

**CABINET - 15TH NOVEMBER 2018**

**Report of the Head of Strategic Report**

**Part A**

ITEM FIVE YEAR HOUSING SUPPLY SCRUTINY PANEL

Purpose of Report

To consider the findings and recommendations of the Five Year Housing Supply Scrutiny Panel, alongside officer advice and recommendations in response, with a view to the Cabinet deciding which recommendations it wishes to agree, if any.

Recommendations and Reasons

Set out below is each Panel recommendation and reason, followed by the officer advice and recommendation in each case.

**Panel Recommendation 1**

That the Council's Business Plan be amended to include the five year housing supply figure as one of the Council's Key Performance Indicators (KPIs).

Reason

To ensure the figures are reported and monitored corporately and by the Performance Scrutiny Panel on a regular basis.

Response of the Head of Planning and Regeneration

The Council publishes an annual five year supply statement figure and this can be presented as a KPI in the Business Plan.

Officer Recommendation 1

That the recommendation of the Panel be accepted, with effect from the 2019/20 Business Plan.

**Panel Recommendation 2**

That the Council's Business Plan be amended to include the various deadlines by which planning applications of different types should be determined as KPIs.

Reason

To ensure that the figures are reported and monitored corporately and by the Performance Scrutiny Panel on a regular basis.

### Response of the Head of Planning and Regeneration

The monitoring of development control performance is published by the Service and provided as a return to government. These can be added as KPIs in the Business Plan.

### Officer Recommendation 2

That the recommendation of the Panel be accepted, with effect from the 2019/20 Business Plan.

### **Panel Recommendation 3**

That the Chair of the Panel and the Lead Member for Planning to write a letter to Government reinforcing the need for enforcement sanctions for non-completion of developments.

### Reason

To reiterate the need for more powerful sanctions for non-completion and delayed developments.

### Response of the Head of Planning and Regeneration

The Leader of the Council wrote to Government in February 2018 raising concerns and offering assistance to Sir Oliver Letwin in his review of land supply and housing delivery. A further approach could be made as recommended by the Panel if Cabinet feels it appropriate and necessary.

### Officer Recommendation 3

That Cabinet considers the recommendation of the Panel.

### **Panel Recommendation 4**

That a best practice review of the Council's processes for dealing with section 106 agreements, reserved matters applications and pre-commencement conditions be completed to identify any areas for improvement.

### Reason

To ensure that those processes are streamlined and speeded up, therefore enabling permitted developments to begin more quickly, and to reassure Members that the Council is following best practice in relation to its processes.

### Response of the Head of Planning and Regeneration

A comprehensive best practice review of the S106 process was carried out during 2015 as a consequence of decisions made by Cabinet in light of recommendations made by the S106 Scrutiny Panel (minute 107 15/16 refers). This review made changes to the S106 process to improve member engagement, established a lead member champion for S106 matters and put in place an annual meeting for members

to discuss S106 issues, amongst other things. There is however less control available to change the S106 process to speed it up. This is because S106 legal agreements require negotiation between the planning authority and third parties whose interests are not necessarily aligned. The planning authority will always seek to commence negotiations early in the planning application process but more often applicants do not wish to commit resources to what are often protracted legal negotiations until they have a favourable resolution from Plans Committee and details of the heads of terms to inform the negotiations. This approach avoids abortive work if the application is refused or if members resolve to approve amended obligations.

The processes for dealing with reserved matters applications are set out in law; however, the Service has introduced a chargeable pre-application service that provides the means for developers to engage with officers prior to an application being submitted. This is a chargeable service and was highlighted by the Planning Officers Society in their peer review of the DM service in 2015 as best practice. Resolving issues at the pre-application stage enables the planning application process to run smoothly, without delay and sometimes faster than the statutory time limits for determining applications. It also provides a managed environment for members and communities to discuss S106 obligations with developers and to raise views about design issues.

The Government has recently reviewed parts of the planning approval and consent regimes and new rules introduced on 1 October 2018. reduce the scope for pre-commencement conditions to be attached to planning approvals to reduce the time lag between planning permission being granted and work starting on site.

