

To Members of the Council

Cllr. Iain Hewson (Chairman)
Cllr. Cheryl Cashmore (Vice-Chairman)

Cllr. Shabbir Aslam
Cllr. Shane Blackwell
Cllr. Lee Breckon JP
Cllr. Nick Brown
Cllr. Nick Chapman
Cllr. David Clements
Cllr. Adrian Clifford
Cllr. Stuart Coar
Cllr. Sharon Coe
Cllr. Roy Denney
Cllr. Alex DeWinter
Cllr. David Findlay
Cllr. Janet Forey

Cllr. David Freer
Cllr. Deanne Freer
Cllr. Chris Frost
Cllr. Nigel Grundy
Cllr. Paul Hartshorn
Cllr. Mark Jackson
Cllr. Trevor Matthews
Cllr. Sam Maxwell
Cllr. Christine Merrill
Cllr. Phil Moitt
Cllr. Mat Mortel
Cllr. Antony Moseley
Cllr. Michael O'Hare

Cllr. Les Phillimore
Cllr. Louise Richardson
Cllr. Terry Richardson
Cllr. Tracey Shepherd
Cllr. Mike Shirley
Cllr. Ben Taylor
Cllr. Kirsteen Thomson
Cllr. Bev Welsh
Cllr. Geoff Welsh
Cllr. Jane Wolfe
Cllr. Maggie Wright

Dear Councillor,

A meeting of the **COUNCIL** will be held in the Council Chamber - Council Offices, Narborough on **TUESDAY, 20 SEPTEMBER 2022** at **5.30 p.m.** for the transaction of the following business and your attendance is requested.

On behalf of people in the district, elected Members and staff, we at Blaby District Council extend our sincere condolences to His Majesty King Charles III and the Royal Family following the death of Queen Elizabeth II on 8 September 2022. As a mark of respect, during the mourning period, the flag in the grounds of the Council offices will fly at half-mast.

Yours faithfully



Louisa Horton
Monitoring Officer



AGENDA

SECTION 1 - INTRODUCTION

To receive apologies for absence, disclosures of interest from Councillors, and Minutes of the previous Council meeting.

1. Apologies for absence
2. Disclosures of Interests from Members

To receive disclosures of interests from Members (i.e. the existence and the nature of those interests in respect of items on this agenda).

3. Minutes (Pages 7 - 16)

To approve and sign the minutes of the meeting held on 19 July 2022 (enclosed).

SECTION 2 - STANDARD COUNCIL BUSINESS

To receive announcements from the Chairman and the Statement of the Leader of the Council.

Any reports for consideration listed under this section will be moved in one block without discussion, unless any Member present requests otherwise.

4. Chairman's Announcements
5. Leader's Statement
6. Position Statement on the Council's response to the Cost of Living Crisis from Cllr. Terry Richardson - Leader of the Council
7. Approval of Absence (Local Government Act 1972, Section 85(1)) (Pages 17 - 20)

To consider the report of the Senior Democratic Services & Scrutiny Officer (enclosed).
8. Amendments to Appointments to Committees and Seat Allocations (Pages 21 - 24)

To consider the report of the Senior Democratic Services & Scrutiny Officer (enclosed).

SECTION 3 - PRESENTATIONS TO COUNCIL

To consider any presentations from Council Officer's or an external body/partner agency.

9. Community First Responders

To receive a presentation from the Community First Responders.

10. Youth Council Priorities 2022/23

To receive a presentation from the Youth Council.

SECTION 4 - QUESTIONS FROM THE PUBLIC & PRESENTATION OF PETITIONS

To receive questions to Councillors submitted by members of the public and to receive any petitions submitted in accordance with the Council's petitions scheme.

11. Public Speaking Protocol

Requests received by the Protocol deadline to be reported by the Monitoring Officer with details of the Agenda Item to which they relate. (Such persons entitled to use the Protocol attend for the purpose of making representations, answering questions or giving evidence relating to the business of the meeting and the time allocated to each person is a maximum of three minutes unless extended at the discretion of the Chairman).

SECTION 5 - MEMBERS' QUESTIONS

To receive any questions submitted by Councillors.

12. Questions from Members

Any Members wishing to submit questions must do so to the Monitoring Officer no later than 5 working days before the meeting.

The Monitoring Officer will report if any questions have been submitted.

SECTION 6 - REPORTS FOR DECISIONS

To consider any reports submitted for consideration by Council.

13. Recommendations of the Cabinet Executive: Quarter 1 Capital Programme Review 2021/22 (Pages 25 - 30)

To consider the report of the Cabinet Executive (enclosed).

14. Recommendations of the Cabinet Executive: Strategic Property Investment for Regeneration (Pages 31 - 36)

To consider the report of the Cabinet Executive (enclosed).

15. Recommendations of the Cabinet Executive: Review of Minimum Revenue Provision Policy (Pages 37 - 46)

To consider the report of the Cabinet Executive (enclosed).

16. Public Spaces Protection Order Renewal - Dogs (Pages 47 - 54)

To consider the report of the Environmental Services Manager (enclosed)

17. Cosby Neighbourhood Plan - response to Examiner's proposed modifications (Pages 55 - 100)

To consider the report of the Development Strategy Manager (enclosed).

SECTION 7 - MOTIONS/ DEBATES/CONSULTATIONS & MEMBERS' FEEDBACK

To consider Motions submitted by Councillors, take part in a debate or receive Member feedback from attendance at national briefings, key training initiatives or work on any Outside Bodies.

18. Motion under Council Rules of Procedure

Cllr. Sam Maxwell to move the following motion, seconded by Cllr. Nick Brown:

1. That this Council notes:

- (a) That the Bank of England officially forecasts an CPI inflation rate of 13% in the fourth quarter of this year; this being based on a rise in fuel cap of 75% in October. That would increase the typical annual household fuel bill from just under £2,000 to around £3,500, three times higher than a year earlier.
- (b) That the Office for National Statistics reported the real value of workers take home pay dropped by 3% in June.
- (c) That price rises of this scale will adversely affect all residents, but will be especially devastating to those on already low income and with limited savings.
- (d) That many residents of the District:
 - are now finding it very hard to meet their domestic fuel bills;
 - are finding a rise in the price of ordinary commodities from food to household products;
 - are facing record high fuel costs at the petrol stations with no alternative options;
 - will be receiving lower wages in real terms for the foreseeable future, including many working in the public sector;
 - are seeing an increased use of food banks and other emergency support

2. That this Council recognises the enormous pressures that the cost of living crisis and inflationary pressures place on demand for services and the council's finances, specifically;

(a) Availability of emergency housing for families made homeless

(b) Increased costs of delivering services and the capital programme

(c) Shortfalls in budgeted income due to falling demand and a contracting local economy

(d) Council Tax arrears and other income shortfalls

3. That this Council requests:

(a) The Cabinet bring forward an urgent report to Council on proposals to address and mitigate the impact of the cost of living crisis on Blaby's residents.

(b) That Council works with public and third sector, including charities and voluntary organisations, to seek to establish 'warm banks' during the winter to protect vulnerable residents unable to heat their homes.

(c) That additional funding is made available to the Hardship Reserve to address the increase in households in emergency situations.

(d) That increased resources are made available to provide support and advice on money matters, wellbeing and mental health.

(e) The leadership of the Council lobby Government and local members of parliament to seek significant additional financial support beyond what has already been announced for households over this winter.

(f) The Council support the LGA in any efforts to increase central government support for local government finances to address budget pressures caused by the hike in inflation and greater demands on services.

SECTION 8 - EXEMPT REPORTS

There are no reports for consideration under this Section.

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COUNCIL

Minutes of a meeting held at the Council Offices, Narborough

TUESDAY, 19 JULY 2022

Present:-

Cllr. Iain Hewson (Chairman)
Cllr. Cheryl Cashmore (Vice-Chairman)

Cllr. Nick Brown	Cllr. Paul Hartshorn	Cllr. Louise Richardson
Cllr. Nick Chapman	Cllr. Mark Jackson	Cllr. Terry Richardson
Cllr. Adrian Clifford	Cllr. Trevor Matthews	Cllr. Tracey Shepherd
Cllr. Roy Denney	Cllr. Sam Maxwell	Cllr. Mike Shirley
Cllr. Alex DeWinter	Cllr. Christine Merrill	Cllr. Ben Taylor
Cllr. David Findlay	Cllr. Phil Moitt	Cllr. Bev Welsh
Cllr. Janet Forey	Cllr. Mat Mortel	Cllr. Geoff Welsh
Cllr. Chris Frost	Cllr. Michael O'Hare	Cllr. Maggie Wright
Cllr. Nigel Grundy	Cllr. Les Phillimore	

Officers present:-

Julia Smith	- Chief Executive
Sarah Pennelli	- Strategic Director - S.151 Officer
Caroline Harbour	- Environmental Health, Housing, Net Zero & Community Services Group Manager
Cat Hartley	- Planning & Strategic Growth Group Manager
Louisa Horton	- Corporate Services Group Manager & Monitoring Officer
Anna Farish	- Environmental Services Manager
Sandeep Tiensa	- Senior Democratic Services & Scrutiny Officer
Nicole Cramp	- Democratic & Scrutiny Services Officer

Also in attendance:-

John Harrison – Friends of Narborough Station

Apologies:-

Cllr. Shane Blackwell, Cllr. Lee Breckon JP, Cllr. David Clements, Cllr. Stuart Coar,
Cllr. Sharon Coe, Cllr. David Freer, Cllr. Deanne Freer, Cllr. Antony Moseley,
Cllr. Kirsteen Thomson and Cllr. Jane Wolfe

1. MINUTE SILENCE IN REMEMBRANCE OF RON WARD

A minute silence was held in remembrance of Ron Ward, a former District Ward Councillor for Winstanley who had sadly passed away. Ron had served as a District Councillor from 1987 to 2015 and was Chairman of Blaby District Council from 2002-2003.

2. DISCLOSURES OF INTERESTS FROM MEMBERS

No disclosures were received.

3. MINUTES

The minutes of the meetings held on 24 May 2022, as circulated, were approved and signed as a correct record.

4. CHAIRMAN'S ANNOUNCEMENTS

The Chairman, Cllr. Iain Hewson made announcements in respect of the following:

- Attending a Service at St Mary De Castro Church
- Chairman's Concert in the Park in Melton Mowbray
- Happy and Glorious at De Montfort Hall
- Armed Forces Day – Leicester City

The Chairman announced that he will start his fundraiser on 1 August 2022 for his charity, Community First Responders by riding 330 miles on a static cycle, the distance between Birmingham and Glasgow. Further details on how to donate will be circulated to Members.

5. LEADER'S STATEMENT

The Leader, Cllr. Terry Richardson presented his Statement in respect of the following:

- Peer Review
- £135,000 funding received for potential Garden Village
- Transformation to agile working for Councillors and Officers
- Supporting Ukrainian families
- Bid for Safer Streets Fund
- Jobs Fair at Everards Meadows
- Celebration event for Queen's Jubilee
- Success of Community Volunteer Week
- Launch of Fitcation at Stoney Cove Dive Center

- Energy Rebate Success
- Positive feedback from Health Walks
- Theatre shows at Fosse Meadows
- Youth Conference event
- Novus era to begin in New Lubbesthorpe
- Business Breakfast networking supports business
- Local Government Association Conference 2022
- Positive Financial Outturn for the Council

6. PUBLIC SPEAKING PROTOCOL

Pursuant to Part 5, Section 11 of the Council's Constitution, in relation to the public speaking protocol the Chairman allowed John Harrison (Friends of Narborough Station) to speak for 3 minutes on Agenda Item 10 – Car Park Strategy 2022-2027.

7. QUESTIONS FROM MEMBERS

No questions were received.

8. RECOMMENDATIONS OF THE CABINET EXECUTIVE: TREASURY MANAGEMENT OUTTURN 2021/22

Considered – Report of the Strategic Finance Manager, presented by Cllr. Maggie Wright – Finance, People & Performance Portfolio Holder.

DECISIONS

1. That the treasury management activities for 2021/22 be approved.
2. That the prudential and treasury indicators for 2021/22 be approved.

Reasons:

1. The regulatory framework governing treasury management activities includes a requirement that the Council should produce an annual review of treasury activities undertaken in the preceding financial year. It must also report the performance against the approved prudential indicators for the year.
2. This report fulfils the requirement above and incorporates the needs of the Prudential Code to ensure adequate monitoring of capital expenditure plans and the Council's prudential indicators. The treasury strategy and prudential indicators for 2021/22 were contained in the report approved by Council on 18th February 2021.

9. RECOMMENDATIONS OF THE CABINET EXECUTIVE: BLABY DISTRICT PLAN ANNUAL PRIORITIES 22-23 AND PEER REVIEW

Considered – Report of the Cabinet Executive, presented by Cllr. Terry Richardson – Leader of the Council.

DECISIONS

1. That the action plan in response to the Peer Review be approved.
2. That the annual priorities for the Blaby District Plan be approved.

Reasons:

1. The peer review process requires an action plan to be developed and approved by Council in response to the peer review report.
2. The Blaby District Plan, approved by Council in January 2021, sets out the priorities for the Council for the period 2021- 24. An annual plan sets out the aspirations and intent of the Council for the year ahead.

10. CAR PARK STRATEGY 2022-2027

Considered – Report of the Environmental Services Manager, presented by Cllr. Les Phillimore – Housing, Community & Environmental Services Portfolio Holder.

The following typographical amendments were noted:

- Page 5 of the report – the date of Scrutiny Commission be amended to '22 June 2022'
- Page 7 of the Car Park Strategy – in the first paragraph that the page number be amended to 'page 13'.

The Chairman, Cllr. Iain Hewson adjourned the meeting at 18:26 to allow a comfort break. The meeting reconvened at 18:30.

DECISIONS

1. That the Car Park Strategy 2022-2027 and recommendations at 4.2.1 of the report be approved.
2. That the District of Blaby (Off-Street Parking Places) Order 2022 be approved and that the changes be implemented with effect from 5 October 2022.

3. That delegated authority be given to the Council's Strategic Director, in consultation with the Portfolio Holder, to make minor amendments to the District of Blaby (Off-Street Parking Places) Order 2022 prior to implementation.

Reasons:

1. The current Strategy is out of date and a new document is required with changes to the car park service.
2. There is a statutory process to be followed in order to introduce any changes to the way in which the Council regulates its car parks.
3. To allow for any small changes to be made to the car parking Order after the statutory consultation periods have taken place.

11. SIX MONTH BLABY DISTRICT PLAN PROGRESS AND PERFORMANCE REPORT

Considered – Report of the Chief Executive, presented by Cllr. Maggie Wright, Finance, People & Performance Portfolio Holder.

DECISION

That the Six Month Blaby District Plan Progress and Performance Report 2021/22 be noted.

Reason:

It is appropriate to inform Members about how the council is progressing and performing against key priorities.

12. MODERN SLAVERY STATEMENT 2022

Considered - Report of the Monitoring Officer, presented by Cllr. Terry Richardson – Leader of the Council.

DECISION

That the Modern Slavery Statement for Blaby District Council be adopted.

Reasons:

1. It is a requirement of the Modern Slavery Act 2015 that organisations with

a turnover of £36m or more publish a statement on their approach to ensuring that there is no modern slavery in their own business and their supply chains.

Although Blaby District Council is under no legal obligation to publish a statement, the Local Government Association is encouraging all local authorities to produce an annual statement ensuring transparency in their approach to modern slavery and human trafficking.

2. The Modern Slavery Act also includes a number of provisions for local authorities. Section 52 of the Act places a duty to identify and report potential victims through the National Referral Mechanism (NRM). Depending on the age and needs of victims of modern slavery, councils may also have statutory responsibilities to provide support to them.

13. LEICESTER & LEICESTERSHIRE STATEMENT OF COMMON GROUND RELATING TO HOUSING AND EMPLOYMENT LAND NEEDS (JUNE 2022)

Considered – Report of the Development Strategy Manager, presented by Cllr. Ben Taylor - Planning, Housing Strategy, Economic Development Portfolio Holder.

DECISION

That the signing of the Leicester & Leicestershire Statement of Common Ground relating to Housing and Employment Land Needs, June 2022 be approved.

Reason:

To continue the ongoing Duty to Cooperate that Blaby District Council must fulfil in order to progress the emerging New Local Plan.

14. LEICESTER FOREST EAST NEIGHBOURHOOD PLAN - 'MAKING' THE PLAN

Considered – Report of the Development Strategy Manager, presented by Cllr. Ben Taylor – Planning Delivery and Enforcement & Corporate Transformation Portfolio Holder.

DECISION

That Council makes (adopts) the Leicester Forest East Neighbourhood Plan, as modified, in accordance with the relevant legislation.

Reason:

Making the Leicester Forest East Neighbourhood Plan will mean that the document becomes part of the development plan for the area, against which planning applications will be considered, with immediate effect. This will reflect the wishes of the local community as expressed through the recent referendum result.

