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Ask for: Richard Brown Planning Officer

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My ref:RB/LP/LCC/6

Your ref:

Dear Sir/Madam,

Representation from Charnwood Borough Council in response to the Leicestershire Minerals Development Framework and Leicestershire and Leicester Waste Development Framework (Submission Draft)

The Borough Council thanks Leicestershire County Council and Leicester City Council for the opportunity to comment on Leicestershire and Leicester Minerals and Waste Development Frameworks.

The Borough Council considered the documents at its Cabinet meeting 4th September 2008; and resolved that the statements that have been made in response to the consultation are endorsed and resubmitted to Leicestershire County Council and Leicester City Council for clarification. The statements that have been resolved to be resubmitted are set out at Appendix A to the Cabinet report. A copy of the relevant minutes and Cabinet report are attached for your information (minute 64 refers). The resubmitted statements include minor textual changes which improve the clarity of representations, but do not add or modify the statements that have already been submitted.

I would be grateful if this revised statement (Appendix A to the attached Cabinet Report) could be forwarded to the Planning Inspectorate for consideration during the examination of the Development Plan Documents.

Yours Faithfully

Richard Brown
Principal Planning Officer
Encs: Minutes
Cabinet Report

CABINET – 4TH SEPTEMBER 2008

Report of the Director of Development

ITEM 9 LEICESTERSHIRE AND LEICESTER WASTE DEVELOPMENT FRAMEWORK AND LEICESTERSHIRE MINERALS DEVELOPMENT FRAMEWORK

Purpose of Report

To advise Cabinet of the publication for a six-week period of consultation and the Submission to the Secretary of State of two Development Plan Documents:

- Leicestershire Minerals Development Framework Core Strategy & Development Control Policies;
- Leicestershire & Leicester Waste Development Framework Core Strategy & Development Control Policies.

The report summarises the two Development Plan Documents and the potential implications for Charnwood Borough are identified. A recommended response to Submission Draft consultations is presented at Appendix A for Cabinet Approval.

For clarity, in this report where the term ‘Minerals Development Framework’ is used it refers to the Leicestershire Minerals Development Framework Core Strategy & Development Control Policies. When the term ‘Waste Development Framework’ is used within this report it refers to the Leicestershire & Leicester Waste Development Framework Core Strategy & Development Control Policies.

Recommendation

That Leicestershire County Council and Leicester City Council are thanked for the opportunity to comment on the two Development Plan Documents, and the statements that have already been made in response to the consultation are endorsed and resubmitted to Leicestershire County Council and Leicester City Council for clarification, in the form of the document at appendix A (Appendix A includes minor textual changes which improve the clarity of representations).

Reason

To ensure that Charnwood Borough Council makes representations to the Secretary of State in respect of the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies, and Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies.

Policy Context

An objective within the corporate plan is for a sustainable Borough which minimises waste and increases recycling.

The two development plan documents will be used to guide the location of specific sites and policies featured in future minerals and waste local development documents. Any future allocations will also need to be shown on Charnwood Borough Council's proposals map where they affect this council's administrative area.

Background

Leicestershire County Council submitted its minerals development framework to the Secretary of State on the 23rd June 2008. At the same time Leicestershire County Council and Leicester City Council submitted their jointly prepared waste development framework. Consultation on both documents ran until on 4th August 2008.

Representations made in response to the two development plan documents will be forwarded to the inspector to be considered at the Examination In Public in due course. The Borough Council may be requested to participate in the Examination In Public based on the representations it has submitted.

The formal consultation period for the two development plan documents fell outside the period in which they could be considered by the Cabinet at Charnwood Borough Council. As such formal representations have already been submitted in response to the documents following consultation with the Cabinet Member for Planning and the Deputy Leader of the Council.

The six-week consultation period is statutorily defined. Comments received after this period cannot be considered by the Inspector. Cabinet has the opportunity to withdraw any of the representations that have been submitted or, to clarify the statements that have been submitted. However, it cannot add new representations or modify the representations to change their sense.