Whilst there is always merit in checking and challenging established processes and approaches, in this case the value of that does appear to be somewhat limited due to the specification of the law on process and the lack of control that officers have over third parties. The government has already reviewed planning process in an effort to remove recognised barriers to delivery. If Cabinet is minded to pursue this it should be recognised the role of the local planning authority is only one of a number of stakeholders who can influence the prospects for improvement and the scope of any study should be extended to key players. However, this activity is likely to be resource intensive and the outputs are likely to be limited and dependent on the full cooperation of third parties.

#### Officer Recommendation 4

That no further action is taken in respect of a review of section 106, reserved matters and pre-commencement conditions processes.

#### **Panel Recommendation 5**

That the current review of the Core Strategy be completed in accordance with the timetable set out in the Local Development Scheme agreed by the Cabinet most recently on 15th March 2018.

## Reason

To ensure that it remains the most relevant for the residents of Charnwood and that the review is completed in a timely manner.

## Response of the Head of Planning and Regeneration

No comment.

## Officer Recommendation 5

That the recommendation of the Panel be accepted.

## Policy Justification and Previous Decisions

Scrutiny Committee Procedure 11.12(a) sets out the procedures by which a report of a Scrutiny Committee should be considered by the Cabinet.

The Scrutiny Management Board, on 24th October 2018, agreed that the report of the Five Year Housing Supply Scrutiny Panel be submitted for consideration by the Cabinet, with clarification to the recommendations made.

In accordance with Scrutiny Committee Procedure 11.12(d), background information and officer advice have been provided to enable the Cabinet to make a decision without undue delay.

## Implementation Timetable including Future Decisions and Scrutiny

The Council's Business Plan is due to be reviewed again in March 2019 at which point recommendations 1 and 2 can be implemented.

All the other officer recommendations can be implemented over the course of the next 6 months, to link in with the normal timetable for reporting back to the Scrutiny Management Board on the implementation of scrutiny panel recommendations, or as described in the officer recommendations themselves.

A Cabinet response to the recommendations will be fed back to the Scrutiny Management Board, indicating what (if any) action it proposes to take. The Scrutiny Management Board will review the implementation of any Cabinet decisions at an appropriate time, usually after 6 months.

## Report Implications

Implications are as set out in both the Panel report and in officer responses.

Key Decision: No

Background Papers: Detailed in the Panel's Report as agreed by the Scrutiny Management Board (Annex 1).

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## **Part B**

### Background

1. At its meeting held on 24th January 2018, the Scrutiny Management Board resolved to establish the Five Year Housing Land Supply Scrutiny Panel.
2. The Panel's first meeting was on 20th March 2018. The Panel concluded its business at its fifth and final meeting on 3rd October 2018.
3. The Scrutiny Management Board considered the Panel's report at its meeting on 24th October 2018 and resolved that the findings and recommendations of the Panel be submitted for consideration by the Cabinet, with clarification to the recommendations made. The report agreed by the Scrutiny Management Board for submission to Cabinet is set out at Annex 1.
4. Not requiring action by the Cabinet were a further recommendation (relating to addition of a matter to the Scrutiny Work Programme) and 4 conclusions agreed by the Panel. For information, these are set out at Annex 2, together with any officer response. The Scrutiny Management Board agreed that it was sufficient for the conclusions to be considered by the Head of Planning and Regeneration as operational management matters.

### Appendices

- Annex 1      Report of the Five Year Housing Supply Scrutiny Panel (version includes the Scrutiny Management Board's clarifications to the recommendations made).
- Annex 2      Summary of recommendation and conclusions made by the Panel which do not require action by the Cabinet, together with any officer response (for information).

**REPORT OF THE SCRUTINY PANEL: To what extent can Charnwood Borough Council show a Five Year Housing Land supply?**

**Foreword by Councillor Seaton, Chair of the Scrutiny Panel**

The welfare of its residents is one of the key concerns for Charnwood Borough Council and the Councillors who preside over it. The lack of available housing in the Borough has become an increasing concern which is why this scrutiny panel was established, to investigate the problem and make recommendations going forward.