15. BLABY DISTRICT LEVELLING UP FUND ROUND 2 BID

Considered - Report of the Planning & Strategic Growth Group Manager, presented by Cllr. Terry Richardson - Leader of the Council.

DECISION

That delegated authority be given to the Strategic Director (S151) in consultation with the Leader of the Council to submit a bid to the Levelling Up Fund 2.

Reason:

To enable the delivery of highway improvement works around Junction 21 of the M1 and footpath/cycle way connectivity between Whetstone, Narborough Station and Fosse Park.

16. UK SHARED PROSPERITY FUND

Considered – Report of the Planning & Strategic Growth Group Manager, presented by Cllr. Terry Richardson - Leader of the Council.

DECISION

That delegated authority be given to the Leader of the Council, in consultation with Cabinet Executive, to approve the submission of a UK Shared Prosperity Fund Investment Plan, as required to draw down the allocation of funding for Blaby District Council.

Reason:

To enable the Blaby District Council allocation of UK Shared Prosperity Fund to be drawn down.

17. EXCLUSION OF PRESS AND PUBLIC

Considered – A proposed resolution to exclude the public from the meeting.

DECISION

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following items on the grounds that the items involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

Agenda Item 18: Potential Land Acquisition

Exemption Category: 1 & 3

Reasons for Exemption:

1. information relating to any individual.
3. information relating to the financial or business affairs of any particular person (including the authority holding that information).

Public Interest Test: The public interest test has been considered and, in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

Agenda Item 19: Leisure Centre Contract Arrangements

Exemption Category: 1 & 3

Reason for Exemption:

1. information relating to any individual.
2. information relating to the financial or business affairs of any particular person (including the authority holding that information).

Public Interest Test: The public interest test has been considered and, in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

18. POTENTIAL LAND ACQUISITION

Considered – Report of the Planning & Strategic Growth Group Manager, presented by Cllr. Nigel Grundy - Neighbourhood Services & Assets Portfolio Holder.

DECISIONS

1. That delegated authority be given to the Strategic Director (S151) in consultation with the Portfolio Holder for Finance, People and Performance (Deputy Leader), to continue discussions to agree a purchase price up to a maximum of £400,000 and proceed with the purchase of land for a potential Gypsy and Traveller Site.
2. To agree expenditure of a maximum of £49,000 towards the total project cost.

Reason:

To enable the acquisition of land for the development of a local authority managed Gypsy & Traveller site.

19. LEISURE CENTRE CONTRACT ARRANGEMENTS

Considered – Report of the Business, Partnerships and Health Improvement Group Manager, presented by Cllr. Terry Richardson - Leader of the Council.

DECISIONS

1. That the revised terms within the SLM leisure contract be approved to re-open the Huncote Leisure Centre in October 2022.
2. That capital expenditure of £80,000 for temporary gas works to facilitate the opening of the Huncote Leisure Centre in October 2022 be approved.
3. That delegated authority be given to the Strategic Director (S151 Officer) in consultation with the Leader of the Council to enter into a Deed of Variation and continue to undertake the appropriate reviews in consultation with the portfolio holder for Finance, Assets and Performance.

Reasons:

1. It has been necessary to vary the terms of the leisure contract given the impact of the pandemic. This option gives the Council the best financial return whilst retaining the social value provided by Huncote Leisure Centre.
2. In order to enable the Huncote Leisure Centre to re-open in October 2022, temporary works are required to be undertaken to facilitate gas extraction to the front of the site. This additional capital expense of £80,000, for this temporary measure, acts as an income accelerator and an invest to save initiative.
3. It is necessary to enter into a Deed of Variation to the original terms of the contract with the leisure provider.

THE MEETING CONCLUDED AT 7.28 P.M.

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Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Local Government Act 1972, Section 85(1) – Approval of Absence This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Terry Richardson - Leader of the Council
Report Author	Senior Democratic Services & Scrutiny Officer
Corporate Priority	All Priorities: A Place to Live; A Place to Work; A Place to Visit; People Strategy; Medium Term Financial Strategy (MTFS)

1. What is this report about?

- 1.1 To seek approval of a waiver of the six-month attendance rule pursuant to section 85(1) Local Government Act 1972 for Cllr. David Clements.

2. Recommendation(s) to Council

- 2.1 That Council approves the waiver of the six-month attendance rule provided for within section 85(1) Local Government Act 1972 for Cllr. David Clements due to illness.
- 2.2 That the absence period be approved until the meeting of Council on 23 February 2023, to allow a further report to be considered, if required.

3. Reason for Decisions Recommended

- 3.1 The Council has the statutory power to consider such requests.

4. Matters to consider

- 4.1 Background

Section 85 (1) of the Local Government Act 1972 requires a Member of a Local Authority to attend at least one meeting of that Authority within a six-month consecutive period, in order to avoid being disqualified as a Councillor. This requirement can be waived and the time limit extended if any failure to attend was due to a reason approved by the Authority, in advance of the six-month period expiring.

Cllr. David Clements has not been able to attend any Council meetings since the meeting of Council on 23 November 2021 due to illness. A formal request from the Conservative Group for an extension to this six-month rule to enable him to remain in office had been received. A report was submitted and approved by Council on 5 April 2022 to extend his absence up until 5 October 2022 and for Council to consider a further report on 20 September 2022 before the six-month rule lapses.

The Authority can only consider approval of any reasons for non-attendance before the end of the relevant six-month period, which will be 5 October 2022.

Once any Councillor loses office, through failure to attend for the six-month period, the disqualification cannot be overcome by the councillor subsequently resuming attendance nor can retrospective approval of the Authority be sought for an extension in time.

4.2 Proposal(s)

That Cllr. David Clements absence from Council meetings be approved for a further six-months, until 5 April 2023.

A further report will be submitted to Council on 23 February 2023, before the six-month rule lapses, if required.

4.3 Relevant Consultations

The Conservative Group.

4.4 Significant Issues

Legal Implications

If approval is not provided to waive the six-month attendance rule, the Councillor will cease to be a Member of the Authority once this period runs out.

5. What will it cost and are there opportunities for savings?

5.1 Not applicable.

6. What are the risks and how can they be reduced?

6.1 None.

7. Other options considered

7.1 None.

8. Environmental Impact

8.1 None.

9. Other significant issues

9.1 In preparing this report, the author has considered issues related to Human Rights, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

9.2 Significant issues relating to legal matters have been addressed at paragraph 4.4

10. Appendix

10.1 None.

11. Background paper(s)

11.1 [Local Government Act 1972](#)

11.2 [Council report dated 5 April 2022 \(min ref. 276\)](#)

12. Report author's contact details

Sandeep Tiensa	Senior Democratic Services & Scrutiny Officer
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Blaby District Council

Council

Date of Meeting	20 September 2022
Title of Report	Amendments to Appointments to Committees and Seat Allocations
	This is not a Key Decision and is not on the Forward Plan
Report Author	Senior Democratic Services & Scrutiny Officer
Corporate Priority	All Priorities: A Place to Live; A Place to Work; A Place to Visit; People Strategy; Medium Term Financial Strategy (MTFS)

1. What is this report about?

- 1.1 To advise Council of amended seat allocations and appointments to Committees following Cllr. David Freer and Cllr. Deanne Freer becoming Independent Members and forming an Independent Group.

2. Recommendation(s) to Council

- 2.1 That effect be given to the wishes of the political groups as to the allocation of seats as detailed in the report.
- 2.2 To approve the appointment of Members to serve on Committees for those positions as detailed in the report, subject to the seat distribution being agreed without any member voting against.

3. Reason for Decisions Recommended

- 3.1 Due to Cllr. David Freer and Cllr. Deanne Freer becoming Independent Members, it was necessary to re-calculate the seat allocations of Committees.
- 3.2 It is appropriate to give effect to the wishes of the political groups and ensure compliance with the Local Government & Housing Act 1989, Section 15 – 17 inclusive.

4. Matters to consider

- 4.1 The rules governing political balance on Committees/Sub-Committees are set out under Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) and Section 16 (duty to give effect to allocations). Section 17 of the above Act states that section 15 and 16 shall not apply where no member votes against a seat distribution

not following the requirements of Sections 15 and 16 of the above Act.

In simple terms this removes the political balance requirement, the effect of which has enabled seat allocation on an agreed rather than imposed basis.

This arrangement is of particular benefit in relation to membership of scrutiny working groups. Members are reminded that appointments to Cabinet Executive are exempted from the provisions of the above Act by virtue of the Local Government Act 2000. Quasi-Judicial and similar committees should be regarded in similar light.

The Council must, when making appointments to Committees/Sub-Committees, give effect to the wishes of the political groups to whom seats are allocated. The Council is asked to endorse, unanimously, the distribution of seats as set out in the report.

Formal notification has been received that Cllr. David Freer and Cllr. Deanne Freer have become Independent Members and formed the Independent Group, with Cllr. David Freer as the Leader of the Independent Group. As a result, the seat allocations and committee appointments were required to be re-calculated.

Seat Allocation – Based on current membership arrangements, the representation of seats is set out below:

Conservative Group	Labour Group	Liberal Democrat Group	Independent Group	Green	Independent
41	11	11	2	2	2

The two seats allocated to the newly formed Independent Group are shown in the table below on:

	Scrutiny Commission (18)	Licensing & Regulatory Committee (13)
Conservative	11	7
Labour	2	2
Liberal Democrat	2	2
Independent Group	1	1
Green	1	0
Independent	1	1

Amendments to Committee Appointments – It is recommended that the following amendments to Committees be made:

- That Cllr. David Freer be appointed to Scrutiny Commission.
- That Cllr. Deanne Freer be appointed to the Licensing & Regulatory Committee.

4.2 Proposal(s)

That the amended seat allocation and appointments to Committees be approved.

4.3 Relevant Consultations

All Political Groups.

5. What will it cost and are there opportunities for savings?

- 5.1 There are no cost implications as a result of this report, an additional allowance for leader of opposition group is payable to the leader of the newly formed Independent Group.

6. What are the risks and how can they be reduced?

- 6.1 No risks have been identified.

7. Other options considered

- 7.1 No other options have been considered.

8. Environmental impact

- 8.1 There are no environmental concerns.

9. Other significant issues

- 9.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

10. Appendix

- 10.1 None.

11. Background paper(s)

- 11.1 Not applicable.

12. Report author's contact details

Sandeep Tiensa

Senior Democratic Services & Scrutiny
Officer

Sandeep.Tiensa@blaby.gov.uk 0116 272 7640

Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Recommendations of the Cabinet Executive: Quarter 1 Capital Programme Review 2022/23 This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Maggie Wright – Finance, People & Performance (Deputy Leader)
Report Author	Accountancy Services Manager
Corporate Priority	Medium Term Financial Strategy (MTFS)

1. What is this report about?

- 1.1 The report provides Members with an update on expenditure against the Capital Programme for the quarter ending 30th June 2022.

2. Recommendation(s) to Cabinet Executive and Council

- 2.1 That the report is accepted
- 2.2 That the latest Capital Programme totalling £5,507,463 is approved

3. Reason for Decisions Recommended

- 3.1 To ensure that the Council has adequate resources in place to meet its capital expenditure commitments.

4. Matters to consider

4.1 Background

The original Capital Programme for 2022/23 was approved by Council on 24th February 2022, and amounted to £2,452,500, which included a borrowing requirement of £1,168,500.

The following table shows the latest Capital Programme which now amounts to £5,507,463 (including S106 projects), taking into account £2,847,013 brought forward from 2021/22, which also includes projects which had been deferred during the financial year. Appendix A gives a complete breakdown of planned expenditure on a scheme by scheme basis, including how it will be resourced.

	£
Approved Capital Programme 2022/23	2,452,500
<u>Additions:</u>	
Incomplete schemes brought forward from 2021/22	2,847,013
Green Capital Grant Programme 2022/23	20,000
Huncote Landfill Gas Remedial Works	204,955
<u>Reductions:</u>	
Green Capital Grant Programme 2021/22	(3,504)
Capital Grant Programme 2021/22	(16,496)
	5,504,468
Add S106 Contributions allocated to projects in 2022/23	2,995
Revised Capital Programme 2022/23	5,507,463

- The project budget from the Green Capital Grants Programme 2021/22 and Capital Grant Programme, has been transferred to create the Green Capital Grants Programme 2022/23.
- Additional funds have been allocated from the Earmarked Reserve which was approved in November 2021, for the Gas Remedial Works required at Huncote Leisure Centre. These are to be used on installation of boreholes and monitoring equipment. An exempt report was taken to Council in July 2022 where a further £80,000 has been approved to be added to the Capital project for works to be undertaken to enable the Leisure Centre to reopen in October 2022. The additional project budget will be included in the 2nd quarterly report, and can be accommodated from within the £600,000 reserve set aside to tackle the emergency.

4.2 At the end of the first quarter of 2022/23, the Council had spent £267,970 against its planned Capital Programme, excluding Section 106 contributions. S106-backed schemes are covered in paragraph 4.3 below.

Explanations for the main variances in Quarter 1 are as follows:

- Huncote Gas Remedial Works – Installation of boreholes and associated monitoring equipment has been completed, the invoice had not been received as at 30th June.
- Council Offices Refurbishment Project 2022 – The project is due to commence in the 2nd quarter of the financial year and expected to complete in November 2022.
- HR & Payroll System – Procurement process is underway. It is not expected that the full budget will be required.
- Council Offices Green Heating Solution – A tender evaluation is currently in process and works expected to commence during the 2nd and 3rd quarter of the financial year.

- The procurement of the Revenues & Benefits system has commenced, with the specification complete. Work on the migration of the current document storage system is almost finalised.
- Fleet Replacement Programme – No commitments have currently been made in the 1st quarter of the year, orders are due to be raised during the 2nd quarter, however delays with delivery are expected.
- Extension of Enderby Leisure Centre Car Park – The project is expected to commence in the 2nd and 3rd quarter of the year.
- Bouskell Park: Bridge & Car Park Improvements – No expenditure was incurred in the first quarter of the year due to awaiting the outcome of the Car Park Strategy, which was taken to Council on the 19th July 2022, and the appointment of the Parks and Open Spaces Development Officer. At the time of writing the report a meeting had been set for revised quotations to be sought from the approved contractor. The new Parks and Open Spaces Development Officer has been successfully filled, with the Officer due to start in September 2022.
- Fosse Meadows: Resurface Car Parks – As per the above project, progress was put on hold due to the Car Park Strategy report and recruitment, which have both now been completed. Revised quotations are in progress.

4.3 Section 106 Contributions

The Council receives S106 contributions towards the cost of providing for additional infrastructure needs arising from new housing developments. This includes provision of new offsite open space, play equipment, or affordable housing. Often because of financial viability of sites, payments are triggered at different stages of development which can take place over a number of years.

S106 contributions are only recognised in the Capital Programme at the point at which they have been allocated to support a defined project.

At 1st April 2022, the Council was holding S106 contributions to the value of £1,051,501, and since then no further funds have been received from developers. In total, £246,710 of the balance received has been allocated to projects, as shown at Appendix A, and £23 has been spent as at 30th June 2022. This leaves a remaining balance of £246,687 which has been allocated to projects, as well as a further £804,791 which is unallocated.

5. **What will it cost and are there opportunities for savings?**

5.1 Not applicable

6. What are the risks and how can they be reduced?

6.1

Current Risk	Actions to reduce the risks
Net expenditure may exceed the approved budget due to shortfall in income or overspending	Ongoing budget monitoring to highlight variances at an early stage.
Rising inflation costs may cause project costs to exceed the approved budgets.	Regular monitoring of the project costs by the Project Manager, together with support from the Capital Accountant to address any concerns at an early stage. Any price rise that cannot be accommodated within normal tolerances will be reported back to Council before proceeding with the planned works.

7. Other options considered

7.1 None

8. Environmental impact

8.1 In preparing this report, the author has considered the impact on the Environment, and there are no areas of concern.

