

MATTER 1 – DUTY TO CO-OPERATE AND LEGAL COMPLIANCE

Issue 1a: Duty to Co-operate

Has the Council complied with the Duty to Co-operate (DtC) in preparing the Leicester Local Plan (the Plan)?

1. Does the Plan give rise to any strategic cross-boundary issues for which there is a Duty to Cooperate (DtC)?

Yes, the Plan gives rise to strategic cross-boundary issues for which there is a Duty to Cooperate. These are identified in Section 3.4 of the Statement of Compliance with the Duty to Cooperate (November 2022) [SD/12].

2. If so, has the Council engaged constructively, actively and on an ongoing basis with all of the relevant authorities and prescribed bodies on the 'strategic matters' applicable to the Plan and have they been resolved?

Yes. The Leicester Local Plan 2020-2036 has been prepared within the framework of the Leicester and Leicestershire Strategic Growth Plan [EXAM 1]. The Strategic Growth Plan is the result of continuous proactive collaboration between the participating local planning authorities (comprising all adjoining councils), Leicestershire County Council, and the Leicester and Leicestershire Enterprise Partnership. It sets out an agreed plan for strategic growth within Leicester and Leicestershire for the period to 2050. The Strategic Growth Plan is intended to be delivered through the Local Plans of the participating local planning authorities, and has been expressly prepared with the Duty to Co-operate in mind.

The Statement of Compliance with the Duty to Cooperate (November 2022) [SD/12], demonstrates the constructive, active, and ongoing engagement that has occurred between the Council, the relevant authorities, and the prescribed bodies on strategic matters. These are sustainable development or use of land that would have a significant impact on at least two planning areas, including sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have significant impact on at least two planning areas. Since publication of the Statement of Compliance with the Duty to Cooperate, regular engagement between the Leicester and Leicestershire authorities on strategic matters has continued through regular meetings of the Members' Advisory Group, the Strategic

Planning Group, the Planning Officers' Forum, and the Task & Finish Group; the purposes of each of these working groups are explained in Section 2 of the Statement of Compliance with the Duty to Cooperate. Additionally, throughout the local plan preparation process, the Council has had regular duty to cooperate meetings on strategic matters with each of the Leicestershire authorities, Leicestershire County Council, and prescribed bodies. The council can provide details of these meetings if requested by the inspectors.

The matter of the Council's unmet housing and employment need has been addressed through the signing of the Leicester & Leicestershire Authorities - Statement of Common Ground relating to Housing and Employment Land Needs (June 2022) [SCG/1] by all participating authorities.

Prior to the signing of SCG/1 by Harborough District Council (HDC) and Hinckley & Bosworth Borough Council (HBBC), Leicester City Council officers engaged extensively with the leaders of HDC and HBBC Councils to explain the situation and the potential implications of the SoCG going unsigned by any of the local planning authorities within the HMA. Evidence of this engagement can be seen in documents SCG/2, SCG/2a, SCG/2b, SCG/2c, and SCG/3.

Furthermore, the City Council has reached agreement with the Leicestershire authorities on the strategic matters of warehousing and logistics needs, as is evidenced in document SCG/4.

The Council has also engaged constructively, actively and on an ongoing basis with relevant authorities and stakeholders on matters pertaining to the Local Plan's strategic sites, resulting in the signing of documents SCG/5, SCG/6, SCG/7, and SCG/8.

3. Is this adequately evidenced by the Statement of Compliance with the DtC² and any supporting Statements of Common Ground (SoCG)? Has the Leicester & Leicestershire SoCG been signed by Hinckley and Bosworth Borough Council yet?

The Statement of Compliance with the Duty to Cooperate (November 2022) [SD/12] adequately evidences the regular engagement between the Council and all relevant authorities and between the Council and prescribed bodies up to the time of its publication.

Documents SCG/1, SCG/4, SCG/5, SCG/6, SCG/7, and SCG/8 further evidence the active and constructive engagement undertaken by the Council with relevant authorities, prescribed bodies, and relevant

stakeholders on strategic matters pertinent to the progression of a sound Local Plan.