The representations that have already been submitted in response to the consultation on the two development plan documents are included at Appendix A. The wording in the appendix is different from what was originally submitted to the County Council and has been amended to reflect the final wording which we now recommend is sent as the Council's formal response. Amendments are marked in red in the appendix with additional text underlined and deleted text ~~struck through~~. Revisions to the text are to aid the understanding but do not change their sense.

It is hoped that both development plan documents will be adopted by the end of October 2009. Subsequent documents dealing with specific site allocations and policies will follow and are planned to be adopted by the end of February 2011. This timetable has been revised so that the Core Strategies can be approved in advance of other

development plan documents as recommended by the Government Office for the Midlands.

Revised Preferred Options consultation took place in November 2007 which responded to Government advice to this first consultation. The November 2007 Core Strategy Preferred Options set out a more clearly defined spatial vision and realistic options for delivering the vision. This reflected government advice which states that difficult decisions should be taken in the core strategy, rather than in later stages of the planning process.

At the Preferred Options consultation stage in November 2007 Charnwood Borough Council raised concern about the lack of transparency that potentially contentious facilities are put forward for public engagement and the explanation of the evaluation process for energy from waste. The Borough Council also indicated that the area around Loughborough and Shepshed does not represent a suitable location for strategic waste facility incorporating energy from waste. Given the timescales involved in adopting a Waste Core Strategy, the Borough Council questioned whether there would be an adequate planning framework in place to support the delivery of the Leicestershire Municipal Waste Strategy. Finally, the Borough Council stated that there should be reference in the Minerals Development Framework to joint working for proposals for a Charnwood Forest Regional Park

Waste Development Framework

The Waste Core Strategy sets out the County Council's approach for the long-term delivery of waste management facilities. It draws on a study that modelled a number of scenarios, which examined the distance needed to transport waste around the county. This work together with emerging regional policy has been used to identify the broad locations where strategic sites will be sought. This area has been identified as in or close to the urban areas in and around Leicester City, including the Principal Urban Area, and the urban areas between, and including, Loughborough and Coalville as indicated on the Key Diagram.

The Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies need to be read in conjunction with Leicestershire Municipal Waste Management Strategy. This latter document deals with the procurement of waste management facilities, and the Borough Council had previously raised concern about decisions being made in the procurement process not being explained transparently through the Core Strategy.

The procurement process has been running at the same time as the planning process within Leicestershire County Council. Leicester city Council has had a separate procurement process. The County Council procurement process¹ has identified at this stage that the best economic solution for the county is to develop an energy from waste

¹ Director of Highways, Transportation and Waste Management, Leicestershire County Council Cabinet 24th July 2007 refers

facility with combined heat and power. The County Council has now submitted a bid to Government for financial support through the Private Finance Initiative and if successful will proceed with the development of a tender process to identify a private sector partner company to plan, construct and operate new facilities. The tender process will not specify energy from waste but will seek proposals from companies for dealing with the county's municipal waste. It will be expected that there will be a range of proposals put forward which at that time will be compared against the energy from waste solution. The most effective option that meets the county's requirements for dealing with its municipal waste will be the one that is taken forward.

The evaluation for the procurement process examined a number of different options and assessed them against a number of different social, environmental and economic criteria. This evaluation process is not explained in the Waste Core Strategy document, and importantly different options are not reflected in the accompanying sustainability appraisal. It is not clear how the alternative options in the procurement evaluation exercise were used to arrive at a preferred option for the Core Strategy, or how the alternative options were put forward for public engagement.

National Forest/ Charnwood Forest

The Waste Core Strategy includes policies on the National Forest and Charnwood Forest. Importantly however they are not part of the overall vision for the framework area.

Development control Policies

There are 18 Development Control policies covering the protection of the environment, amenity, rights of way, air safeguarding and information required to support planning applications

Minerals Development Framework

The introduction to the Minerals Core Strategy notes that the current pattern of Minerals activity has emerged over several decades and that the impact of new minerals workings on the overall spatial pattern of mineral activity is unlikely to change to any significant extent over the period of the Development Framework. The strategy for the supply of minerals is to:

- Release land for the extraction of minerals where it is necessary to maintain an adequate supply;
- Give priority to the extension of existing sites;
- Allocate specific sites and areas to provide sufficient minerals reserves to meet anticipated need over the period of the minerals development framework;
- Allow minerals development outside allocated areas where it meets a proven need, it consists of a small scale extension to an existing site, it involves net

environmental benefits, the sterilisation of resources would otherwise occur;
and

- Allow proposals for minerals development only where it would not cause unacceptable harm to the environment or communities.