9. Other significant issues

9.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

10. Appendix

10.1 Appendix A – Budget Monitoring Statement to 30th June 2022

10. Background paper(s)

10.1 None

11. Report author's contact details

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	Approved Capital Programme 2022/23 £	Budgets Brought Forward from 2021/22 £	Virements / Additions etc within the year £	Project completed Saving realised £	Latest Capital Programme 2022/23 £	Capital Expenditure to 30th June 2022 £	Variance as at 30th June 2022 £
Corporate Aims & Objectives							
Disabled Facilities Grants - 2022/23	630,000	1,116,455	0	0	1,746,455	177,513	1,568,942
Green Capital Grant Programme - 2021/22	0	3,504	(3,504)	0	0	0	0
Green Capital Grant Programme - 2022/23	0	0	20,000	0	20,000	0	20,000
Capital Grant Programme - 2021/22	54,500	14,574	(16,496)	0	52,578	4,190	48,388
Housing Support Grants - 2021/22	30,000	23,244	0	0	53,244	4,715	48,529
Conversion Of The Old Bank, Narborough	0	38,282	0	0	38,282	0	38,282
Extension of Enderby Leisure Centre Car Park	150,000	0	0	0	150,000	0	150,000
Blaby Town Centre Improvement Works	0	81,626	0	0	81,626	7,283	74,343
Install Led Lighting At Council Offices	0	25,492	0	0	25,492	22,000	3,492
Council Offices Refurbishment Project - 2021	0	50,000	0	0	50,000	0	50,000
Council Offices Refurbishment Project - 2022	250,000	0	0	0	250,000	0	250,000
Huncote Landfill Gas Remedial Works	0	0	204,955	0	204,955	0	204,955
Cctv Upgrade At Blaby Tc & Narb. R. Stn.	40,000	0	0	0	40,000	0	40,000
Walk And Ride Blaby	180,000	0	0	0	180,000	0	180,000
Blaby Town Centre Toilets	100,000	0	0	0	100,000	0	100,000
Air Quality Action Plan	0	7,734	0	0	7,734	0	7,734
Empty Property Grants & Loans	0	28,049	0	0	28,049	0	28,049
Sub Total Corporate Aims & Objectives	1,434,500	1,388,960	204,955	0	3,028,415	215,701	2,812,714
Asset Management Planning							
Idox Software Upgrade	0	390	0	0	390	0	390
Ict: Data Centre	0	118,000	0	0	118,000	0	118,000
Ict: Microsoft Office 365 Consultancy	0	38,000	0	0	38,000	0	38,000
Ict: Network Refresh	0	57,000	0	0	57,000	31,849	25,151
Ict: Equipment for Agile Working	0	29,983	0	0	29,983	170	29,813
Ict: Security Updates	107,000	0	0	0	107,000	0	107,000
Ict: Network Refresh - Phase 2	46,000	0	0	0	46,000	0	46,000
Revenues And Benefits System	0	100,650	0	0	100,650	0	100,650
Upgrade To Huncote Landfill Gas Monitoring	0	10,794	0	0	10,794	0	10,794
Council Offices: Green Heating Solution	0	111,934	0	0	111,934	0	111,934
Council Offices: Workstation Upgrades	0	17,296	0	0	17,296	0	17,296
Replace Exterior Lighting & Signage At Council Offices	0	1,542	0	0	1,542	0	1,542
Replacement Fire Escape Doors At Council	0	5,753	0	0	5,753	0	5,753
Resurfacing Of Car Parks	0	91,268	0	0	91,268	0	91,268
Fleet Replacement Programme - 2021/22	500,000	53,897	0	0	553,897	0	553,897
Vehicle CCTV & Tracking Upgrade	47,000	0	0	0	47,000	0	47,000
Bouskell Park: Bridge & Car Park Improvements	0	200,000	0	0	200,000	0	200,000
Countesthorpe Cp: Upgrade Paths	10,000	0	0	0	10,000	0	10,000
Crow Mills: Steps Fencing & Paths Upgrade	19,000	0	0	0	19,000	0	19,000
Fosse Meadows: Resurface Car Parks	150,000	0	0	0	150,000	0	150,000
Fosse Meadows: Upgrade Fence Gates & Paths	13,000	0	0	0	13,000	0	13,000
The Osiers: Entrance & Path Improvements	10,000	0	0	0	10,000	0	10,000
Whetstone Way: Upgrade Paths	10,000	0	0	0	10,000	10,000	0
Whistle Way: Upgrade Paths	10,000	0	0	0	10,000	0	10,000
The Osiers: Footpaths	0	15,000	0	0	15,000	0	15,000
Ice House Renovation Project	0	1,649	0	0	1,649	0	1,649
Replace Air Quality Analysers	0	28,854	0	0	28,854	0	28,854
Replace Air Quality Analysers - 2022	10,000	0	0	0	10,000	0	10,000
Performance Management System	0	17,000	0	0	17,000	0	17,000
Deployment Of Teams Communication System	0	9,969	0	0	9,969	0	9,969
Land Charges & Customer Portal	0	26,675	0	0	26,675	0	26,675
Hr & Payroll System	0	250,000	0	0	250,000	0	250,000
Financial Management System	0	4,030	0	0	4,030	0	4,030
Replacement Cash Receipting Software	20,000	0	0	0	20,000	0	20,000
Replacement Corporate GIS System	0	18,120	0	0	18,120	10,250	7,870
Sub-total Asset Management Planning	952,000	1,207,804	0	0	2,159,804	52,269	2,107,535
Other Capital Schemes							
Active Blaby Computer System - Phase 2	0	3,477	0	0	3,477	0	3,477
Active Blaby Website Enhancement	4,000	0	0	0	4,000	0	4,000
Update To Social Prescribing System	12,000	0	0	0	12,000	0	12,000
Hardware For Ier Implementation	0	3,057	0	0	3,057	0	3,057
Sub-total Other Capital Schemes	16,000	6,534	0	0	22,534	0	22,534
Asset Management Group Contingencies	50,000	0	0	0	50,000	0	50,000
CAPITAL PROGRAMME excluding S106 Schemes	2,452,500	2,603,298	204,955	0	5,260,753	267,970	4,992,783

	Approved Capital Programme 2022/23 £	Budgets Brought Forward from 2021/22 £	Virements / Additions etc within the year £	Project completed Saving realised £	Latest Capital Programme 2022/23 £	Capital Expenditure to 30th June 2022 £	Variance as at 30th June 2022 £
Section 106-Backed Schemes							
Cemetery Extension - Blaby Rd, Enderby	0	23,286	0	0	23,286	0	23,286
Contribution For New Pavilion & Car Park	0	17,213	0	0	17,213	0	17,213
Air Quality Monitoring - Castle Acres	0	13,394	0	0	13,394	0	13,394
Benches & Picnic Tables, Sapcote	0	23	0	0	23	23	0
Works At Recreation Ground - Sapcote	0	2,080	0	0	2,080	0	2,080
Install LED Lighting - Trinity Rd. Park	0	6,593	0	0	6,593	0	6,593
Play Equipment - Shakespeare Park, Braunstone	0	3,546	0	0	3,546	0	3,546
2 x Benches - Glen Parva Memorial Gardens	0	0	2,995	0	2,995	0	2,995
Affordable Housing - Barry Close, Kirby Muxloe	0	26,000	0	0	26,000	0	26,000
Affordable Housing - Henson Park, Whetstone	0	76,580	0	0	76,580	0	76,580
Affordable Housing - Grove Road, Blaby	0	75,000	0	0	75,000	0	75,000
Sub Total	0	243,715	2,995	0	246,710	23	246,687
TOTAL CAPITAL PROGRAMME 2022/23	2,452,500	2,847,013	207,950	0	5,507,463	267,993	5,239,470

FINANCED BY:	Capital £	Brought £	Additions etc £	completed £	Programme £	Expenditure £	30th June £
Internally Resources							
Prudential Borrowing	1,168,500	587,963	204,955	0	1,961,418	14,190	1,947,228
Usable Capital Receipts	524,000	438,873	0	0	962,873	0	962,873
Blaby District Council Plan Priorities Reserve	0	139,776	0	0	139,776	32,019	107,756
General Reserve Fund	0	28,996	0	0	28,996	22,000	6,996
IT Reserve	0	127,969	0	0	127,969	0	127,969
IT Systems Replacement Reserve	0	18,120	0	0	18,120	10,250	7,870
New Homes Bonus Reserve	0	28,049	0	0	28,049	0	28,049
Revenue Funded Capital Expenditure	100,000	51,437	0	0	151,437	0	151,437
External Resources							
Disabled Facilities Grant	660,000	1,139,699	0	0	1,799,699	182,228	1,617,471
DFG Contribution from East Midland Housing	0	0	0	0	0	0	0
IER Hardware Implementation Grant	0	3,057	0	0	3,057	0	3,057
S106 Contributions - Various	0	243,715	2,995	0	246,710	23	246,687
DEFRA - Air Quality Grant	0	7,734	0	0	7,734	0	7,734
LLEP Funding	0	31,626	0	0	31,626	7,283	24,343
TOTAL FUNDING	2,452,500	2,847,013	207,950	0	5,507,463	267,993	5,239,470

Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Recommendations of the Cabinet Executive: Strategic Property Investment for Regeneration This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Terry Richardson – Leader of the Council & Cllr. Maggie Wright – Finance, People & Performance (Deputy Leader)
Report Author	Strategic Director (Section 151 Officer)
Corporate Priority	Medium Term Financial Strategy (MTFS)

1. What is this report about?

- 1.1 This report considers the Council's position with regard to investment in property for regeneration as included as one of the initiatives in the action plan of the Commercial Strategy and provides for delegation to be given in order that this activity be possible and successful.

2. Recommendation(s) to Cabinet Executive and Council

- 2.1 That Cabinet approve the Commercialism Position Statement at 4.2.
- 2.2 That Cabinet approve the delegation to the Chief Executive, Executive Director (S151 Officer) and Monitoring Officer to approve the purchase or disposal of commercial properties in accordance with the listed criteria in consultation with the Leader of the Council and the Deputy Leader, Finance, People and Performance Portfolio Holder.
- 2.3 That Cabinet approve that an amount of £2.5m be added to the capital programme to be drawn upon to make acquisitions.

3. Reason for Decisions Recommended

- 3.1 To date, the Council has lacked a Position Statement which outlines the direction of Commercialism.
- 3.2 Delegation is required to enable the Council to make decisions quickly regarding commercial acquisitions and disposals.

- | | |
|-----|--|
| 3.3 | It is necessary for an investment amount to be added to the capital programme in order to make acquisitions. |
|-----|--|

4. Matters to consider

4.1 Background

In February 2022 the Council adopted the updated Commercial Strategy which aligned closely with the Blaby District Plan and other key strategies, contributing towards our ambition to make Blaby District Council financially sustainable and creating a District where people are happy to live work and visit.

Adopting commercial behaviours, principles and approaches is the best possible option in the Council's control to sustain its budget and maintain as many services for residents as possible.

Members will recall that the Commercial Strategy highlighted ways in which a commercial approach would be achieved, and some of these elements included:

- Being proactive in identifying opportunities for commercial investments
- Focus resources on initiatives that will drive financial or social benefit.
- That future asset investment is assessed to ensure the relevance to the Council's functions & are financially prudent.

Alongside the Commercial Strategy an Action Plan was drawn up which included a specific action to actively seek opportunities for investment in property with a view to supporting/promoting economic growth or housing need within the district.

This document aims to address the specific elements required of Councillors and Officers to move the Council forward regarding this specific action.

4.2 Proposal(s)

The Council's Commercialism Position Statement

"The Council recognises the need to balance bold, innovative action with social value creation when considering any commercial venture.

In addition, the Council also recognises the need for achieving best value and efficiency in both service delivery and commercial activity. As such, the following areas will be considered more favourably when evaluating which activities should be pursued:

- Investment in regeneration activity that supports strategic development aims and generates a financial return, making the

investment sustainable and not placing further pressure on revenue budgets.

- Where the impact on local business is minimised.
- Where Blaby's reputation, locally and nationally, would be enhanced"

In the Senior Structural Review Report to Cabinet Executive in May 2022, provision was made to source consultancy from a neighbouring authority to assist with the development of the commercial agenda. This consultancy is being provided by the Strategic Director - Commercial and Economic Development at Charnwood Borough Council who has considerable experience in this field.

In discussions it has become apparent that to successfully invest in such regeneration activity the Council must be in a position to move swiftly and decisively. Commercial property transactions move at speed and are a competitive process – the timelines required by these transactions are not compatible with standard governance timelines and a high degree of confidentiality is required. Therefore, this report sets out a scheme of delegation and a set of criteria that will be considered by those to which the decision to invest is delegated.

Criteria for considering the range of commercial opportunities

1. Is there a benefit to the local economy or Blaby residents that can be gained from the activity?
2. Can income be generated to support the activity?
3. Can the income stream(s) be developed (at scale) within the next financial year?
4. Can the income stream(s) be delivered with relative certainty?
5. Are there significant financial risks associated with the opportunity?
6. Is there a track record within the Council – or other local authorities – which demonstrate the opportunity is viable?
7. Does the Council have any commercial advantage in addressing an opportunity compared to the private sector (or – potentially – neighbouring local authorities or other public bodies)?
8. (Conversely) is the Council at a commercial disadvantage compared to existing players in the market who may have existing brands, infrastructure or track record of service delivery?

9. Could the private sector respond to the Council entering the market by competing aggressively – e.g. through price competition - such that an initial or extended period of trading losses might ensue?
10. Does the Commercial opportunity come with significant legal or regulatory risk?
11. Does the Council have skills and capacity within the existing workforce that enable the delivery of the commercial opportunity?
12. Could the Council easily access skills and capacity from the employment / interim / consultancy markets that enable the delivery of the commercial opportunity?
13. Are there political or ethical reasons which may constrain the Council's ability to provide services on a commercial basis?

Any potential commercial investment activity for regeneration will be graded against these criteria and assessed independently. Given the complex and many faceted aspects of any opportunity, there is no strict level for pass/fail; opportunities will be assessed on their merits.

Delegation Required and Governance

Given the necessity that transactions of this nature are assessed, negotiated and closed swiftly it is proposed that delegation is collectively given to:

- The Chief Executive
- The Executive Director (S151 Officer)
- The Monitoring Officer

In consultation with:

- The Leader of the Council and
- The Deputy Leader, Finance, People and Performance Portfolio Holder

With delegation given to approve the purchase of properties in accordance with the criteria set out above and within the investment figure recommended within this report. Going forward it is anticipated that these parameters are set out in the Capital Strategy each year. It is also proposed that delegation is given to approve the sale of land and property where it is considered expedient and, in the Council's, best interests.

In each case where an investment or sale is made all parties listed in the delegation must formally give their agreement to the acquisition or sale and the terms on which that acquisition or purchase is made.

These will be recorded as an Officer Delegated Decision.

Reporting and Governance

In each case where an acquisition or sale has been made an exempt report will be brought to Council following the transaction to disclose the full details of the transaction in order to provide transparency to all Members.

Initial Investment Sum

When the 5 Year Capital Programme was brought before Council in February 2022 there was no sum included to make such investments in commercial property, however it was the intention to increase the Capital Programme during the year should such opportunities arise.

It is therefore proposed that a sum of £2.5m be added to the Capital Programme for 2022/23 with a view that further funds may be added into the 5 Year Programme for future years when it is reviewed in February 2023.

4.3 Relevant Consultations

- Executive Directors
- Monitoring Officer
- Strategic Finance Manager

4.4 Significant Issues

There are no significant issues specifically related to this decision.

5. What will it cost and are there opportunities for savings?

- 5.1 This report sets out the initial investment amount to be drawn upon. Details of the revenue, associated costs and investment amounts will be provided to Council following acquisitions being made.

	Current year	2023/24
Revenue		
Capital	£2.5m	

6. What are the risks and how can they be reduced?

6.1

Current Risk	Actions to reduce the risks
That regeneration investments are made that will not generate a return for the Council, making them self-sustaining.	External expertise will be sought in all cases to assess the investment being made. All those to which delegation is given to make the investment will be required to agree having understood the appraisal of the opportunity before them.

7. Other options considered

- 7.1 Consideration was given to bring before Cabinet or Council each opportunity to invest as it arose. The swift nature of such transactions however made this an unviable alternative.
- 7.2 To not engage in property investment for regeneration. This is not discounted as not undertaking the activity will not allow the Council to actively participate in all aspects of place-shaping.

8. Environmental impact

- 8.1 There are no specific impact on the environment from this report, however where there is opportunity to consider and support a positive environmental impact within an investment opportunity it will be considered.

9. Other significant issues

- 9.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

10. Appendix

- 10.1 None.

11. Background paper(s)

- 11.1 None

12. Report author's contact details

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Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Recommendations of the Cabinet Executive: Review of Minimum Revenue Provision Policy This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Maggie Wright - Finance & Assets (Deputy Leader)
Report Author	Strategic Finance Manager
Corporate Priority	Medium Term Financial Strategy (MTFS)

1. What is this report about?

- 1.1 This report sets out a proposal to change the Council's Minimum Revenue Provision (MRP) policy.

2. Recommendation(s) to Cabinet Executive and Council

- 2.1 That the revised MRP Policy Statement for 2022/23 at Appendix B is approved.

3. Reason for Decisions Recommended

- 3.1 To take the opportunity to move to a more suitable and cost effective method for calculating MRP, whilst ensuring that it remains prudent and complies with the MRP Guidance.

4. Matters to consider

4.1 Background

The Local Government Act 2003 requires the Council to “pay off” an element of accumulated capital expenditure financed through borrowing each year, through a revenue charge known as the Minimum Revenue Provision (MRP).

In determining its annual MRP, the Council must have regard to the current MRP Guidance issued in 2018 by the Ministry for Housing, Communities and Local Government (MHCLG), now renamed the Department for Levelling Up, Housing and Communities (DLUHC). The guidance provides four ready-made options for determining a prudent MRP charge, but alternative approaches are not ruled out.