Since submission of the Statement of Compliance with the DtC, a Statement on the consistency of the Green Wedge designation in Leicester and Leicestershire with the National Planning Policy Framework (2023) has also been agreed between the Leicester and Leicestershire authorities.

Since the publication of the Statement of Compliance with the DtC, the Council, relevant authorities, and prescribed bodies have continued to engage in duty to cooperate meetings on strategic matters.

Hinckley & Bosworth Borough Council are progressing their Local Plan, scheduled for submission to the Secretary of State by June 2025. The Local Plan is currently out for consultation at Regulation 18 stage. This Regulation 18 consultation includes a draft Plan housing target of 660 dwellings per annum (dpa) from 2020 to 2041. This housing target is based on the Council's standard method figure of 472dpa and allows for an additional 188dpa above the standard method figure to a total of 660dpa, to assist in meeting the City's overspill needs.

Hinckley & Bosworth Borough Council have signed up to the Leicester & Leicestershire Statement of Common Ground following a Council resolution on 30 January 2024. In signing up to the Statement of Common Ground the Council signed up to an apportionment of Leicester City's unmet need of an additional 102dpa, not the full extent of apportioned need of 187dpa. This was based on the initial redistribution of Leicester City's unmet need. A county wide evidence document remains outstanding at the time of signing the SoCG. This was one reason given for not signing up to the second stage of redistribution of unmet need to the Borough.

In moving forward through its Regulation 18 and onto the Regulation 19 consultations, Hinckley & Bosworth Borough Council rightly acknowledged the full extent of Leicester City's unmet need and with the final Plan target to be tested through the Borough's Regulation 19 consultation and onwards through its Examination in Public.

The current stage of the Local Plan, the Regulation 18 stage, has a draft Plan target of 660dpa with this considered to accommodate over and above the full extent of HBBC's contribution to meeting Leicester City's unmet need of 187dpa.

4. Does the evidence contained in the Statement of Compliance with

the DtC and the associated SoCG adequately demonstrate that the City Council has met the DtC in accommodating unmet needs?

Yes, paragraph 2.6 of the Statement of Compliance with the DtC demonstrates that there is agreement between the Leicester and all of the Leicestershire authorities that the city’s unmet housing and employment need will be met by the Leicestershire local planning authorities, and that at the time of submission, the Statement of Common Ground relating to Housing and Employment Land Needs (June 2022) [SCG/1] was going through the authorities’ governance processes. Since submission of the Statement of Compliance with the DtC, the SoCG has been fully signed.

Apportionment of Leicester City’s Unmet Local Housing Need 2020 to 2036

Local Planning Authority	Average Annual unmet housing need contribution 2020 to 2036 (dwellings)
Blaby District Council	346
Charnwood Borough Council	78
Harborough District Council	123
Hinckley and Bosworth Borough Council	187
Melton Borough Council	69
North West Leicestershire District Council	314
Oadby and Wigston Borough Council	52
Total	1,169

Apportionment of Leicester City’s Unmet Employment Need 2020 to 2036

Local Planning Authority	Apportionment (Hectares)
Blaby District Council	0
Charnwood Borough Council	23
Harborough District Council	0
Hinckley and Bosworth Borough Council	0
Melton Borough Council	0
North West Leicestershire District Council	0

Oadby and Wigston Borough Council	0
Total	23

5. Are there any 'strategic matters' on which the DtC has not been met? If so, what is the evidence to support this?

The DtC has been met in relation to all strategic matters as the City Council has engaged in regular constructive discussions on these matters with the relevant authorities and prescribed bodies, as is evidenced in Section 3.4 of the Statement of Compliance with the DtC.

Issue 1b: Other Legal and Procedural Compliance

Has the Council complied in all other respects with the legal and procedural requirements in preparing the Plan, as defined in Part 2 of the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Plan) (England) Regulations 2012 and the Conservation of Habitats and Species Regulations 2017 (as amended)?