The Core Strategy sets out future provision for specific minerals as follows.

Aggregate Minerals

Aggregate (sand and gravel and crushed rock) are the most important minerals produced in the County in terms of volume. The most important sources of sand and gravel in Leicestershire are the sub-alluvial and river terrace deposits, which occur in the valleys of the Rivers Trent, Soar and Wreake. The Core Strategy indicates that provision will be made in the site allocations document for the release of additional sand and gravel reserves.

The principal sources of crushed rock in Leicestershire comprises the igneous rock around the flanks of the Charnwood Forest. The Core Strategy indicates that quarries producing rock aggregates generally require a longer security of reserves to justify investment in, for example, crushing rock equipment. This factor, coupled with the geological limitations mean that it is not considered appropriate at the current time to contemplate any new Greenfield sites for rock extraction, given the potential impact that such large scale development would involve, particularly within areas of the County where development is being strictly controlled. The policy on aggregate minerals allows for: release of reserves of crushed rock to be worked as extensions to existing extraction sites where they would be required to ensure a sustainable supply.

Brickclay

A brickclay operator exists at Charnwood Forest brick in Shepshed. As of the 1st January 2008 it was estimated to have 12 years worth of reserves. The Core Strategy policy for brickclay is to:

- Allow extensions to existing sites where they are required to support the levels of capital expenditure required to maintain and improve existing brick making plant and equipment;
- Allow new brickclay extraction sites only where it can be demonstrated that the land bank and production capacity cannot be maintained from existing sites and appropriate extensions to existing sites; and
- Allow proposals for brickclay extraction only where they will not cause unacceptable harm to the environment or communities.

Gypsum

An underground mine operates at Barrow-upon-Soar. There are no specific national guidelines covering the provision of gypsum. Gypsum reserves at the Barrow mine amount to around 20 million tonnes. Sufficient permitted reserves exist to allow the

continuation of operations at the Barrow works during the Minerals Development Framework period. Given the long lead in time for the development of new extraction areas, it is nevertheless recognised that it may be necessary to consider the release of additional gypsum resources during the Framework period.

Building and Roofing Stone

Historically a wide range of indigenous stone has been used for building purposes in Leicestershire. These rock types include igneous rocks of the Charnwood area and metamorphic slates from Swithland. The strategy for building and roofing stone is to allow proposals for operations where it can be demonstrated that the material would be used to preserve or enhance the character of historic buildings, the local distinctiveness of settlements and the historic environment of Leicestershire.

Energy Minerals

There are no coal reserves in Charnwood. The strategy for coal is to adopt a presumption against coal extraction unless a number of criteria outweigh the likely environmental impacts.

Some 10 Petroleum Exploration and Development Licenses have been granted covering large parts of north Leicestershire including Charnwood. Government advice seeks to realise the maximum economic exploitation of oil and gas reserves and sees a key role of the planning system to be concerned with the assessment of the environmental considerations of proposals. The strategy for oil and gas is to allow proposals for exploration, appraisal and production provided that the proposal is environmentally acceptable, would be sited to ensure least impact, and would facilitate the full appraisal and development of the resource.

New Energy Production Technologies

The technologies that are outlined in the Core Strategy relate to new coal technologies and underground gas storage.

National Forest/ Charnwood Forest

The Minerals Core Strategy includes policies on the National Forest and Charnwood Forest. Importantly however they are not part of the overall vision for the framework area.