The overriding principle behind the guidance is to set a prudent provision which ensures that debt is repaid over a period that is reasonably commensurate with that over which the capital expenditure provides benefits.

The Council must prepare an annual MRP Policy in respect of the forthcoming financial year, and this must be submitted to full Council for approval as part of the budget setting process.

The government has recently consulted on changes to the 2003 MRP regulations with an intention to make explicit that:

1. Capital receipts may not be used in place of the revenue charge, and
2. There should be no intentional exclusion of debt from the MRP determination on the grounds that it relates to an investment asset or capital loan.

The proposed changes are expected to be implemented in April 2024, but they are not expected to have a significant impact on Blaby.

4.2 Proposals

A review of the Council's existing MRP policy was recently undertaken with the support of Link, the Council's treasury advisors. The objective of the review was to identify opportunities to move to a more suitable and cost effective MRP strategy, whilst ensuring that the resultant provision remains prudent and compliant with prevailing statutory guidance. In this context, prudence does not necessarily mean the quickest possible repayment period but will also have regard to the Council's overall financial planning and the flow of benefits from the capital expenditure.

Supported Borrowing & Historic Debt

The Council's current MRP policy for supported borrowing and historic debt prior to 2008, is calculated on a 4% reducing balance basis. An alternative method has been identified whereby MRP would be calculated using an annuity approach over 50 years. This is more prudent than the current method because it would ensure that the current debt liability is repaid within a shorter time frame than under the existing method. Using the current 4% reducing balance method, after 50 years 13% of the current outstanding debt liability will remain outstanding.

Unsupported Borrowing

The current method for calculating MRP on unsupported borrowing uses a straight-line approach over the estimated life of the asset. By using an annuity calculation over the weighted average asset life, the Council would benefit from a reduction in MRP in the near term. It can be argued that this change would result in a fairer charge than the current method because it results in a consistent charge over the asset's life, considering the time value of money.

It should be noted that the change in MRP policy cannot be applied retrospectively, so the earliest that the new proposals can be implemented is 2022/23. In overall terms, MRP will not be reduced by changing the policy, but the phasing of any future charges will produce MRP savings in the near term and will better reflect the time value of money. MRP charges in the longer term will inevitably be higher than under the current method but the Council also has the option to use Voluntary Revenue Provision as a way of smoothing the profile of charges across a period of time. This is explained in more detail in the following paragraph.

4.3 Voluntary Revenue Provision

The MRP Guidance permits authorities to make an additional provision in addition to the prudent amount calculated under their policy, in any given year. This is known as Voluntary Revenue Provision (VRP). Any VRP provided in year, along with the total cumulative amount of MRP overpaid in previous years, should be disclosed in the MRP Policy Statement presented to full Council. The Council can choose to offset an amount of VRP against any current or future year's MRP charge, providing that the resulting net MRP charge in the year is not negative.

This gives the Council the flexibility to set aside some of the savings created by the proposed change in MRP policy, as VRP. By doing so this can be used to offset increases in the profile of charges in the future.

The extent to which the Council chooses to apply VRP is a matter that can be reviewed on an annual basis and is not something to which the Council needs to commit itself upfront.

5. **What will it cost and are there opportunities for savings?**

- 5.1 The full financial impact is provided within Appendix A. The following table sets out the potential MRP savings in the first 5 years following implementation of the proposed changes, excluding any VRP that the Council may choose to set aside.

Year	Current Policy £'000	Proposed Policy £'000	(Saving)/Cost £'000
2022/23	1,111	413	(698)
2023/24	1,059	425	(634)
2024/25	1,012	436	(576)
2025/26	982	448	(534)
2026/27	940	460	(480)
5 Year Total	5,104	2,182	(2,922)

Please note that the figures included in the table above relate to capital expenditure up to and including 2021/22. A similar calculation will need to be performed for capital expenditure incurred in each future financial year, but the principles referred to in this report will be the same.

6. What are the risks and how can they be reduced?

6.1

Current Risk	Actions to reduce the risks
Proposed changes to the MRP Policy will lead to a higher Capital Financing Requirement and borrowing requirement than under the current method.	The associated cost will depend upon the Council's treasury position and interest rates in force at the time the MRP is determined for future years. Regulations allow us to review the policy every year; the impact of the revised policy will be kept under regular review to ensure that the annual provision remains prudent.
Challenge from the external auditors.	The Council has a duty to set a prudent MRP but has flexibility to determine how it does so. Data collected by Link suggests that over 60% of English local authorities use some form of annuity method to determine their MRP.

7. Other options considered

- 7.1 The first option is not to change our MRP Policy. Whilst there is no additional cost to the Council in keeping the policy unchanged, the current calculation methods are considered to be less prudent than the annuity methods proposed.

There are also alternative annuity methods that could be adopted, using different approaches to estimating asset lives, but the options proposed in this report give the greatest flexibility, consistency and better reflects the time value of money.

The proposed MRP Policy Statement for 2022/23 appears at Appendix B.

8. Environmental impact

- 8.1 In preparing this report, the author has considered the impact on the Environment, and there are no areas of concern.

9. Other significant issues

- 9.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

10. Appendix

10.1 Appendix A – Comparison of MRP under the current policy with the proposed policy.

10.2 Appendix B – Proposed MRP Policy Statement for 2022/23

11. Background paper(s)

11.1 None

12. Report author's contact details

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COMPARISON OF MRP UNDER CURRENT POLICY WITH PROPOSED POLICY

APPENDIX A

Financial Year		Current MRP Policy				Proposed MRP Policy				Change in MRP				Proposed VRP	Revised MRP & VRP	(Savings)/ Cost
		Supported £	Unsupported £	Leases £	Total £	Supported £	Unsupported £	Leases £	Total £	Supported £	Unsupported £	Leases £	Total £			
1	2022/23	62,377	1,048,198	242	1,110,817	14,534	398,301	242	413,077	(47,843)	(649,897)	0	(697,740)	0	413,077	(697,740)
2	2023/24	59,882	998,570	266	1,058,718	14,946	409,215	266	424,427	(44,936)	(589,355)	0	(634,291)	600,000	1,024,427	(34,291)
3	2024/25	57,487	954,131	293	1,011,911	15,369	420,427	293	436,089	(42,118)	(533,704)	0	(575,822)	600,000	1,036,089	24,178
4	2025/26	55,187	926,801	322	982,310	15,804	431,947	322	448,073	(39,383)	(494,854)	0	(534,237)	500,000	948,073	(34,237)
5	2026/27	52,980	887,134	355	940,469	16,251	443,782	355	460,388	(36,729)	(443,352)	0	(480,081)	500,000	960,388	19,919
6	2027/28	50,860	772,572	390	823,822	16,711	455,942	390	473,043	(34,149)	(316,630)	0	(350,779)	300,000	773,043	(50,779)
7	2028/29	48,826	514,341	429	563,596	17,184	468,435	429	486,048	(31,642)	(45,906)	0	(77,548)	100,000	586,048	22,452
8	2029/30	46,873	450,122	472	497,467	17,670	481,270	472	499,412	(29,203)	31,148	0	1,945	0	499,412	1,945
9	2030/31	44,998	425,477	519	470,994	18,170	494,456	519	513,145	(26,828)	68,979	0	42,151	0	513,145	42,151
10	2031/32	43,198	415,056	571	458,825	18,684	508,005	571	527,260	(24,514)	92,949	0	68,435	0	527,260	68,435
11	2032/33	41,470	374,257	628	416,355	19,213	521,924	628	541,765	(22,257)	147,667	0	125,410	(100,000)	441,765	25,410
12	2033/34	39,811	362,974	691	403,476	19,757	536,225	691	556,673	(20,054)	173,251	0	153,197	(100,000)	456,673	53,197
13	2034/35	38,219	347,231	760	386,210	20,316	550,917	760	571,993	(17,903)	203,686	0	185,783	(100,000)	471,993	85,783
14	2035/36	36,690	310,689	836	348,215	20,891	566,012	836	587,739	(15,799)	255,323	0	239,524	(200,000)	387,739	39,524
15	2036/37	35,223	293,876	920	330,019	21,482	581,521	920	603,923	(13,741)	287,645	0	273,904	(200,000)	403,923	73,904
16	2037/38	33,814	291,015	1,012	325,841	22,090	597,455	1,012	620,557	(11,724)	306,440	0	294,716	(200,000)	420,557	94,716
17	2038/39	32,461	289,239	1,113	322,813	22,715	613,825	1,113	637,653	(9,746)	324,586	0	314,840	(200,000)	437,653	114,840
18	2039/40	31,163	289,239	1,224	321,626	23,358	630,644	1,224	655,226	(7,805)	341,405	0	333,600	(200,000)	455,226	133,600
19	2040/41	29,916	63,848	1,346	95,110	24,019	647,923	1,346	673,288	(5,897)	584,075	0	578,178	(300,000)	373,288	278,178
20	2041/42	28,720	55,503	1,481	85,704	24,699	665,676	1,481	691,856	(4,021)	610,173	0	606,152	(300,000)	391,856	306,152
21	2042/43	27,571	49,917	1,629	79,117	25,398	683,916	1,629	710,943	(2,173)	633,999	0	631,826	(300,000)	410,943	331,826
22	2043/44	26,468	49,917	1,792	78,177	26,116	702,655	1,792	730,563	(352)	652,738	0	652,386	(400,000)	330,563	252,386
23	2044/45	25,409	49,917	1,971	77,297	26,855	0	1,971	28,826	1,446	(49,917)	0	(48,471)	0	28,826	(48,471)
24	2045/46	24,393	49,917	2,168	76,478	27,615	0	2,168	29,783	3,222	(49,917)	0	(46,695)	0	29,783	(46,695)
25	2046/47	23,417	49,917	2,385	75,719	28,397	0	2,385	30,782	4,980	(49,917)	0	(44,937)	0	30,782	(44,937)
26	2047/48	22,480	49,917	2,624	75,021	29,201	0	2,624	31,825	6,721	(49,917)	0	(43,196)	0	31,825	(43,196)
27	2048/49	21,581	49,917	2,886	74,384	30,027	0	2,886	32,913	8,446	(49,917)	0	(41,471)	0	32,913	(41,471)
28	2049/50	20,718	49,917	3,175	73,810	30,877	0	3,175	34,052	10,159	(49,917)	0	(39,758)	0	34,052	(39,758)
29	2050/51	19,889	49,917	3,492	73,298	31,750	0	3,492	35,242	11,861	(49,917)	0	(38,056)	0	35,242	(38,056)
30	2051/52	19,094	49,917	3,841	72,852	32,649	0	3,841	36,490	13,555	(49,917)	0	(36,362)	0	36,490	(36,362)
31	2052/53	18,330	49,917	4,225	72,472	33,573	0	4,225	37,798	15,243	(49,917)	0	(34,674)	0	37,798	(34,674)
32	2053/54	17,597	49,917	4,648	72,162	34,523	0	4,648	39,171	16,926	(49,917)	0	(32,991)	0	39,171	(32,991)
33	2054/55	16,893	49,917	5,113	71,923	35,500	0	5,113	40,613	18,607	(49,917)	0	(31,310)	0	40,613	(31,310)
34	2055/56	16,217	49,917	5,624	71,758	36,505	0	5,624	42,129	20,288	(49,917)	0	(29,629)	0	42,129	(29,629)
35	2056/57	15,569	49,917	6,187	71,673	37,538	0	6,187	43,725	21,969	(49,917)	0	(27,948)	0	43,725	(27,948)
36	2057/58	14,946	49,917	6,805	71,668	38,600	0	6,805	45,405	23,654	(49,917)	0	(26,263)	0	45,405	(26,263)
37	2058/59	14,348	49,917	7,486	71,751	39,693	0	7,486	47,179	25,345	(49,917)	0	(24,572)	0	47,179	(24,572)
38	2059/60	13,774	49,917	8,234	71,925	40,816	0	8,234	49,050	27,042	(49,917)	0	(22,875)	0	49,050	(22,875)
39	2060/61	13,223	49,917	9,058	72,198	41,971	0	9,058	51,029	28,748	(49,917)	0	(21,169)	0	51,029	(21,169)
40	2061/62	12,694	49,917	9,963	72,574	43,159	0	9,963	53,122	30,465	(49,917)	0	(19,452)	0	53,122	(19,452)
41	2062/63	12,186	49,917	10,960	73,063	44,380	0	10,960	55,340	32,194	(49,917)	0	(17,723)	0	55,340	(17,723)
42	2063/64	11,699	49,917	12,056	73,672	45,636	0	12,056	57,692	33,937	(49,917)	0	(15,980)	0	57,692	(15,980)
43	2064/65	11,231	49,917	13,261	74,409	46,928	0	13,261	60,189	35,697	(49,917)	0	(14,220)	0	60,189	(14,220)
44	2065/66	10,782	49,917	14,588	75,287	48,256	0	14,588	62,844	37,474	(49,917)	0	(12,443)	0	62,844	(12,443)
45	2066/67	10,350	49,917	16,046	76,313	49,621	0	16,046	65,667	39,271	(49,917)	0	(10,646)	0	65,667	(10,646)
46	2067/68	9,936	49,917	17,651	77,504	51,026	0	17,651	68,677	41,090	(49,917)	0	(8,827)	0	68,677	(8,827)
47	2068/69	9,539	49,917	19,416	78,872	52,470	0	19,416	71,886	42,931	(49,917)	0	(6,986)	0	71,886	(6,986)
48	2069/70	9,157	49,917	21,358	80,432	53,954	0	21,358	75,312	44,797	(49,917)	0	(5,120)	0	75,312	(5,120)
49	2070/71	8,791	49,917	23,493	82,201	55,481	0	23,493	78,974	46,690	(49,917)	0	(3,227)	0	78,974	(3,227)
50	2071/72	8,440	49,917	25,843	84,200	57,052	0	25,843	82,895	48,612	(49,917)	0	(1,305)	0	82,895	(1,305)

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APPENDIX B

Minimum Revenue Provision (MRP) Policy Statement 2022-23

Council is recommended to approve the following:

- The Authority's MRP policy has been amended for 2022/23 following a comprehensive review of MRP charges and methodology. This updated policy reflects the new MRP calculation methods to be implemented.
- For supported capital expenditure incurred before 1st April 2008, the Authority will apply the Asset Life Method using an annuity calculation over 50 years.
- Unsupported borrowing will be subject to MRP under option 3 of the guidance (Asset Life Method), which will be charged over a period which is reasonably commensurate with the estimated useful life applicable to the nature of the expenditure. For example, capital expenditure on a new building, or on the refurbishment or enhancement of a building, will be related to the estimated life of that building. An annuity method will be used for the MRP calculation on a weighted average basis.
- The interest rate applied to the annuity calculations will reflect the market conditions at the time and will for the current financial year be the Authority's weighted average borrowing rate.
- The following table gives an indication of the useful asset lives of different categories of assets/capital expenditure type, and hence the period over which MRP will be charged.

Capital Expenditure incurred on:	Estimated Asset Life for MRP purposes
Construction of new buildings	40 – 60 years
Disabled Facilities Grants – Stairlifts	5 years
Disabled Facilities Grants – Bathrooms/Major Adaptations	20 years
Enhancement and refurbishment of land and buildings	10 years
Refuse vehicles	7 years
Other vehicles, plant and equipment	5 – 7 years
Other capital grants	5 years
IT Systems	2 - 5 years

- MRP in respect of assets acquired under Finance Lease will be charged at a rate equal to the principal element of the annual lease rental for the year in question.
- MRP Overpayments - The MRP Guidance allows that any charges made in excess of the statutory minimum revenue provision (MRP), i.e., voluntary

revenue provision or overpayments, can be reclaimed in later years if deemed necessary or prudent. In order for these sums to be reclaimed for use in the budget, this policy must disclose the cumulative overpayment made each year. There were no VRP overpayments up to 31st March 2022.

Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Public Spaces Protection Order Renewal - Dogs This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Les Phillimore - Housing, Community & Environmental Services
Report Author	Environmental Services Manager
Corporate Priority	A Place to Live

1. What is this report about?

- 1.1 To seek approval to renew the Public Spaces Protection Order (PSPO) for dog control.

2. Recommendation(s) to Council

- 2.1 To approve the Public Spaces Protection Order - (Blaby District Council) 2022 – (Appendix A) and to determine that the Public Spaces Protection Order- (Blaby District Council) 2022 will come into force on the 21st November 2022.
- 2.2 To delegate authority to the Environmental Health, Housing, Net Zero and Community Safety Group Manager in consultation with the Portfolio Holder to make future minor amendments to the PSPO.

3. Reason for Decisions Recommended

- 3.1 To renew the current Public Spaces Protection Order to allow continued enforcement of dog related offences across the District.
- 3.2 To allow minor amendments to be made to the Public Space Protection Order.