Local Development Scheme

6. Has the Plan been prepared in accordance with the Council's Local Development Scheme (LDS)³? Are there any obvious omissions from the submitted Plan, in terms its overall scope as described in the LDS [SD13]?

The Plan has been prepared in accordance with the Local Development Scheme 2024 to 2027 [EXAM 5] in terms of its role, subject, coverage and in board alignment with its timing. In accordance with the LDS, the Plan does not include policies on waste management. This matter is intended to be dealt with in a separate Waste and Minerals Local Plan.

The LDS has been kept up to date during the plan making process with most recent changes in January 2024 reflecting changes in timescales. This has included a delay to the submission of the Plan from June to September 2023, which in turn has had an inevitable knock-on effect to other major dates. Ultimately, adoption of the Plan has been pushed back from May 2024 to April 2025. Timescales were also amended for the development of the Minerals and Waste Local Plan, as such the Council aims to commence its development in October 2024. The previous Version of the LDS 2022 to 2025 [SD/13] can be found on the Local Plan Examination webpage.

Due to unforeseen delays since Submission of the Plan, the Examination in Public is scheduled to commence in October and conclude in November 2024

which is 3 and 4 months behind the timetable in the LDS.

Consultation

7. Has consultation on the Plan been undertaken in accordance with the Council's adopted Statement of Community Involvement [SD11] and the minimum consultation requirements in the Regulations⁴? What evidence is there to demonstrate this and that representations submitted in response to the first Draft Plan have been taken into account as required by Regulation 18(3)?

Yes, public consultation has been carried out in accordance with the Council's Statement of Community Involvement [SD/11], and the requirements of the 2004 Act and 2012 Regulations. Due to the coronavirus pandemic, a temporary addendum to the SCI [SD/11a] was adopted in 2020 which sets out alternative communication and participation methods. This too has been scrupulously adhered to.

As outlined in the Regulation 22 Statement of Consultation (2023) [SD/9], four public consultations have been held over the course of the development process for the Plan. Of those, one was carried out in line with Regulation 18 of the Town and Country Planning Regulations in 2020 and the most recent consultation in 2023 was carried out in line with Regulation 19.

Sustainability Appraisal

8. Has the formulation of the Plan been based on a sound process of sustainability appraisal (SA), as set out in the Sustainability Appraisal of the Leicester Local Plan, dated September 2022. In particular:

a). Is the baseline evidence sufficiently up-to-date and therefore adequate?

Yes. An SA scoping report was prepared in 2016, early in the plan-making process. This provided an initial policy and sustainability context for the plan-making team, and an existing list of existing sustainability problems. Subsequent updates to the Sustainability Assessments were carried out as explained in Section 3.3 SA/SEA reports produced to date in document SD/4. The scoping information was summarised and updated in September 2022, as Section 4 of the SA report (SD/4). This was necessary as the intervening

policy and sustainability context had changed significantly, including changes due to Covid, Brexit, the 2021 Census, and revisions to the NPPF. The baseline SA information includes an analysis of:

- The policy context: Sec. 4.1 of SD/4 and Appendix 1 of the Scoping Report
- The sustainability context: Sec. 4.2 of SD/4 and Sections 5-15 of the Scoping Report
- Existing problems: Sec. 4.3 of SD/4

Since September 2022, some minor policy and sustainability changes have occurred, notably the policy requirement to provide net biodiversity gain. These have been taken into account by the planning team but are not included in the SA. The existing sustainability problems of Sec. 4.3 are felt to still be relevant.

Please note, since submission of the plan, a number of revisions have been made in August 2024 to the main report and appendices, a summary of which are contained in the updated Sustainability Appraisal document¹. These minor revisions do not have any implications for the substance of the report, its conclusions or planning decisions taken.

b). Does the SA test the policies and site allocations in the Plan against reasonable alternatives?

Yes. The SA report (SD/4) tests site allocations against reasonable alternatives.

