with customers and stakeholders | Consultation and engagement is carried out in line with the council's published Statement of Community Involvement                          | Head of Planning |
| DLS.39 Develop partnership working             | Work with neighbouring authorities within the HMA to prepare and agree a Statement of Common Ground on housing distribution and unmet need. | Head of Planning |
| DLS.50 Compliance and regulation               | Preparation of Local Plan must be in accordance with the relevant legislation and guidance.   | Head of Planning |

## **10. Knowing your community – equality and rural implications**

10.1 The Local Plan is relevant to all communities within Hinckley and Bosworth Borough.

## **11. Climate implications**

11.1 Relevant actions from the borough's Climate Change Strategy:

- Minimise the carbon usage in new development through our local plan policies and development management decisions, ensuring new builds are in accordance with building regulation requirements and planning conditions
- Encourage active environments within new housing developments, leading to increased cycling and walking
- Work with businesses to increase the use of solar PV and install other low carbon measures to increase their energy efficiency

## **12. Corporate implications**

12.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
- Environmental implications
- ICT implications
- Asset management implications
- Procurement implications
- Human resources implications
- Planning implications
- Data protection implications
- Voluntary sector

Background papers: Local Plan – Local Development Scheme 2020 – 2025

Appendices:

- A – [Leicester and Leicestershire Statement of Common Ground](#)
- B – [HENA Report, June 2022](#)
- C – [Housing Distribution Paper, June 2022](#)
- D – [Employment Distribution Paper, June 2022](#)
- E – [SoCG SA report, June 2022](#)
- F – [SoCG SA non-technical summary, June 2022](#)
- G – [Letter from Minister of State for Housing and Planning to Clive Betts MP, Chair Levelling Up, Housing and Communities Committee](#)

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