4. Matters to consider

4.1 Background

The PSPO was introduced under the Anti-Social Behaviour, Crime and Policing Act 2014 in May 2016. The PSPO is valid for 3 years and is reviewed close to its expiry to ensure it is compliant and still relevant. The PSPO was varied in November 2016 when it became apparent that those controls

needed to be strengthened at Fosse Meadows. This element of the order is being retained. The current PSPO was approved in November 2019, at this point it was agreed to remove the reduced fixed penalty payment amount. This element of the order is being retained.

Since the approval of the PSPO in 2019 the Senior Animal Services Officer has worked with the Envirocrime Technical Officer to deliver campaigns with regard to dog fouling.

The bite back campaign was launched in 2019 and focussed on empowering Parish Councils and members of the public to take action on dog fouling in their local area. Information, posters and stencilling packs were made available and pre pandemic a large number were collected and used in the district. Following the relaxation of controls from the pandemic demand is once again increasing with 4 requests for these packs being received from Parish Councils in the last month.

Due to the impact of the pandemic the number of fixed penalty notices issued for dog related issues listed in the PSPO has reduced, however there is a scheduled programme of increased campaign work and patrolling planned for the coming year. During the pandemic work was focussed on inspection of breeding establishments as the numbers of these drastically increased during this time. From the 1st of January this year to date in excess of 40 signage and stencil requests for open spaces and residential areas across the district have been received and actioned.

4.2 Proposal(s)

The proposal is to renew controls within the PSPO for a further 3 years in line with legislative requirements, and to allow for future minor amendments of the order to be authorised by the Group Manager in consultation with the Portfolio Holder.

The Environmental Services Team will continue to work with Parish Councils and residents to try and promote good practice and prevent dog related issues in their local areas.

4.3 Relevant Consultations

The proposed renewal was published on the Councils consultation pages of the website from the 5th to 31st August 2022. The proposed PSPO was circulated to District Councillors, Parish Councils and the statutory consultees.

No objections were received, however, several comments supporting the renewal of the PSPO were received.

4.4 Significant Issues

There are no significant issues identified.

5. What will it cost and are there opportunities for savings?

- 5.1 Additional costs for signage and updated Fixed Penalty Notice pads can be met within existing budgets.

6. What are the risks and how can they be reduced?

6.1

Current Risk	Actions to reduce the risks
Lack of effective enforcement if PSPO allowed to lapse	Renew current PSPO for a further 3 years in line with legislation.
Over zealous or unreasonable enforcement of the PSPO	Implementation of a training programme for officers and partner agencies to ensure that enforcement is reasonable and proportionate. Application of the adopted Enforcement Procedure to ensure a consistent approach.
PSPO lapses after 3 years	A review process should be timetabled to ensure that the PSPO is assessed and amended as necessary towards the end of the life of the PSPO.

7. Other options considered

- 7.1 Allow current PSPO to lapse on the 21st November 2022, however this would prevent any enforcement of dog related offences within the District.

8. Environmental impact

- 8.1 If the PSPO is approved there will be an improved environmental impact as a reduction in dog fouling may be achieved.

9. Other significant issues

- 9.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

10. Appendix

- 10.1 Appendix A – The Public Spaces Protection Order - (Blaby District Council) 2022.

11. Background paper(s)

- 11.1 Anti-Social Behaviour, Crime and Policing Act 2014 - <http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

Cabinet Executive Report (Public Space Protection Order – Dogs)
21 March 2016

Cabinet Executive Report (Public Space Protection Order Variation – Dogs)
7 November 2016

Council Report (Public Space Protection Order Renewal– Dogs)
19 November 2019

12. Report author's contact details

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The Anti-social Behaviour, Crime and Policing Act 2014

The Public Spaces Protection Order - (Blaby District Council) 2022

Blaby District Council (in this order called “the Authority”) hereby makes the following Public Space Protection Order under section 59 of the Anti Social Behaviour, Crime and Policing Act 2014 (“the Act”).

This Order comes into force on the 21 of November 2022 for a period of 3 years.

Offences

1. Dog Fouling

1.1. If within the administrative area of the Authority a dog defecates at any time on land to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless:

- a) he has reasonable excuse for failing to do so; or
- b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

1.2. If a person who is in charge of a dog does not have or produce when requested by an authorised officer of the Authority, a receptacle for picking up dog faeces, that person shall be guilty of an offence.

1.3. A receptacle is defined as any object capable of holding faeces for disposal.

1.4. Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land.

1.5. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

2. Leads by order

2.1. A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not comply with a direction given to him by an authorised officer of the Authority to put and keep the dog on a lead unless:

- a) he has reasonable excuse for failing to do so; or
- b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

2.2. An authorised officer may only give a direction under this order if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or to a bird or another animal.

3. Dogs on Leads

- 3.1. This order applies to the land specified in Schedule 1 to this order.
- 3.2. A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this order applies he does not keep the dog on a lead unless:
- a) he has reasonable excuse for failing to do so; or
 - b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

4. Dog Exclusion

- 4.1. This order applies to the land specified in Schedule 2 to this order.
- 4.2. A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this order applies unless:
- a) he has reasonable excuse for failing to do so; or
 - b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

5. General

- 5.1. A lead should be of such construction and strength to restrain the dog and be no longer than two (2) metres in length. A retractable lead that is longer than 2 metres can be used where its maximum length is limited to 2 metres while the direction applies.
- 5.2. For the purpose of this Order, a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
- 5.3. “an authorised officer of the Authority” means an employee, partnership agency or contractor of Blaby District Council who is authorised in writing by Blaby District Council for the purposes of giving directions under the Order.

6. Exemptions

- 6.1. Nothing in this order shall apply to a person who:
- a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
 - c) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- 6.2. For the purpose of this order - Each of the following is a prescribed charity:
- Dogs for the Disabled (registered charity number 700454)
 - Support Dogs Limited (registered charity number 1088281)

- Canine Partners for Independence (registered charity number 803680)

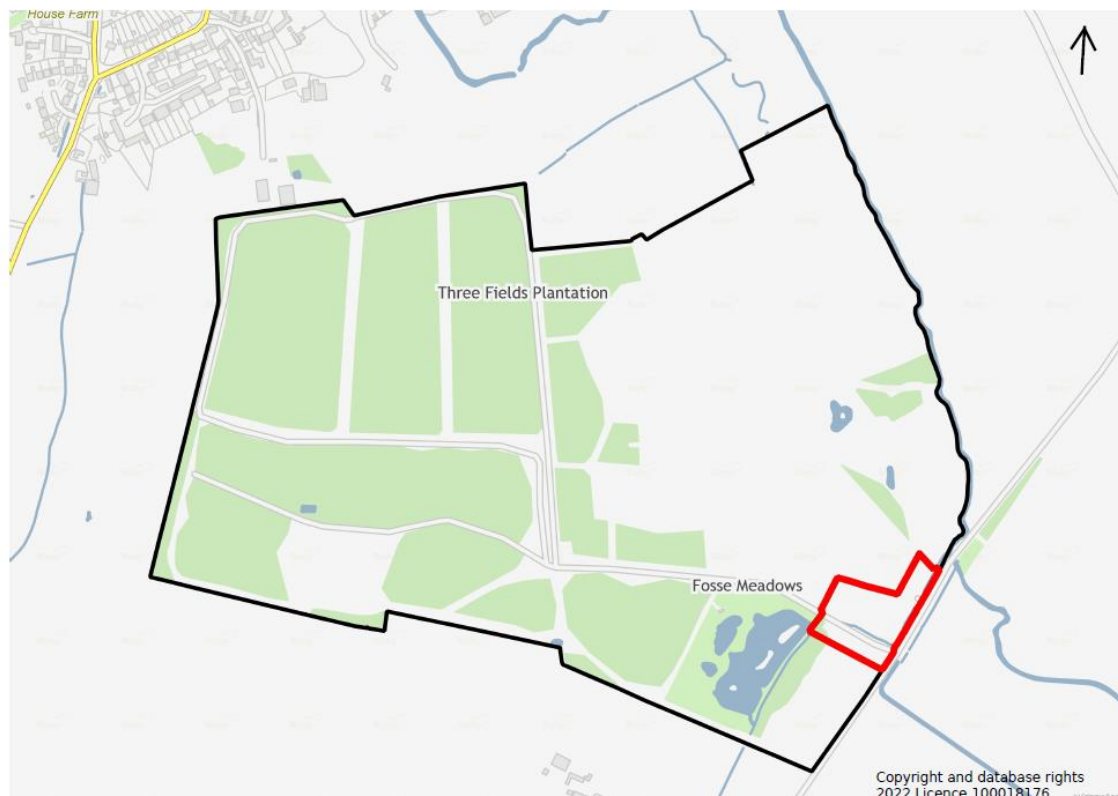
7. Penalty

- 7.1. A person who is guilty of an offence under this order shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 7.2. A Fixed Penalty Notice of £100.00 will be issued to offenders to be paid within 14 days which would discharge any liability to conviction for an offence under Section 67(1) of the Act.

Schedule 1 – Land where dogs must be on a lead

The land referred to in Article 3 above (land where dogs must be kept on a lead) is:

- 1) All land within the Council's administrative area comprising any fenced (and/or hedged and/or walled) cemetery, graveyard, churchyard or burial ground, signed at its entrance(s) as a "dog on lead" area (whether the sign uses those particular words or words and/or symbols having like effect).
- 2) The car parks and picnic area at Fosse Meadows Nature Reserve area as defined by the red border on the map below.



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Schedule 2 – Land where dogs are excluded

The land referred to in Article 4 above (land where dogs are excluded) is:

All land within the Council's administrative area comprising any fenced (and/or hedged and/or walled) children's play area, signed at its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or words and/or symbols having like effect).

Blaby District Council Council

Date of Meeting	20 September 2022
Title of Report	Cosby Neighbourhood Plan – response to Examiner’s proposed modifications This is not a Key Decision and is on the Forward Plan
Lead Member	Cllr. Ben Taylor – Planning Delivery and Enforcement & Corporate Transformation
Report Author	Development Strategy Manager
Corporate Priority	A Place to Live

1. What is this report about?

- 1.1 The Cosby Neighbourhood Plan (submission version) (Appendix A) has been prepared by the Cosby Neighbourhood Plan Steering Group and has recently gone through the Examination process. The Examiner’s Report was published in June 2022 and included a number of proposed modifications to ensure the Plan meets the ‘basic conditions’ set out in legislation.

In accordance with the legislation, the District Council is required to provide its response to the Examiner’s proposed modifications before the Plan can proceed to a referendum.

2. Recommendation(s) to Council

- 2.1 That Council accepts the recommended modifications to the Cosby Neighbourhood Plan set out in the Examiner’s Report, attached at Appendix B to this report.

3. Reason for Decisions Recommended

- 3.1 The Examiner’s recommended modifications are necessary to ensure the Plan meets the basic conditions required by legislation and can then proceed to referendum.

4. Matters to consider

4.1 Background

Introduction

Neighbourhood Planning provides communities with a powerful set of tools to shape the development and growth of their local areas. Neighbourhood Plans can, for example, identify where new homes, shops and employment premises are to be built and have their say on what new buildings should look like. They are plans prepared by the local community, for the local community.

The legislation governing the preparation of Neighbourhood Plans requires that any Plan must meet the basic conditions, which are as follows:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- The making of the neighbourhood plan contributes to the achievement of sustainable development;
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority; and
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

Following successful Plan preparation, consultation, independent examination and Referendum, a Neighbourhood Plan is 'made' (i.e. adopted) by the District Council. Once 'made', it becomes part of the development plan for the area to which it relates, and therefore planning applications will be determined against it, alongside Blaby District Council's Local Plan.

The Cosby Neighbourhood Plan so far

The Cosby Neighbourhood Area was designated in 2017 and Cosby Parish Council is the Qualifying Body in accordance with the legislation. The neighbourhood plan period is 2021 - 2029.

The Cosby Neighbourhood Plan addresses a range of issues in response to matters identified through earlier stages of public consultation, including good design, safeguarding historic buildings and green spaces, and protecting and improving community facilities and amenities.

A number of consultation exercises were undertaken by the Cosby Neighbourhood Plan Steering Group in the development of the plan before it was submitted to Blaby District Council, who undertook the final statutory consultation before the Plan was examined. Sixteen responses were received for the final statutory consultation.

An Independent Examiner was appointed to undertake an Examination to test whether the Plan complies with the 'basic conditions' (as set out above) in light of the representations received during the consultation. The Examiner's Report on the Plan was issued on 17 June 2022 and is provided as Appendix B to this report.

The Examiner recommended a number of modifications to the report to ensure the Plan meets the basic conditions. In summary, the modifications to the policies are:

- Amend policy CNDP1: Development within and affecting the setting of Cosby Conservation Area to conform to national planning policy and to provide clarity.
- Amend policy CNDP2: Development affecting non-designated heritage assets to conform to national and local planning policy.
- Amend policy CNDP3: Design Principles to conform to national planning policy and to provide clarity.
- Amend policy CNDP5: Protecting Other Open Spaces to clearly identify the open spaces to be protected.
- Amend policy CNDP6: Protection of Existing Community Facilities and Local Shops to provide clarity.
- Amend policy CNDP7: Access to the Countryside to conform to national planning policy and to provide clarity.

In addition to the changes to the policies suggested above the Examiner also identified minor editing and clarification matters to be corrected before the Plan proceeds to Referendum. These are set out in the Examiner's Report.

Officers consider that the modifications recommended to the Plan by the Examiner are reasonable and indeed necessary to ensure the final Cosby Neighbourhood Plan sets out clear policies against which planning applications can be determined. At the same time, the recommended modifications are considered to support the focus of the Plan and what it sets out to achieve.

Next steps

Should Council accept the modifications to the Cosby Neighbourhood Plan as recommended, a Referendum will be arranged and held. The proposed date for the Referendum is 24 November 2022.

If the majority of those voting at the Referendum support the Plan, it will then come back to Blaby District Council to be 'made', at which point it will become part of the Development Plan for the area and will inform and guide future delegated decisions and recommendations to Planning Committee.

Reviewing the Plan

As per the relevant legislation, the Neighbourhood Plan must be in general conformity with the strategic policies contained in the Development Plan. The preparation of this Neighbourhood Plan has been undertaken in the context of the Council's current Local Plan (Core Strategy and Delivery DPD) and, with the suggested modifications, is considered to be in general conformity with them.

Members will be aware that work on a new Local Plan for the District has commenced. The potential implications of this new Local Plan for Cosby Parish will become clearer as this work progresses, and specifically whether the Neighbourhood Plan will need reviewing to remain up-to-date and in conformity with the strategic policies in the Development Plan. Cosby Parish Council is a statutory consultee in the local plan preparation process so will be aware of progress on the development of the new Local Plan. On this basis, they will be able to initiate a review of the Neighbourhood Plan should the need emerge.

4.2 Proposal(s)

It is recommended that Council accepts the modifications to the Plan recommended in the Examiner's Report to ensure the final version of the Plan meets the basic conditions, is robust and comprises a clear, understandable document that will be used in the determination of planning applications. The Plan will then proceed to Referendum for the eligible residents of Cosby to vote on it.

In proceeding to a referendum with a Plan that meets the basic conditions, the community are being given the opportunity to have their say on future development in Cosby through their support of the Cosby Neighbourhood Plan.

4.3 Relevant Consultations

As referred to above, public consultation has been undertaken on the Plan by both the Cosby Neighbourhood Plan Steering Group and Blaby District Council, giving a wide range of organisations and individuals the chance to inform and comment on the Plan.

Internal consultations with appropriate Officers of this Council have been held, including the Strategic Director, the Planning and Strategic Growth Group Manager and Development Management Officers.

4.4 Significant Issues

Legal implications

The legislation makes clear that the District Council has a duty to support neighbourhood plan groups in preparing their Neighbourhood Plans. The legislation also requires the District Council to undertake public consultation on the Plan prior to the Examination, provide a response to the Examiner's

modifications and arrange the examination and referendum processes. The Plan has been prepared in accordance with the relevant legislation, which includes the Town and Country Planning Act 1990 (as amended) and the Neighbourhood Planning (General) Regulations 2012 (as amended).

Human Resources

In order to progress the Neighbourhood Plan to the point where it can be 'made' by Council, the Council will need to arrange the referendum on the Plan. Therefore, resources will be required from other teams within the Council, primarily from the Elections Team.

5. What will it cost and are there opportunities for savings?

- 5.1 The Council is responsible for paying the costs of the Examination and the Referendum. The costs of these two processes have yet to be confirmed, although the Examination cost has been estimated at about £7,000. The District Council can claim £20,000 of funding back from the Department for Levelling Up, Housing and Communities, once the referendum date is set following the successful examination, to recover the costs spent. This grant funding is expected to cover the cost of both the Examination and the Referendum. The costs have been budgeted for in the general neighbourhood planning budget.

6. What are the risks and how can they be reduced?

- 6.1 The risks are as follows:

Current Risk	Actions to reduce the risks
The Plan is not supported by the local community at Referendum.	The Cosby Neighbourhood Plan Steering Group have actively consulted the local community to ensure their aspirations have been reflected and addressed in the Plan, and therefore the risk that the Plan will not be successful at Referendum is reduced.
The strategic policies of the Development Plan could change when the Local Plan is reviewed.	If the policies become out of date or do not conform to the strategic policies of the Development Plan, the qualifying body (Cosby Parish Council) can choose to review and, if necessary, update the Plan. No further action can be taken at this time.