It does not consider alternatives for individual policies but does consider alternatives for a range of strategic issues, some of which relate to specific policies. The assessment of alternatives strategies and allocations was carried out as part of the SEA/SA which preceded the development of individual policies. This also informed the development of the policies, which is considered good practice in SA.

Sec.6.1 of the SA tests different scales of growth and broad spatial strategies, informing Policy SL01:

- Scales of growth
- Spatial strategies
- Location of new employment development

¹ The update relates to minor alterations following a review of the SA subsequent to the Submission of the plan to Secretary of State. None of the alterations affect the substance of the document or the plan.

Sec. 6.2 considers alternatives for balancing and trading off between different types of land:

- Employment v Housing land – Informing Policy TCR04
- Approaches to open space, sports/recreation land and green wedges – informing Policies OSSR01, OSSR02 and OSSR04

Sec. 6.3 considers other approaches for dealing with high expected growth in a constrained area:

- Increasing density in city centre sites and around transport hubs – informing Policy Ho05
- Providing open space – Informing Policy OSSR03
- Space standards for buildings – Informing Policy Ho07

Sec. 6.4 considers other strategic level alternatives:

- Provision of affordable housing – informing Policy Ho04
- Location of future city centre retail, leisure and shopping uses – informing Policies CTR03 and CTR04
- Location of major leisure uses – informing Policy TCR04
- Location of shopping centre's outside the city centre – informing Policy TCR01
- Uses allowed in shopping centre's – informing Policy TCR05
- Approaches to transport infrastructure – informing Policy T01.

Appendix A of the SA report (SD/4a) shows the detailed appraisal results for all of the strategic alternatives.

Sec. 6.5 describes the process of identifying, assessing and choosing site allocations, and how the SA process informed this process. Almost 280 candidate sites, following the call for sites exercise were appraised as part of the SA process (Table 6.1), of which 58 sites were taken forward (Table 7.2). Appendices B (SD/4b) and C (SD/4c and SD/4d) show the detailed appraisals of, respectively, the Local Plan sites and sites not included in the local plan.

c). **Has the SA been robustly prepared with a comparative and equal assessment undertaken of each reasonable**

alternative?

Yes, to both c & d, which are interlinked and thus answered together (see d below).

d). Is the SA decision making and scoring robust, justified and transparent?

Yes, to both c & d, which are interlinked and thus answered together. The plan alternatives and policies were assessed using the SA framework of Table 4.3. Table 4.4 shows how the criteria in the SA framework link to the legal requirements of the SEA Directive. A draft version of the SA framework was made available for comment by the statutory consultees and the public. The final SA framework takes these comments into account.

Appendix A (SD/4a) shows the detailed appraisal of the alternatives. Every alternative was appraised using the same criteria, with commentaries provided to explain the reasons for the appraisal scores. The site alternatives were assessed using a different SA framework, shown at Tables 4.5 and 4.6 of the SA report (SD/04). The site appraisal relies on information about the site location (e.g. what flood zone it is in) and the distance of the site to various facilities/services and designations. Distances to GP's, Green Wedges, allotments, the train station and primary schools all relate to accessibility to services, hence less distance is better. Distance to SSSI's, Local Wildlife Site and water bodies relate to protection of sensitive features, hence greater distance is better.

The advantage of distance-related criteria is that they are consistent, with no subjective judgement involved.

The SA process is not intended to choose between alternatives (including sites), rather to inform such decisions. Other factors include higher-level policies, viability and technical feasibility, and political factors. However, the SA appraisals of the plan's alternatives, policies and sites give an overall view of the impacts of the plan and have been used by the SA and planning teams to help to identify measures to avoid or minimize these impacts.

e). Has the Council provided clear reasons for not selecting reasonable alternatives?

Yes. Section 6 of the SA report (SD/4) documents, for each set of alternatives, which is the preferred alternative and why that alternative is preferred. Sec. 6.5 explains the process of identifying and choosing site allocations, including reasons for not including seemingly sustainable sites in the plan (Table 6.3) and reasons for including seemingly unsustainable sites in the plan (Table 6.4).

f). **Is it clear how the SA has influenced the policies and allocations in the Plan and how mitigation measures have been taken account of?**

Yes. Section 8 of the SA report (SD/4) summarises changes made to the plan in response to two rounds of SA findings of 2020 and 2022. These changes include stronger policies on climate change and district heating, increased housing densities, a clear statement about biodiversity net gain, and emerging studies on the infrastructure/services needed at the large proposed development sites.