Development Control Policies

There are 28 Development Control policies covering areas such as environmental protection, amenity and information needed to support planning applications,

Financial Implications

None

Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Insufficient waste sites being identified to meet the Borough's recycling targets.	Low	High	Ensure effective engagement with Leicestershire County Council in the preparation of the Waste Development Framework
Potentially contentious waste management facility on unallocated site being granted planning permission	Medium	High	Ensure effective engagement with Leicestershire County Council in the preparation of the Waste Development Framework

Key Decision: No

Background Papers:

- Charnwood Borough Council Cabinet Report 21st September 2006 Leicestershire and Leicester Minerals and Waste Development Frameworks
- Charnwood Borough Council Cabinet 16th March 2006 Leicestershire Municipal Waste Partnership Strategy and Action Plan
- Leicestershire County Council Cabinet 24th July 2007 Procurement of Longterm Waste Management Treatment Facilities
- Leicestershire County Council Cabinet 11th September 2007 Procurement of Longterm Waste Management Treatment Facilities
- Leicestershire County Council Cabinet 11th September 2007 Leicestershire Minerals and Leicestershire and Leicester Waste Development Frameworks
- Leicester City Council Full Council 15th May 2008 Leicestershire and Leicester Waste Development Frameworks

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Appendix A

NB: additional text shown in red and underlined. Deleted text also shown red but ~~struck through~~

Recommended Response

At the Preferred Options consultation stage in November 2007 Charnwood Borough Council raised the following concerns:

- the lack of transparency that potentially contentious facilities are put forward for public engagement and the explanation of the evaluation process for energy from waste;
- that the area around Loughborough and Shepshed does not represent a suitable location for a strategic waste facility incorporating energy from waste;
- given the timescales involved in adopting a Waste Core Strategy, whether there would be an adequate planning framework in place to support the delivery of the Leicestershire Municipal Waste Strategy; and
- there should be reference in the Minerals Development Framework to joint working for proposals for a Charnwood Forest Regional Park.

With regard to the Waste Development Framework, officers at Charnwood Borough Council welcome the greater openness ~~within the~~ this latest consultation document given to the role for energy from waste within the overall strategy. It is also beneficial to have greater explanation of the different types of technology that are encompassed within energy from waste. This satisfies some of the concerns that Borough Council had with how contentious waste facilities are put forward for public engagement. Concern remains about how the evaluation process has been carried out and expressed in the Core Strategy and accompanying sustainability appraisal.

Comments regarding tests of soundness

~~As the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies, and Leicestershire and Leicester Waste Development Framework Core Strategy~~ As the two Development Plan Documents have been submitted prior to 1st September 2008, the documents are not ~~caught affected~~ by transitional arrangements set out in the 2008 Town and Country Planning (Local Development) (England) (Amendments) Regulations and the submission is therefore proceeding under the provision of the 2004 Regulations under Regulation 29. ~~These~~ The representations made in this report therefore refer to the tests of soundness set out in PPS12 published in 2004.

Each Development Plan Document is considered in turn below.

Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies

Spatial Strategy

Policies CS11, CS12, DC15 and DC18 deal with the National Forest, Charnwood Forest, the reclamation and aftercare of waste sites and planning obligations respectively. The effectiveness of these policies in supporting the National Forest and Charnwood Forest is questioned, **as it is unclear how they follow from the Spatial Vision in the Core Strategy.**

The spatial vision and strategy need to refer to Green Infrastructure strategies for the 6Cs area, and the substantial role that waste sites may be able to play in bringing about a net gain in biodiversity and other aspects of Green Infrastructure. **It is considered that** Policies CS11, CS12, DC15 and DC18 should **then** set out **and explain** how the spatial strategy is to be achieved. Box 3 in Policy DC18 Planning Obligations could usefully refer to the National Forest, Charnwood Forest and contributions to Green Infrastructure.

For the reasons outlined above, the Council objects as the strategy fails to meet test (iv), as it is not a spatial plan which has properly had regard to any other relevant plans and strategies.

Policy CS6 Energy/Value Recovery from Waste

Energy from waste is a fundamental part of the strategy for dealing with waste within the framework area. This aspect of the strategy seems to be poorly justified in terms of evidence, there has not been the necessary engagement on the alternative options and therefore has not been subject to the necessary rigour within the sustainability appraisal.