7. Other options considered

7.1 Not to accept the Examiner's recommended modifications

Cosby Parish Council is keen to get a Neighbourhood Plan adopted which reflects the aspirations of the local community. Work commenced on this Neighbourhood Plan in 2017, and the Cosby Neighbourhood Plan Steering Group has put significant resource into getting the Plan to this advanced stage with support from Blaby District Council. The Plan is required by legislation to meet prescribed basic conditions, and the modifications recommended are required to ensure that the Plan is capable of doing this. Cosby Parish Council (as Qualifying Body) is supportive of the Examiner's Report and the District Council has a duty to support the neighbourhood planning process. Therefore, this option is not considered appropriate.

8. Other significant issues

8.1 In preparing this report, the author has considered issues related to Human Rights, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern. The Neighbourhood Plan itself has significant positive impacts for Cosby in respect to growth and development.

8.2 Significant issues relating to Legal Matters and Human Resources have been addressed at paragraph 4.4.

9. Appendix

9.1 Appendix A (available to access via this link)– [Cosby Neighbourhood Plan \(Submission Version\)](#)

9.2 Appendix B – Cosby Neighbourhood Plan – report by Independent Examiner to Blaby District Council (June 2022)

10. Background paper(s)

10.1 Blaby District Local Plan (Core Strategy) Development Plan Document (2013)
Blaby District Local Plan (Delivery) Development Plan Document (2019)
National Planning Policy Framework
Planning Practice Guidance
Evidence-based documents that informed the preparation of the Neighbourhood Plan, available on the Cosby Parish Council website (www.cosbyparishcouncil.org.uk)

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Cosby Neighbourhood Development Plan

A report to Blaby District Council of the Independent Examination of the Cosby Neighbourhood Development Plan

Copy to Cosby Parish Council

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17 June 2022

Contents

Summary of Main Findings	2
Neighbourhood Planning	3
Independent Examination.....	3
Basic Conditions and other Statutory Requirements	6
Documents	8
Consultation.....	9
The Neighbourhood Plan taken as a whole	12
The Neighbourhood Plan Policies	21
Policy CNDP1 – Development within and affecting the setting of Cosby Conservation Area	23
Policy CNDP2 – Development affecting non-designated heritage assets	24
Policy CNDP3 – Design Principles.....	26
Policy CNDP4 – Protecting Local Green Space.....	28
Policy CNDP5 – Protecting Other Open Spaces	31
Policy CNDP6 – Protection of Existing Community Facilities and Local Shops	33
Policy CNDP7 – Access to the Countryside	34
Policy CNDP8 – Access and Road Safety	36
Conclusion and Referendum.....	37
Annex: Minor Corrections to the Neighbourhood Plan.....	38

Summary of Main Findings

This is the report of the Independent Examination of the Cosby Neighbourhood Development Plan that has been prepared by Cosby Parish Council. Cosby Parish was designated as a Neighbourhood Area on 11 October 2017. The plan area lies within the Blaby District Council area. The plan period runs until 2029. The Neighbourhood Plan includes policies relating to the development and use of land. The Neighbourhood Plan does not allocate land for residential development.

This report finds that subject to specified modifications the Neighbourhood Plan meets the Basic Conditions and other requirements. It is recommended the Neighbourhood Plan should proceed to a local referendum based on the plan area.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. Paragraph 29 of the National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities the power to develop a shared vision for their area”.
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Cosby Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Cosby Parish Council (the Parish Council). Cosby Parish was designated by Blaby District Council (the District Council) as a Neighbourhood Area on 11 October 2017. The draft plan has been submitted by the Parish Council, a qualifying body able to prepare a neighbourhood plan, in respect of the Cosby Neighbourhood Area (the Neighbourhood Area). The Neighbourhood Plan has been produced by a Neighbourhood Plan Steering Group (the Steering Group) made up of Parish Councillors and other volunteers from the local community.
4. The submission draft of the Neighbourhood Plan and accompanying documents were approved by the Parish Council for submission to the District Council. The District Council arranged a period of publication between 24 March 2022 and 12 May 2022 and subsequently submitted the Neighbourhood Plan to me for independent examination which commenced on 19 May 2022.

Independent Examination

5. This report sets out the findings of the independent examination of the Neighbourhood Plan. The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Once a neighbourhood plan has been independently examined, and a decision statement is issued by the local planning authority outlining their intention to hold a neighbourhood plan referendum, it must be taken into account and can be given significant weight when determining a planning application, in so far as the plan is material to the application.
7. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will form part of the Development Plan and be given full weight in the determination of planning applications and decisions on planning appeals in the plan area unless the District Council subsequently decide the Neighbourhood Plan should not be 'made'. The Housing and Planning Act 2016 requires any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan. Paragraph 12 of the Framework is very clear that where a planning application conflicts with an up-to-date neighbourhood plan that forms part of the Development Plan, permission should not usually be granted.
8. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan.
9. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; and a Member of the Institute of Historic Building Conservation. As a Chartered Town Planner, I have held national positions and have 35 years' experience at Director or Head of Service level in six local planning authorities. I have been a panel member of the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) since its inception, and have undertaken the independent examination of neighbourhood plans in every region of England, and in the full range of types of urban and rural areas.
10. As independent examiner, I am required to produce this report and must recommend either:
 - that the Neighbourhood Plan is submitted to a referendum, or
 - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or

- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

11. I make my recommendation in this respect and in respect to any extension to the referendum area, in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.

12. Paragraph 9 of Schedule 4B to the TCPA 1990 provides that the general rule is that the examination of a neighbourhood plan is to take the form of the consideration of written representations. The Planning Practice Guidance (the Guidance) states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”

13. The Regulation 16 representation of Catesby Estates plc states “Given the concerns we have set out above it is considered necessary for the CNDP to be subject to hearing sessions to explore the issues raised further. We would wish to participate in any hearing sessions”. The examiner has the ability to call a hearing for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. This requires an exercise of judgement on my part. All parties have had the opportunity to state their case. The representation of Catesby Estates plc which has been professionally prepared sets out clearly points for my consideration. All of the Regulation 16 responses set out any representations relevant to my consideration whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements. Those representations; the level of detail contained within the submitted Neighbourhood Plan and supporting documents; and the response to my request for clarification of matters have provided me with the necessary information required for me to conclude the Independent Examination. As I did not consider a hearing necessary, I proceeded on the basis of examination of the submission and supporting documents; the written representations; and an unaccompanied visit to the neighbourhood area.

14. This report has been produced in an accessible format.

Basic Conditions and other Statutory Requirements

15. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. A neighbourhood plan meets the Basic Conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
 - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
16. With respect to the penultimate Basic Condition the European Withdrawal Act 2018 (EUWA) incorporates EU environmental law (directives and regulations) into UK law and provides for a continuation of primary and subordinate legislation, and other enactments in domestic law. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention Rights, which has the same meaning as in the Human Rights Act 1998. All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan Policies’. Where I am required to consider the whole Neighbourhood Plan, I have borne it all in mind.
17. In addition to the Basic Conditions and Convention Rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (in sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)). I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 as amended (the Regulations) which are made pursuant to the powers given in those sections.
18. The Neighbourhood Plan relates to the area that was designated by the District Council on 11 October 2017. A map of the Neighbourhood Area is included on page 10 of the Submission Version Plan. The Neighbourhood Plan does not relate to more

than one neighbourhood area, and no other neighbourhood development plan has been made for the neighbourhood area. All requirements relating to the plan area have been met.

19. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area; and the Neighbourhood Plan does not include provision about excluded development (principally minerals, waste disposal, development automatically requiring Environmental Impact Assessment, and nationally significant infrastructure projects). I am able to confirm that I am satisfied that each of these requirements has been met.
20. A neighbourhood plan must also meet the requirement to specify the period to which it has effect. The front cover of the Neighbourhood Plan states the plan period is 2021-2029. This plan end date is confirmed in paragraph 5.0 of the Neighbourhood Plan.
21. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the tests of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan, except where this arises as a result of my recommended modifications so that the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. I have been appointed to examine whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention Rights, and the other statutory requirements.
22. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with all land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
23. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans reflect thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
24. I have only recommended modifications to the Neighbourhood Plan (each is numbered and presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. I refer to the matter of minor corrections and other adjustments of general text in the Annex to my report.

Documents

25. I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements:

- Cosby Neighbourhood Development Plan 2021-2029 Regulation 16 Submission Draft October 2021
- Cosby Neighbourhood Development Plan 2021-2029 Basic Conditions Statement October 2021 [*In this report referred to as the Basic Conditions Statement*]
- Cosby Neighbourhood Development Plan 2021-2029 Consultation Statement October 2021 [*In this report referred to as the Consultation Statement*]
- Cosby Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment – Appropriate Assessment Screening Opinion Report December 2019
- Cosby Neighbourhood Plan - The Environmental Assessment of Plans and Programmes Regulations 2004 - Screening Determination Notice under Regulation 9(1)
- Information available on the Cosby Parish Council website
- Information available on the Blaby District Council website
- Representations received during the Regulation 16 publicity period
- Correspondence between the Independent Examiner and Blaby District Council and the Parish Council including: the letter of the District Council regarding Regulation 16 representations dated 18 May 2022; the initial letter of the Independent Examiner dated 19 May 2022; the letter of the Independent Examiner seeking clarification of various matters dated 4 June 2022 and the responses of the Parish Council and Blaby District Council which I received on 9 and 10 June 2022 respectively
- National Planning Policy Framework (2021) [*In this report referred to as the Framework*]
- Blaby District Local Plan (Core Strategy) Development Plan Document (2013)
- Blaby District Local Plan (Delivery) Development Plan Document (2019)
- Permitted development rights for householders' technical guidance MHCLG (10 September 2019) [*In this report referred to as the Permitted Development Guidance*]
- Planning Practice Guidance web-based resource MHCLG (first fully launched 6 March 2014 and subsequently updated) [*In this report referred to as the Guidance*]
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Equality Act 2010
- Localism Act 2011

- Housing and Planning Act 2016
- European Union (Withdrawal) Act 2018
- Neighbourhood Planning Act 2017 and Commencement Regulations 19 July 2017, 22 September 2017, and 15 January 2019
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations. References to Regulation 14, Regulation 16 etc in this report refer to these Regulations*]
- Neighbourhood Planning (General) (Amendment) Regulations 2015
- Neighbourhood Planning (General) incorporating Development Control Procedure (Amendment) Regulations 2016
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

Consultation

26. The submitted Neighbourhood Plan is accompanied by a Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members, and other consultees, and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
27. Consultation can be traced back to 2018 when a key issues consultation document and questionnaire was delivered to every household and business in the parish. This resulted in more than 500 responses. Since that time consultation has been achieved through the Parish Council website; the Parish Magazine; direct emails, letters and telephone calls; and use of notice boards.
28. In accordance with Regulation 14 the Parish Council consulted on the pre-submission version of the draft Neighbourhood Plan between 15 March 2021 and 25 April 2021. The consultation on the pre-submission draft Plan and supporting documents was publicised through a flyer and an article in the Parish Magazine, and direct emailing of parties on a mailing list. The draft Plan and supporting documents could be viewed electronically on the Parish Council website. Hard copies of the consultation plan were available on request. A representation form was made available to assist parties in making representations however comments by email or in writing were welcomed. Appendix 1 of the Consultation Statement sets out a list of statutory and other organisations consulted. Table 1 and Table 2 of the Consultation Statement present details of the representations received and set out a response and any action taken, including modification and correction of the emerging

Neighbourhood Plan. Suggestions have, where considered appropriate, been reflected in a number of changes to the Plan that was submitted by the Parish Council to the District Council.

29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 period of publication between 24 March 2022 and 12 May 2022. Representations were submitted from a total of 15 different parties. This includes a representation by the Leicester, Leicestershire and Rutland Clinical Commissioning Groups which had made an arrangement with the District Council during the period of publication for the submission to be made as soon as newly appointed staff were able to do so. A further representation was received by the District Council after the period of publication had closed. In accordance with the District Council Statement of Community Involvement that representation is not considered to have been 'duly made' and will be kept on file, but may be unlikely to influence the content of the Neighbourhood Plan document.
30. The Environment Agency states it is disappointing that the examination version of the Plan is silent on the issue of flooding but notes that there are no Site Allocations proposed (either within or outside of the flood zone) and also that on issues where Neighbourhood Plans are silent then the requirements of the NPPF/ Local Plan must be followed. On this basis the Environment Agency have no further comment. The Coal Authority, Natural England, Historic England and National Highways confirmed no specific comments on the Neighbourhood Plan. Sports England and a representation on behalf of National Grid offer general advice. The Leicester, Leicestershire and Rutland Clinical Commissioning Groups are supportive of the vision of the Neighbourhood Plan and welcome opportunities to maximise health and wellbeing, in particular health use of identified community facilities. None of these representations require any modification of the Neighbourhood Plan to meet the basic conditions.
31. The representation of an individual raises two questions which I refer to in the annex to my report. The representation of another individual comments that the Neighbourhood Plan does not address traffic issues on roads into and out of Cosby and refers to traffic speeds and danger to pedestrians. The representation of another individual suggests a one-way traffic system involving Park Road and Main Street and refers to heavy goods vehicle movements as a problem. These representations do not necessitate any modification of the Neighbourhood Plan to meet the basic conditions.
32. A representation of Catesby Estates plc objects to the Neighbourhood Plan on the basis the repetition of strategic housing development policies which are now nine years old and currently undergoing review does not allow the CNDP any longevity or flexibility (the representation states this is required by the PPG / NPPF). I refer to this

matter later in my report when I consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

33. A representation of the District Council refers to Policies 4, 5, 6 and 7. The Representation of Severn Trent Water refers to Policies 3 and 4. A representation of Leicestershire County Council refers to Policies 1, 3, and 8. This representation also refers to Policy 9 although the Neighbourhood Plan does not include such a policy. It would appear the comments relate to Parish Council Action 2 which I explain later in my report is not subject to this Independent Examination. Having regard to *Bewley Homes Plc v Waverley District Council* [2017] EWHC 1776 (Admin) Lang J, 18 July 2017 and Town and Country Planning Act Schedule 4B paragraph 10(6) where representations raise concerns or state comments or objections in relation to specific policies, I refer to these later in my report when considering the policy in question where they are relevant to the reasons for my recommendations.
34. I have been sent each of the Regulation 16 representations. In preparing this report I have taken into consideration all of the representations submitted, in so far as they are relevant to my role, even though they may not be referred to in whole in my report. Some representations, or parts of representations, are not relevant to my role which is to decide whether or not the Neighbourhood Plan meets the Basic Conditions and other requirements that I have identified. Where the representations suggest additional policy matters that could be included in the Neighbourhood Plan that is only a matter for my consideration where such additions are necessary for the Neighbourhood Plan to meet the Basic Conditions or other requirements that I have identified.
35. I provided the Parish Council with an opportunity to comment on the Regulation 16 representations of other parties. Whilst I placed no obligation on the Parish Council to offer any comments, such an opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council did not submit additional comments in this respect.
36. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which:
- a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) explains how they were consulted;
 - c) summarises the main issues and concerns raised by the persons consulted;
 - and

- d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

37. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. I am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance. It is evident the Neighbourhood Plan Steering Group has taken great care to ensure stakeholders have had full opportunity to influence the general nature, and specific policies, of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

38. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and Human Rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the Development Plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this. In considering all of these matters I have referred to the submission, background, and supporting documents, and copies of the representations and other material provided to me.

Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

39. On page 36 of the Basic Conditions Statement, it is stated the Neighbourhood Plan is fully compatible with the European Convention on Human Rights. I have considered the European Convention on Human Rights and in particular Article 6 (fair hearing); Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property). The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law. Development Plans by their nature will include policies that relate differently to areas of land. Where the Neighbourhood Plan policies relate differently to areas of land this has been explained in terms of land use and

development related issues. I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Parish Councils under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst an Equality Screening Assessment has not been prepared, from my own examination the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010.

40. The objective of EU Directive 2001/42 (transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004) is “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’ (Defined in Article 2(a) of Directive 2001/42) as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result (Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012).
41. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council, as the Qualifying Body, to submit to the District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required.
42. The Cosby Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment – Appropriate Assessment Screening Opinion Report December 2019 concluded at paragraph 4.2 that “it is unlikely that any significant effects will occur as a result of the implementation of the Cosby Neighbourhood Plan”. All consultation responses and further advice are presented in Appendix 1 of the Screening Opinion. The District Council has published the appropriate Screening Determination. I am satisfied the requirements regarding Strategic Environmental Assessment have been met.
43. The Screening Opinion also concluded that “it is considered that the Cosby Neighbourhood Plan either alone, or in combination with other plans, is considered unlikely to have a significant effect on any of the designated sites within approximately 40km of the boundary of Blaby District. A full appropriate assessment of the plan is therefore not required.” Natural England has confirmed agreement with this conclusion. I am satisfied that the Neighbourhood Plan meets the requirements of the revised Basic Condition relating to Habitats Regulations.

44. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
45. I conclude that the Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
46. The Guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The District Council as Local Planning Authority must decide whether the draft neighbourhood plan is compatible with EU environmental law obligations (directives and regulations) incorporated into UK domestic law by the European Withdrawal Act 2018 (EUWA):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
 - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

47. I refer initially to the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”. The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the tests of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.
48. Lord Goldsmith has provided guidance (Column GC272 of Lords Hansard, 6 February 2006) that ‘have regard to’ means “such matters should be considered.” The Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”

49. The most recent National Planning Policy Framework published on 21 July 2021 sets out the Government's planning policies for England and how these are expected to be applied. The Planning Practice Guidance was most recently updated on 24 June 2021. As a point of clarification, I confirm I have undertaken the Independent Examination in the context of the most recent National Planning Policy Framework and Planning Practice Guidance.
50. Table 2 of the Basic Conditions Statement set out an explanation how the Neighbourhood Plan has regard to the Framework. I am satisfied the Basic Conditions Statement demonstrates how the Neighbourhood Plan has regard to relevant identified components of the Framework.
51. The Neighbourhood Plan includes in paragraph 2.8 a positive 2029 Vision for Cosby with economic, social and environmental dimensions. Paragraph 2.9 of the Neighbourhood Plan sets out four objectives that help support delivery of the vision. The objectives, which provide a framework for the policies that have been developed, include economic dimensions (appropriate levels of infrastructure), and social components (enhance community and recreation facilities), whilst also referring to environmental considerations (conserve and enhance the character of the neighbourhood area, protect local green spaces and open spaces).
52. The Neighbourhood Plan includes two supporting Parish Council actions relating to sport and recreation, and transport improvements. These Parish Council actions are presented under the background/justification to Policy CNDP6 and Policy CNDP8 respectively. The plan preparation process is a convenient mechanism to surface and test local opinion on ways to improve a neighbourhood other than through the development and use of land. It is important that those non-development and land use matters, raised as important by the local community or other stakeholders, should not be lost sight of. The acknowledgement in the Neighbourhood Plan of issues raised in consultation processes that do not have a direct relevance to land use planning policy represents good practice. The Guidance states, "Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan". The Parish Council actions are presented in text boxes with a different colour background to the policies of the Neighbourhood Plan. I am satisfied the Parish Council actions are adequately distinguished from the policies of the Neighbourhood Plan however their status is not clear. I have recommended the 'Background' section of the Neighbourhood Plan should make it clear the Parish Council actions are not planning policies and do not form part of the Neighbourhood Development Plan. I can confirm the Parish Council actions have not been subject to Independent Examination.

Recommended Modification 1: In the Background section of the Neighbourhood Plan make it clear the Parish Council actions are not planning policies and do not form part of the Neighbourhood Development Plan

53. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that the need to 'have regard to' national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition "having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan."
54. At the heart of the Framework is a presumption in favour of sustainable development which should be applied in both plan-making and decision-taking. The Guidance states, "This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions".
55. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
56. The Framework states there are three dimensions to sustainable development: economic, social and environmental. Table 1 of the Basic Conditions Statement demonstrates ways in which the Neighbourhood Plan supports the economic, social and environmental aspects of sustainable development. The statement does not highlight any negative impacts of the Neighbourhood Plan or its policies.

57. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by ensuring schemes are of an appropriate nature and quality to contribute to economic and social well-being; whilst also protecting important environmental features of the Neighbourhood Area. In particular, I consider the Neighbourhood Plan as recommended to be modified seeks to:

- Ensure new development within and affecting the setting of Cosby Conservation Area will be expected to conserve and enhance the Conservation Area and its setting;
- Ensure development affecting six identified non-designated heritage assets is assessed against Local Plan Delivery DPD Policy DM12;
- Ensure new development responds positively to key local design attributes and features, including those set out in stated criteria;
- Designate nine Local Green Spaces;
- Establish criteria for the loss of other open spaces;
- Establish criteria for the loss of retail premises and community facilities;
- Ensure development promotes access to the countryside; and
- Ensure all development promotes active travel and safe travel for all.

58. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

59. The Framework states neighbourhood plans should “support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies”. Plans should make explicit which policies are strategic policies. “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine its strategic policies”.

60. In this independent examination, I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in

the development plan for the area of the authority (or any part of that area). The District Council has confirmed the Development Plan applying in the Cosby Neighbourhood Area and relevant to the Neighbourhood Plan comprises the Blaby District Local Plan (Core Strategy) Development Plan Document (2013) and the Blaby District Local Plan (Delivery) Development Plan Document (2019).

61. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 21 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.” The District Council has confirmed that all of the policies of the Core Strategy and the ‘Updated Core Strategy Policy CS15 Open Space, Sport and Recreation’ in the Local Plan Delivery DPD are regarded by the Local Planning Authority as strategic policies for the purposes of neighbourhood planning.
62. The District Council has commenced the preparation of the new Local Plan that will replace the current Local Plan (the Core Strategy and Delivery DPDs) and set out a blueprint for how Blaby District will grow and change over the next 15 years and beyond. The District Council published a New Local Plan Options document for consultation between 28 January 2021 and 12 March 2021. The commencement of the Regulation 19 consultation on the new Local Plan is dependent upon the outcome of sub-regional work currently underway.
63. A representation of Catesby Estates plc objects to the Neighbourhood Plan summarising the objection as “Overall, it is considered that the approach set out in the Reg 16 CNDP is not justified or sustainable. The repetition of strategic housing development policies which are now 9 years old and currently undergoing review does not allow the CNDP any longevity or flexibility (as required by the PPG / NPPF). Given the timescales for the adoption of the replacement Blaby Local Plan, it is likely that the CNDP will become out of date and largely redundant in the very near future. In this regard the Reg 16 CNDP fails Basic Condition (a) (regard to national policies and advice contained in the Secretary of State guidance). It cannot proceed to referendum in its current form.”
64. The Planning Policy Context part of the Neighbourhood Plan includes, between paragraphs 4.4 and 4.12, a description of the Blaby District planning policy which explains how housing requirements will be met across the district with a focus on, and adjoining the Principal Urban Area in the northern part of Blaby District. Paragraph 4.8 states the Local Delivery DPD (4 February 2019) sets a new settlement boundary for Cosby and identifies an area of separation and a green wedge. Paragraph 4.9 explains “The main implication for the CNDP being that there is now an up-to-date plan in place that sets out how the Local Plan Core Strategy will be delivered. In Cosby that will be within a defined settlement boundary and such development will be assessed against DPD Development Management Policy 1...”

18

Development Management Policy 1 establishes conditional support for development proposals within the settlement boundaries, including that of Cosby. Paragraph 4.10 states the DPD does not allocate any further housing beyond the settlement boundary and that Development Management Policy 2 only allows for very limited development in the countryside. Paragraph 4.11 confirms the Neighbourhood Plan does not seek to add to the policy framework set for future development within or outside the settlement boundary. A neighbourhood plan can allocate sites for housing development but there is no obligation to do so. The scope of neighbourhood plans is up to the neighbourhood planning body. Mrs Justice Lang in *Park Lane Homes and Rother District Council 2022 EWHC 485 (Admin)* states “In my judgment, it is clear that national policy or guidance does not require a neighbourhood plan to allocate any sites for housing to meet a strategic housing requirement in the development plan. The neighbourhood plan body has a choice whether or not to do so. Therefore, the absence of housing allocations in the draft plan was not of itself a basis upon which the Examiner and the Council ought to have concluded that the draft plan failed to meet basic condition (a).”

65. Whilst the Neighbourhood Plan does not allocate land for housing development, it places no additional cap or limit, beyond the limitations of strategic policy, on the number of homes that can be provided within the existing confines or outside of Cosby village. I consider it is reasonable to assume there will be a windfall supply of new dwellings during the Plan period which will boost the supply of homes in the Neighbourhood Area.
66. Paragraph 4.12 of the Neighbourhood Plan states a new Local Plan is in preparation and that this is at a very early stage of preparation, having gone through an Issues and Options consultation. The Neighbourhood Plan can proceed ahead of preparation of the new Local Plan. The Guidance states: “Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:
 - the emerging neighbourhood plan;

- the emerging Local Plan;
- the adopted development plan;

with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.

Neighbourhood plans should consider providing indicative delivery timetables and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”

67. The approach of the District Council and the Parish Council has been consistent with that stated in the Guidance “It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies.” I am mindful of the fact that should there ultimately be any conflict between the Neighbourhood Plan, and the new Local Plan when it is adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan; however, the Guidance is clear in that potential conflicts should be minimised. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging new Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds. The Guidance states “Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”.

68. In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility” (Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31). The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

69. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”

My approach to the examination of the Neighbourhood Plan Policies has been in accordance with this guidance.

70. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. I have taken into consideration Table 3 of the Basic Conditions Statement that demonstrates how each of the policies of the Neighbourhood Plan is in general conformity with relevant strategic policies. Subject to the modifications I have recommended, I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan Policies

71. The Neighbourhood Plan includes eight policies as follows:

Policy CNDP1 – Development within and affecting the setting of Cosby Conservation Area

Policy CNDP2 – Development affecting non-designated heritage assets

Policy CNDP3 – Design Principles

Policy CNDP4 – Protecting Local Green Space

Policy CNDP5 – Protecting Other Open Spaces

Policy CNDP6 – Protection of Existing Community Facilities and Local Shops

Policy CNDP7 – Access to the Countryside

Policy CNDP8 – Access and Road Safety

72. Paragraph 29 of the Framework 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”. Footnote 16 of the Framework states “Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”
73. Paragraph 15 of the Framework states “The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.”
74. Paragraph 16 of the Framework states “Plans should: a) be prepared with the objective of contributing to the achievement of sustainable development; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”
75. The Guidance states “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”
76. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.
77. A neighbourhood plan should contain policies for the development and use of land. “This is because, if successful at examination and referendum (or where the

neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (See section 38(6) of the Planning and Compulsory Purchase Act 2004)."

78. "Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need". "A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability is available."
79. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is 'made' they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. I have considered any inter-relationships between policies where these are relevant to my remit.

Policy CNDP1 – Development within and affecting the setting of Cosby Conservation Area

80. This policy seeks to ensure new development within and affecting the setting of Cosby Conservation Area will be expected to preserve and enhance the Conservation Area and its setting.
81. In a representation Leicestershire County Council state "Street furniture within a development which requires adoption, such as street lighting/ mandatory road signs etc would need to be in line with Leicestershire County Council (LCC) specifications. Anything over and above LCC specifications would require commuted sums and would need to be installed with the agreement of the developer." This representation does not necessitate modification of part (g) of the policy in order to meet the basic conditions.
82. The policy has regard for national policy which requires great weight is given to the conservation of designated heritage assets whilst recognising not all elements of a Conservation Area will necessarily contribute to its significance as set out in paragraphs 199 and 207 of the Framework respectively. The policy has regard for paragraph 189 of the Framework which states heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their

contribution to the quality of life of existing and future generations. Whilst I appreciate the term “preserve” is used in primary legislation the national policy approach set out in the Framework is better reflected through use of the term “conserve” which more readily accommodates beneficial change. In response to my request for clarification the District Council confirmed such a modification would bring the policy in line with national and local planning policies. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.

83. Part (i) of the policy does not flow from the initial text of the second sentence of the policy. I have recommended a modification in this respect so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
84. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
85. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan if modified as recommended. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 2:

In Policy CNDP1

- **replace “preserve” with “conserve”**
- **replace part (i) with “Demonstrate, in the case of proposals where below ground works and investigations are required, that suitable archaeological investigations will be undertaken and recorded.”**

Policy CNDP2 – Development affecting non-designated heritage assets

86. This policy seeks to ensure development affecting six identified non-designated heritage assets is assessed against Local Plan Delivery DPD Policy DM12.
87. Paragraph 5.7 of the Neighbourhood Plan provides information how locally valued heritage assets have been identified. The Guidance refers to advice on local lists published on Historic England’s website (Paragraph: 040 Reference ID: 18a-040-20190723 Revision date 23 07 2019). Historic England Advice Note 11 Neighbourhood Planning and the Historic Environment (Published 16 October 2018) states “Preparing a list of locally-valued heritage assets. Independent (at least initially) of any local list endorsed or developed by a local planning authority, neighbourhood planning groups may wish to consider if any buildings and spaces of

heritage interest are worthy of protection through preparing a list of locally-valued heritage assets that is referenced in neighbourhood plan policy. The use of selection criteria helps to provide the processes and procedures against which assets can be nominated and their suitability for addition to the local planning authority's heritage list assessed. A list of locally-valued heritage assets can inform or be integrated within a local list maintained by the local authority, subject to discussion with them." It is appropriate for a local community to use the Neighbourhood Plan preparation process to identify heritage assets that are locally valued. I am satisfied the approach adopted in the Neighbourhood Plan in these respects has sufficient regard for national policy. I have recommended the policy title and the policy text are amended to reflect the actual status of the heritage assets referred to in the policy. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

88. The Blaby Local Plan DPD Development Management Policy DM12 states that: "A balanced consideration will be applied to proposals which may impact non-designated heritage assets. Proposals will be supported where the benefits of the scheme are considered to outweigh the scale of any harm or loss, having regard to the significance of the heritage asset". Whilst Development Management Policy 12 refers to benefits in the context of non-designated heritage assets this is not a strategic policy. Core Strategy Policy CS20 states "Proposed development should avoid harm to the significance of historic sites, buildings or areas, including their setting." Consideration of public benefits is only referred to in the Framework with respect to proposals affecting designated heritage assets. I consider the approach most applicable to locally valued assets is that relating to non-designated heritage assets as set out in paragraph 203 of the Framework. I have recommended a modification in this respect so that the policy has sufficient regard for national policy.
89. As recommended to be modified the policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
90. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan if modified as recommended. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 3:

Replace the first sentence of Policy CNDP2 with "The effect of a development proposal on the significance of the locally valued heritage assets listed below

should be taken into account in determining an application. In weighing applications that directly or indirectly affect a locally valued heritage asset, in the context of Local Plan Delivery DPD Development Management Policy DM12, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

Retitle the policy “POLICY CNDP2 – Development affecting locally valued heritage assets” and adjust the background/justification text accordingly

Policy CNDP3 – Design Principles

91. This policy seeks to ensure new development responds positively to key local design attributes and features, including those set out in stated criteria.
92. In a representation Severn Trent Water state “Whilst we note that water efficiency is mentioned Within policy CNDP3 however we feel that specific requirements for water efficiency could be made clearer by amending the existing policy Wording. This is because water efficient design and technology is important for ensuring the sustainability of the water supply system for the future, both supporting existing customers and future development. NPPF supports the delivery of sustainable development and the Humber River Basin Management Plan promotes the use of the tighter Water Efficiency Target within Building Regulations Part G. We would recommend that this detailed with Policy CNDP3 so that developers are aware of what is expected of them from the outset of the design process. To aid with the implementation for the recommendation we have provided example wording below: All development should demonstrate that they are water efficiency, where possible incorporating innovative water efficiency and water re-use measures, demonstrating that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, should not exceed 110 litres/person/day.” The Housing: optional technical standards published on 27 March 2015 states “Where there is a clear local need, local planning authorities can set out Local Plan policies requiring new dwellings to meet tighter Building regulations optional requirement of 110 litres/person/day.” Guidance is provided as to how local planning authorities should establish clear need including sources of evidence, consultations, and consideration of the impact on viability and housing supply. There is no stated expectation that Neighbourhood Plans will address these matters. I have recommended a modification of the supporting text in this respect so that the Neighbourhood Plan has sufficient regard for national policy.
93. In a representation Leicestershire County Council state “Due to budgetary constraints and long-term maintenance costs, LCC no longer considers adopting green spaces, verges or trees. It should be ensured that any scheme, which proposes these features is suitably designed so these areas do not impact on roads

proposed for adoption i.e., root protection would need to be installed. It should be noted that these areas will need to be maintained by a management company including any features, which are not required for the satisfactory function of the highway and will attract commuted sums. This representation does not necessitate modification of part (g) of the policy in order to meet the basic conditions. The County Council also state “The Leicestershire Highways Authority (LHA) currently doesn’t have any standards for vehicle charging points.” I have recommended a modification of part (j) of the policy in this respect to correct an error.

