

SENT BY EMAIL ONLY to localplans@charnwood.gov.uk



02/09/2024

Dear Charnwood Council,

Charnwood Local Plan Main Modifications August 2024

1. Thank you for consulting the HBF Home Builders Federation (HBF) Charnwood Local Plan Main Modifications consultation.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.
3. Although HBF welcomes the Council's commitment to plan-making and efforts to progress the Charnwood Plan to adoption, policies within any adopted Plan must be deliverable and viable. We have considerable concerns about some of the Main Modifications being proposed by the Council which in our view will make the Plan unsound.
4. Most notably, HBF continues to have significant concerns about the Charnwood Transport Contributions Strategy which the Council continues to seek to use to underpin its approach to seeking developer contributions and in particular policy INF2, despite considerable objections and concerns from the development industry on the appropriateness and legality of this approach.
5. Our concerns about the approach to transport contributions are set out in detail in our letter of 06/11/23, the response by the Home Builders Federation to the additional examination documents in the evidence base for Charnwood Local Plan Examination in Public (please see this response for the details). The concerns we expressed within this consultation response remain mostly unresolved.
6. HBF remains concerned that the Charnwood Local Plan is still seeking to include policies that require developer contributions for transport infrastructure on behalf of the County Council, policies that are not underpinned by robust evidence. Although the County Council has recently consulted on the emerging Transport Strategies, this consultation only ended last week, on Friday 23rd August. As such, the County Council cannot possibly have fully considered the considerable criticism and concerns about the legality of the documents highlighted in responses to their consultation. However, the

Charnwood Local Plan is plan still seeks to rely on this incomplete evidence base to inform its policy formulation and indeed defers some of the developer contribution requests that will be sought to those identified in the yet to be finalised County Council Area Transport Strategies.

7. When determining a planning application, the District Council has to have confidence that any s106 requested satisfy the CIL tests. HBF question if this is the case with the current information and without a robust evidence base and a clear understanding of how the policy will be implemented in practice, a policy cannot be justified or effective, and as such would fail the soundness tests.
8. The NPPF, PPG and CIL regulations are clear that the purpose of planning obligations is to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
9. HBF continue to question at a fundamental level whether the proposed approach adopted in the Draft Transport Strategies to arrive at the cost of developer contributions meet these tests. Development can only be required to mitigate its own impact and cannot be required to address existing deficiencies in infrastructure or services. It is therefore essential that any Local Transport Strategies clearly show the existing and known deficiencies in the current infrastructure, before they can reach a conclusion on the cumulative effects of new development, and any contribution that is needed from new development to mitigate any additional individual and/or cumulative impacts. It is unreasonable and inappropriate to expect new development to contribute to resolving existing lack of highway capacity issues. Developers can only be required to mitigate their own impacts.
10. The proposed new wording in para 9.18 acknowledge that this is not the approach to developer contributions being progressed in the Charnwood Local Plan. The wording says. "Our evidence further shows that the future growth of the Borough (and growth in adjoining areas, including Leicester) will create significant additional travel demand; by 2037 the highway network in the Borough will be close to capacity in some areas with the development which is already committed in Charnwood and the surrounding areas. This will add further to congestion and delays, increasingly leading to displacement of traffic from the main roads connecting the Borough to lower standard alternative routes (e.g. across the Charnwood Forest), which in turn will have negative impacts on residents, business, and the quality and vitality of places". This clearly indicates existing known deficiencies in transport provision which it is inappropriate for developers of new homes to be required to mitigate.
11. Similarly, para 9.23 says a primary purpose of the emerging three transport strategies "will be to address the cumulative and cross-boundary highways and transport impacts

of growth (within and without the Borough) with a particular emphasis on seeking to encourage traffic where possible and appropriate to use high order roads, i.e. the SRN and MRN in order to seek to minimise growth impacts on less suitable, lower order parts of the Borough's road network. Work is already progressing that will inform the more detailed content of these Strategies.”

12. Therefore, at this time the transport strategies are not finalised, the costs are not known and as such the viability of sites cannot have been fully assessed. The Charnwood Local Plan is therefore seeking to ask developers to sign up a potentially unknown level of costs to address transport issues, which is an unsound approach contrary to national policy, not justified and not effective.
13. HBF continues to have significant concerns about how the County Council intend to collect and spend the monies raised. Whilst the pooling of contributions is allowed the spending of contributions from developers will need to be set out in the Section 106 agreement which will set out what the monies should be spent on and agree a timeframe for the spend. The failure to set out the schemes and the intention of the Charnwood Local Plan for this to be worked out at a later date will inhibit the drafting of Section 106 agreements and add further uncertainty and delay to much needed housing development in Charnwood.
14. HBF continue to believe that the proposed approach would fail to meet the CIL tests for s106 contributions, as it in effect amounts to a roof tax, not a request for contribution that are directly related in scale and kind to the development being proposed. Such an approach is not simply appropriate under Section 106 requirements, where there is a clear need for developer contributions to be related to mitigating the developments own impacts. Although arguably such as approach could be supported under the Community Infrastructure Levy, local planning authorities across Leicestershire have chosen not to adopt CIL. If the District Council, or County Council, wants to have the benefit of a CIL type policy, this should be done through the introduction of a CIL.
15. HBF continue to have significant concerns about the premise and legality of the approach being proposed by the County Council, and Charnwood Councils complicity in seeking to implement it. It is disappointing to note that that despite the engagement of the HBF and its members on this issue to date and the industry's request to both Leicestershire County Council and Charnwood Borough Council to reconsider their proposed approach to transport contributions, the Charnwood Transport Contributions Strategy continues to attempt to introduce roof tax-style transport contributions policies to sites within Charnwood. Such an approach is simply unjustified and inappropriate. Policy making about Section 106 contributions should only be done through the plan-making process.
16. HBF is very concerned that the proposed HBF approach could make housing delivery in Charnwood unviable. The new government is committed to delivery 1.5 million new homes over the next 5 years. In the midst of a housing crisis, it is incredibly frustrating that the County Council is seeking to require Local Planning Authorities to ask for unjustified and potentially illegal transport contributions that fail to comply with the CIL regulations.

17. As an industry there is a strong desire to develop new housing within Charnwood. The industry recognises that there is a need to mitigate the impact new developments, but developers cannot and should not be expected to pay to address existing transport, or other, deficiencies.
18. HBF would request further examination hearings are held to ensure that this matter can be fully examined through the EIP process to ensure that Inspectors can fully considered the main modifications consultation responses. In our view it will also be important for the Inspectors to understand Leicestershire County Council's response to the consultation feedback on their draft transport strategies.
19. I trust that the Council will find these comments useful. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.
20. Please let me know if you have any further questions.

Yours faithfully

A handwritten signature in blue ink that reads "R. H. Danemann". The signature is written in a cursive, slightly slanted style.

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