Further information about mitigation measures proposed by the SA and why they were or were not incorporated into the plan is provided at Appendix E (SD/4f).

g). **Have the requirements for Strategic Environmental Assessment been met, including in respect of the cumulative impacts of the Plan?**

Yes. Table 3.1 of the SA report (SD/4) shows that the legal requirements for SEA have all been fulfilled. The cumulative impacts of the plan are shown at Table 7.3: the table discusses the overall impacts of the plan policies plus site allocations. The SA report also focuses briefly on two areas of Leicester that will be particularly cumulatively affected by the plan: North-West Leicester and the Central Development Area.

Equalities Impact Assessment

9. Is the Equalities Impact Assessment [SD5] adequate? Does it demonstrate whether the policies and allocations of the Plan would have any negative effects on people with protected

characteristics in Leicester? Are further mitigation measures required?

The Council has completed an Equality Impact Assessment (2022) [SD/5] which has been submitted with the Local Plan. This has been updated at each local Plan stage and has complied with the Equality Act 2010. It has been produced with support from the Councils equalities team.

The purpose of this document is to demonstrate how the Plan, including specific policies where relevant, impacts the groups of protected characteristics. For each protected characteristic, the Equalities Impact Assessment describes the likely impact of the Plan and relevant policies; the risk of disproportionate negative impact; and mitigating actions where negative impacts are found.

Findings identified that the Plan policies have no differential or other negative impacts on these groups with either neutral or positive conclusions. In view of this, the council believes that no further mitigation measures are required.

Habitats Regulations Assessment

10. Is the Plan legally compliant with respect to the Habitats Regulations⁵, as interpreted by recent case law⁶, and any requirement for appropriate assessment? Does the Habitats Regulations Appropriate Assessment Screening Report (HRA), dated September 2022 ensure compliance?

The Habitats Regulations Assessment [SD/6] has been completed in line with the Habitats and Species Regulation 2017 and produced in line with the latest guidance around nutrient neutrality announced in August 2022. There has been no objection to the conclusions of this work by Natural England.

All relevant policies and site allocations within the Plan that may impact on SAC's, SPA's and RAMSAR's across Leicester and Leicestershire have been assessed, including cumulative impacts with neighbouring authorities.

11. Are any other Main Modifications to the Plan necessary to ensure it would not have any likely significant impacts in the light of the HRA?

The overall conclusions of the HRA finds that these sites are located outside of Leicester boundaries and are sufficiently far enough away for the policies to have little to no impact on the sites. This has been agreed with Natural England. Therefore, the Council believes that no main modifications are required in this regard.

Climate Change Policies

12. Does the Plan, taken as a whole, include policies designed to ensure that the development and use of land in Leicester contributes to the mitigation of, and adaptation to, climate change in accordance with the Act?

Yes. The Leicester Local Plan 2020 to 2036 Climate Change Topic Paper (2023) (TP/1) comprehensively sets out how the Plan, taken as a whole, includes policies designed to ensure that the development and use of land in Leicester contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended).

Superseded Policies

13. Does the Plan make clear which policies of the adopted development plan it would supersede, as required by paragraph 8(5) of the Regulations? Should the Plan contain a list of current saved policies to be replaced?

The New Local Plan is intended to supersede all current adopted Development Plan Documents, namely the Core Strategy (2014), Saved Local Plan (2006) policies and Supplementary Planning Documents.

However, the New Local Plan does not intend to supersede the Existing Minerals and Waste Plan. As stated in the Local Development Scheme [EXAM 5] and Paragraphs 1.6 and 1.8 of the New Local Plan.

The Council is content to include a modification detailing a list of saved policies to be replaced.