The reports in 2007 of the procurement of long-term waste management facilities² is not adequately reflected within the Core Strategy or the accompanying sustainability appraisal. Paragraphs 37 to 41 of this report describe an options evaluation process which resulted in energy from waste being selected as the preferred approach for dealing with waste. Paragraph 42 of this report indicates that:

“The short list of options has been evaluated based on a range of technical, economic and environmental/ social criteria. The latter criteria have used a WRATE (Waste and Resource Assessment Tool for the Environment) which is the latest Defra approved modelling approach to compare environmental impacts/ burdens of waste management scenarios”.

Although the evaluation document referred to above is a public document³, this economic, environmental and social evaluation is not explained or reflected within the

² Director of Highways, Transportation and Waste Management, Leicestershire County Council Cabinet 24th July 2007 and Director of Highways, Transportation and Waste Management, Leicestershire County Council Environmental Scrutiny Committee 6th September 2007

³ [on account of it being reported Director of Highways, Transportation and Waste Management, Leicestershire County Council Cabinet 24th July 2007 and Director of Highways, Transportation and Waste Management, Leicestershire County Council Environmental Scrutiny Committee 6th September 2007](#)

Core Strategy document, or within the accompanying sustainability appraisal document. It is not clear how the alternative options in the procurement evaluation exercise were used to arrive at a preferred option for the Core Strategy, or how the alternative options were put forward for public engagement.

For the above reasons the council objects to the plan as the strategy fails to meet test of soundness (vii) the strategy does not represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base.

Monitoring Framework

Policy CS 12 Charnwood Forest is not mentioned in the monitoring framework, and so it is not clear how the effectiveness of this policy is to be assessed.

DCI: Design has a target that 75% of applications with permanent buildings should incorporate sustainable design principles. This target seems rather arbitrary and it is not clear what the justification is for this target **is**. It is reasonable to expect that 100% of applications incorporate such design principles.

For the above reasons the Council objects to the plan because the strategy fails to meet test of soundness (viii) as there are not clear mechanisms for implementation and monitoring.

Leicestershire Minerals Development Framework Core Strategy and Development Control Policies

Spatial Strategy

Policies CS12, CS13, DC20 DC18, and DC19 and DC21 deal with the Strategic River Corridors, National Forest, Charnwood Forest, the reclamation and aftercare of mineral sites and planning obligations respectively. The effectiveness of these policies in supporting the National Forest and Charnwood Forest is questioned, **as it is unclear how they follow from the Spatial Vision in the Core Strategy.**

The spatial strategy and vision need to refer to Green Infrastructure strategies for the 6Cs area, and the substantial role that mineral sites may be able to play in bringing about a net gain in biodiversity and other aspects of Green Infrastructure. Box 7 in Policy DC20 Reclamation and Aftercare could usefully refer to the National Forest, Charnwood Forest and contributions to Green Infrastructure.

For the reasons outlined above, the Council objects as the strategy fails to meet test (iv), as it is not a spatial plan which has properly had regard to any other relevant plans and strategies, and the strategy is not consistent

Green Wedges

The supporting text to Policy CS 15 in paragraph 4.104 **states that:**

“The level of protection afforded land designated as Green Wedge is very similar to the national policy presumption against development in Green Belts”.

This approach does not accord with national or regional policy. Following the Examination In Public, the Draft Regional Plan (November 2007) found green wedges “do not have the national policy status of the Green Belt and it seems that there is justifiable concern that they should not be regarded as unduly restrictive”. [paragraph 14.48].

For these reasons the Council objects because the strategy fails to meet test of soundness (iv) as it is not a spatial plan which is consistent with national planning policy or in general conformity with the regional spatial strategy.

Key Diagram

There is concern that a specific location **is given has been shown** for the location of a sustainable urban extension at land east of Thurmaston. Charnwood Borough Council has not yet published its **Preferred Options Submission draft** for its Core Strategy. Land East of Thurmaston has not been agreed by the Borough Council, and remains one option only. It is suggested that alternative notation is used that doesn't commit to a specific location.

For this reason the Council objects because it considered that the strategy in its current form fails to meet test (iv) as it has not properly had regard to relevant plans relating to the area.