94. Paragraph 127 of the Framework states “neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development”. Policy CNDP3 has regard for paragraph 130 of the Framework which sets out design principles of development that planning policies should ensure. In particular the policy has regard for paragraph 130 of the Framework which states planning policies should ensure developments are sympathetic to local character and history. The policy is not overly prescriptive and will not prevent or discourage appropriate innovation or change.
95. To be read alongside the Guidance, Government published the National Design Guide on 1 October 2019 to set out the characteristics of well-designed places and demonstrate what good design means in practice. The National Design Guide was updated on 30 January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes published separately (as forming part of the Guidance) on 20 July 2021, and have been last updated on 14 October 2021. The design criteria set out in Policy CNDP3 reflect the approach and principles recommended in national policy.
96. Subject to my recommended modification of the final sentence of the first paragraph of Policy CNDP3 I am satisfied the policy is not seeking to introduce additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings which would be contrary to the Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 but is instead seeking to establish support for positive environmental measures including compliance with standards where they exist.
97. In parts (l) and (m) of the policy the terms “height of” and “safe and secure” are ambiguous. The word “uses” in part (n) of the policy requires correction. The term “reduce light pollution” in part (p) of the policy does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

98. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
99. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan if modified as recommended. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 4:

In Policy CNDP3

- **replace the final sentence of the first paragraph with “Development that exceeds prevailing sustainable construction standards as set out in Building Regulations will be supported.”**
- **in part (j) delete “to meet County adopted standards”**
- **in part (l) after “height of” insert “buildings in”**
- **in part (m) replace “safe and secure” with “achieve a safe and secure living environment”**
- **in part (n) replace “uses” with “use”**
- **in part (p) replace “light pollution” with “avoid light spillage beyond site boundaries”**

In the final sentence of background/justification paragraph 5.10 delete the text after “measures”.

Policy CNDP4 – Protecting Local Green Space

100. This policy seeks to designate nine Local Green Spaces. Appendix 1 of the Neighbourhood Plan sets out background information relating to the identification and assessment of green open spaces in Cosby.
101. The policy does not seek to introduce a more restrictive approach to development proposals than apply in Green Belt without sufficient justification, which it may not. (R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number C1/2020/0812).
102. In a representation Severn Trent Water state “Severn Trent understand the need for Local Green Space and the need for it to be protected, however local green spaces can provide suitable locations for schemes such as flood alleviation to be delivered without adversely impacting on the primary function of the open space. If the correct scheme is chosen, the flood alleviation schemes can result in additional benefits to the local green space in the form of biodiversity or amenity improvements. We would therefore recommend that the following point is added to Policy CNDP4 to

support the delivery of flood alleviation projects where required within green spaces. Development of flood resilience schemes within local green spaces will be supported provided the schemes do not adversely impact the primary function of the green space.” Paragraph 103 of the Framework states “Policies for managing development within a Local Green Space should be consistent with those for Green Belts.” Paragraphs 147 to 151 of the Framework sets out statements regarding the types of development that are not inappropriate in Green Belt areas. The additional wording suggested by Severn Trent Water does not have sufficient regard for national policy.

103. Designation of Local Green Space can only follow identification of the land concerned. For a designation with important implications relating to development potential it is essential that precise definition is achieved. The proposed Local Green Spaces are presented on an index map and individual maps within Appendix 2 of the Neighbourhood Plan. I am satisfied the areas of land proposed for designation as Local Green Spaces have been adequately identified.
104. Paragraph 101 of the Framework states “The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.” In respect of each of the areas proposed for designation as Local Green Space I find these requirements are met.
105. Paragraph 102 of the Framework states “The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.” I find that in respect of each of the proposed Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves, is local in character, and is not an extensive tract of land.
106. In a representation the District Council state “Paragraph 103 of the National Planning Policy Framework (‘NPPF’) (2021) is clear that policies for managing development within a Local Green Space should be consistent with those for Green Belts. Therefore, Local Green Space designations are significant and require detailed explanation indicating how each designation meets the criteria outlined by NPPF paragraph 102, b). As stated in our Regulation 14 response, it is felt that the detail in Appendix 2 to support the designation of the Local Green Spaces is lacking in depth and does not reflect the strength of the policy. The Neighbourhood Plan

provides a description of the category / criteria type the proposed site's justification would fulfil but does not provide detail. The connection between the strength of the policy designation and the Local Green Spaces identified is missing. However, should the Examiner find that the areas of open space meet the criteria for designation as Local Green Space, the Policy wording will need amending. The maps to illustrate the Local Green Spaces are on pages 41 to 50 and not 40 to 49." I refer to the page number issue in the Annex to my report.

107. Appendix 2 of the Neighbourhood Plan includes Table 2 which seeks to justify each of the nine proposed designations as Local Green Space. Relevant reasons for designation are indicated as applying in respect of each of the proposed Local Green Spaces including matters referred to in the Framework. I have visited each of the areas of land concerned and as a matter of planning judgement consider the attributes identified to be relevant and reasonable. The District Council has raised a valid point regarding the lack of detailed explanations. Whilst the justifications are brief in nature and could have helpfully included greater detail, Appendix 2 of the Neighbourhood Plan provides sufficient evidence for me to conclude that each of the areas proposed for designation as Local Green Space is demonstrably special to a local community and holds a particular local significance. In reaching this conclusion I have taken into account the fact that the proposed designations have been identified as part of the Neighbourhood Plan preparation process that has included substantial community consultation and the statement in paragraph A2.3 that "the designation of local spaces as special to the community is informed by general local knowledge the opinions of those residents who live nearby the spaces in question."
108. I find that the areas proposed as Local Green Space are suitable for designation and have regard for paragraphs 101 to 103 of the Framework concerned with the identification and designation of Local Green Space.
109. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
110. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan. This policy meets the Basic Conditions.

Policy CNDP5 – Protecting Other Open Spaces

111. This policy seeks to establish criteria for the loss of other open spaces. Appendix 1 of the Neighbourhood Plan sets out background information relating to the identification and assessment of green open spaces in Cosby.
112. In a representation the District Council has commented “Paragraph 16 d) of the NPPF states that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision-maker should react to development proposals. There are inconsistencies between the policy, the illustrations on the Policies Map, and the titles of Open Spaces in the policy, which may affect how someone determines an application when using the policy. There is a lack of consistency between the Open Space sites listed in the text of the Policy and the Open Space sites illustrated on the Policies Map. The policy lists 17 spaces to be protected by this policy whereas the Policies Map at the back of the document illustrates 18 spaces to be protected. Blaby District Council Officers responded to the Regulation 14 consultation on the Neighbourhood Plan and commented that there was duplication between policies in the Neighbourhood Plan and the Local Plan. Commenting on Policy CNDP5 Protecting Other Open Space it was noted that the open space at Tudor Drive / Brierfield Road (formerly referenced as CNDP5/9 in the Regulation 14 version of the Neighbourhood Plan) was already protected in Updated Local Plan Policy CS15 Open Space, Sport and Recreation of the Local Plan (Delivery) Development Plan Document (2019) as amenity green space and so it was recommended to be removed from the Plan. The Cosby Neighbourhood Plan Consultation Statement acknowledged this fact. It appears that this site has been removed from the list of sites to be protected by the Policy but the site remains illustrated on the Policies Map towards the end of the document. There is the risk that the illustration of the land at Tudor Drive / Brierfield Road in the Neighbourhood Plan without an accompanying policy could confusion to the reader which conflicts with paragraph 16 d) of the NPPF that requires plans to contain policies that are clearly written and unambiguous, so it is evident how a decision-maker should react to development proposals.” I have recommended the Policy Map is modified to delete the open space at Tudor Drive/Brierfield Road reference CNDP5/9 so that the Neighbourhood Plan “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
113. The District Council also state “There are inconsistencies in the titles of the Open Spaces proposed to be protected from development which could cause confusion to the public and the decision-maker as to how they should react to development proposals:

- The reference of CNDP5/3 should be changed from Corner Hillview/Chiltern Avenue to Corner of Hill View Drive to avoid confusion between the designations CNDP5/2 Chiltern Avenue and CNDP5/3 Corner Hillview/Chiltern Avenue.
- Similarly, the designation Lady Leys, east corner is repeated twice under two textual references: CNDP5/7 and 5/8. The titles of these two separate Open Spaces should be different. It is suggested that CNDP5/7 remains as Lady Leys, east corner, whereas CNDP5/8 could be retitled as White Barn Drive to reflect its location.
- Referring to the Policies Map, the site label for CNDP5/3 is annotated but the extent of the open space designation is not illustrated. It could be that the site label is obscuring the extent of the site proposed to be protected. Therefore, the site label needs to be moved.
- The final sentence requires the addition of a comma at the end of the introductory clause so that it reads: 'Where feasible, proposals to improve or enhance these spaces will be supported'".

I agree that the inconsistency of references will cause confusion for users of the Neighbourhood Plan and that the identified errors are corrected. I recommend these modifications are made so that the policy "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.

114. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

115. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan if modified as recommended. Subject to the recommended modifications this policy meets the Basic Conditions.

Recommended modification 5:

In Policy CNDP5

- **replace the description of site reference CNDP5/3 to "Corner of Hill View Drive"**
- **replace the description of site reference CNDP5/8 to "White Barn Drive"**
- **in the final sentence insert a comma after "Where feasible"**

On the Policy Map identify the land to which site reference CNDP5/3 relates, and delete the open space at Tudor Drive/Brierfield Road reference CNDP5/9

Policy CNDP6 – Protection of Existing Community Facilities and Local Shops

116. This policy seeks to establish criteria for the loss of retail premises and community facilities.
117. In a representation the District Council has commented Under “Community Facilities”, the text “Where planning permission is required” should be deleted because the policy would not be used if planning permission was not required. I agree with this change and the reason for it. I have recommended a modification in this respect and in respect of deletion of the term “subject to the exercise of permitted development rights” for the same reason. I have also recommended the deletion of the term “when they are in accordance with other development plan policies and the policies of the CNDP” as it is unnecessary and confusing for one policy to state this as the Neighbourhood Plan and the entire Development Plan should be read as a whole. I also agree with the District Council that the comma after “nurseries)” and before “unless” should be deleted as this is a subordinate clause and the comma is not required. I have recommended these modifications so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
118. The District Council also state “With reference to the final paragraph in the policy, it is not clear how the applicant is to ‘demonstrate that such local retail provision is no longer needed, or, that the premises are physically unsuitable for continued retail use’. This lack of clarity conflicts with paragraph 16 d) of the NPPF (2021). It is suggested that the final paragraph of the policy is re-worded to the following: Retail provision within the defined Local Centre (as shown on the Local Plan Policies Map 2019) and local shops outside of this centre will be protected unless one of the following can be demonstrated: the applicant can demonstrate through the submission of marketing evidence (including active marketing locally and in the wider area), over a minimum period of 12 months, that there is no longer a demand for such retail provision; or the premises are physically unsuitable for continued retail use. This will ensure that there is consistency within the Policy with regards to the evidence and marketing periods required to justify the losses of Community Facilities and Local Shops.” I have recommended a modification of the final paragraph so that it provides the basis for the determination of development proposals. This includes alternative wording to the term “protected”. I have recommended a modification to delete the first sentence of the policy as it is unnecessary and does not reflect the complexity of the policy content. I have recommended these modifications so that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

119. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.

120. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a 'made' neighbourhood plan if modified as recommended. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 6:

In Policy CNDP6

- **delete the first sentence**
- **delete "Where planning permission is required"**
- **delete the comma after "nurseries)" and before "unless"**
- **delete "when they are in accordance with other development plan policies and the policies of the CNDP"**
- **replace the final paragraph with "Development proposals resulting in the loss of retail provision within the defined Local Centre (as shown on the Local Plan Policies Map 2019) and local shops outside of this centre will not be supported unless one of the following can be demonstrated:**
 - **the applicant can demonstrate through the submission of marketing evidence (including active marketing locally and in the wider area), over a minimum period of 12 months, that there is no longer a demand for such retail provision; or**
 - **the premises are physically unsuitable for continued retail use."**

Policy CNDP7 – Access to the Countryside

121. This policy seeks to ensure development promotes access to the countryside.

122. In a representation the District Council has commented "The policy does not conform with national legislation and policy. It is suggested that the final paragraph of the policy is deleted. Firstly, the final paragraph of the policy states that: 'any development that leads to the loss or degradation of any PROW, or any cycleway, will not be permitted' and, 'proposals to divert PROWs or cycleways should provide clear and demonstrable benefits for the wider community'. It will not be possible for both events to occur. The policy informs decision-makers to refuse proposals that lead to the loss or degradation of any PROW or cycleway, but then says that proposals to divert PROWs or cycleways should provide clear and demonstrable benefits to the wider community. Secondly, statutory provisions apply in the case of development affecting public rights of way, with public rights of way considered a

highways matter and under the jurisdiction of the Leicestershire County Council Highways Team; therefore, parts of the policy are covered by existing provisions and parts of the policy go beyond the remit of a Neighbourhood Plan by contradicting national legislation. The Town and Country Planning Act 1990, section 251 (1) enables rights of way to be extinguished or diverted by order of the Secretary of State. The paragraph does not comply with national legislation and therefore does not meet part a. of the basic conditions as set out in paragraph 8 (2) of schedule 4B to the Town and Country Planning Act 1990. As public rights of way may also have strategic implications, the policy is also considered to have the potential to undermine strategic policies across the District and therefore fails part e. of the basic conditions. The rest of the policy is acceptable and it is felt that the finer detail it contains positively builds upon CS10 Transport Infrastructure of the Local Plan Core Strategy (2013).” I agree that the final paragraph of the policy is inappropriate as it seeks to modify the statutory framework relating to the public right of way network. The term “Where considered necessary and relevant” introduces uncertainty and does not provide a basis for the determination of development proposals. The repeat of the term “to the” requires correction. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

123. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
124. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification 7:

In Policy CNDP7

- **delete the repeat “to the”**
- **replace “where considered necessary and relevant” with “unless it is demonstrated that this is not necessary”**
- **delete the final paragraph**

Policy CNDP8 – Access and Road Safety

125. This policy seeks to ensure all development promotes active travel and safe travel for all.
126. In a representation Leicestershire County Council state “It should be noted that a new development should only mitigate its own impact; developers are not required to mitigate any existing situations unless the existing concerns are made worse by a new development. The LHA would normally expect development proposals to comply with the relevant national and local policies and guidance, both in terms of justification and of design. As part of any planning application an applicant is advised to determine the exact legal line of any Public Rights of Way (PROW) before designing any development. Developers should endeavour to provide a route for the path on its existing line. Only if this is not practicable should a diversion or extinguishment be considered. A PROW cannot be moved until a Public Path Order is confirmed. Should a development require a diversion or extinguishment of a PROW. The LHA would advise developers to contact Leicestershire County Council's Rights of Way Service as an application to the Planning Authority for a Public Path Diversion Order (S.247/257 Town & Country Planning Act 1990) will be required at the same time as the planning application. This representation does not necessitate modification of the policy in order to meet the basic conditions.
127. The policy has regard for paragraph 106 of the Framework which states planning policies should identify and protect, where there is robust evidence, routes which could be critical in developing infrastructure to widen transport choice, and that planning policies should provide for attractive and well-designed walking and cycling networks. The policy also has regard for paragraph 92 of the Framework relating to the achievement of safe and accessible places with clear and legible pedestrian and cycle routes.
128. The policy is in general conformity with the strategic policies included in the Core Strategy and the Local Plan Delivery DPD and relevant to the Neighbourhood Plan and provides an additional level of detail or distinct local approach to that set out in the strategic policies.
129. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance the policy is appropriate to be included in a ‘made’ neighbourhood plan. This policy meets the Basic Conditions.

Conclusion and Referendum

130. I have recommended seven modifications to the Submission Version Plan. I recommend an additional modification in the Annex to my report. The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them. I am satisfied that the Neighbourhood Plan is compatible with the Convention Rights, and would remain compatible if modified in accordance with my recommendations; and subject to the modifications I have recommended, meets all the Statutory Requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990, and meets the Basic Conditions:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

I recommend to Blaby District Council that the Cosby Neighbourhood Development Plan for the plan period up to 2029 should, subject to the modifications I have put forward, be submitted to referendum.

131. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension. I have seen nothing to suggest that the policies of the Plan will have “a *substantial, direct and demonstrable impact beyond the neighbourhood area*”. I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Blaby District Council as a Neighbourhood Area on 11 October 2017.

Annex: Minor Corrections to the Neighbourhood Plan

132. I have only recommended modifications and corrections to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements I have identified. If to any extent, a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Supporting text must be adjusted to achieve consistency with the modified policies.

133. In Policy CNDP4 the reference to maps to illustrate the Local Green Spaces should be corrected to refer to pages 41 to 50 and not 40 to 49.

Recommended modification 8:

Modify policy explanation sections, general text, figures and images, and supporting documents to achieve consistency with the modified policies, and to achieve updates and correct identified errors.

I have earlier in my report referred to the representation of an individual that questions whether Victoria Park is protected and why Prior William Close is not mapped. My role does not extend to answering questions in representations. I request the writer is contacted by either the Parish Council or the District Council to provide suitable answers to the questions posed.

Chris Collison
Planning and Management Ltd
collisonchris@aol.com
17 June 2022
REPORT END

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