This Panel was tasked with scrutinising how effective the current method of calculating the five year housing land supply is and what the current situation is with local developers bringing sites to completion. The Panel has taken evidence from a number of witnesses who have differing views on the barriers to development but a consensus that everyone should be working together to move forward.

This report sets out the findings and recommendations of the Five Year Housing Supply Scrutiny Panel which sought to gain information into what the current position is with the land supply and what can be done to bring more development forward.

The Panel wishes to acknowledge and thank all those who acted as witnesses or provided written evidence to assist the Panel with its deliberations.

## 1. Background

At its meeting on 24th January 2018, the Scrutiny Management Board (SMB) resolved that a Scrutiny Panel be established to scrutinise and evaluate the Council's five year housing land. The Panel's first meeting took place on 20th March 2018. The Panel concluded its business at its final meeting on 3rd October 2018.

## 2. Panel Membership

Chair: Councillor Seaton

Councillors Gaskell, Hamilton, Hayes(part), Pacey and Snartt.

NOTE: Councillor Taylor was an original Panel member and appointed by SMB as the Chair but resigned following her appointment to Cabinet.

## 3. Terms of Reference and Reason for Scrutiny

The Panel's Terms of Reference, agreed by the SMB on 24th January 2018 were as follows:

"The Panel should consider the national context of housing supply and investigate the reasons why the Local Planning Authority is unable to demonstrate a five year housing land supply, in conjunction with other local authorities in Leicestershire, and identify what can realistically be achieved.

Following the fact finding stage, the Panel would then draw on good practices from elsewhere and consider if there are any areas for improvement or change, and whether they sit with other policies, including national policies, and practices within the Council."

The Scope Document for the scrutiny review undertaken by the Panel is attached at **Appendix 1**. This sets out the above Terms of Reference and Reason for Scrutiny. The document outlines the position at the conclusion of the Panel's work and, therefore, includes additional stakeholders and resources identified by the Panel as its work progressed, notes added to assist the Panel and a summary of the progress made by the Panel which was reported to meetings of the Policy Scrutiny Group.

The Panel were also aware of the sporadic nature of development throughout the Borough in their role as Ward Councillors and as members of the Plans Committee. A table is attached at **Appendix 2** detailing the total number of developments across the Borough to date, both large and small and does show the varying level of development that has taken place.

#### **4. Evidence, Stakeholders and Witnesses**

The Panel received information from the following stakeholders and witnesses:

- Local housing developers and the Commercial Estates Group (CEG) who provided their view and opinion of the current position regarding the Five Year housing supply.
- Councillor Terry Richardson, Leader of Blaby District Council who provided his viewpoint.
- Council's Planning Officers and the Lead Member for Planning who gave their viewpoint on the situation.

The Panel received information from Council officers as follows:

- Meeting 1 (20th March 2018) – Introduction from the Council's Planning team on the current situation regarding the Five year housing land supply, the history and the trajectory for the future.
- Meeting 5 (5th September 2018) – The Lead Member for Planning, the Group Leader for Plans, Policies and Place and the Principal Planning Officer attended the meeting to answer the Panel's questions and give their opinions.

The Panel considered a briefing note from Councillor Hamilton summarising the progress of other local authorities around the country in meeting the Five year housing supply.

The Panel also received a written response from Leicestershire Highways Authority in their role as a partner organisation.

There was also a written submission from Melton Borough Council detailing their situation regarding their Five Year housing supply and their attempts to improve it.

The Panel were given a copy of the revised National Planning Policy Framework (NPPF) to enable them to see the updates made since the last Framework was published.

Technical Support was provided to the Panel by:

Richard Bennett – Head of Planning and Regeneration  
David Pendle – Team Leader for Plans, Policies and Place  
Richard Brown – Principal Planning Officer

The Panel wishes to thank all stakeholders, witnesses and officers for the assistance provided with its work.

## **5. Summaries of Panel Meetings**

Full details of the information provided by witnesses and the issues considered by the Panel are detailed in the notes of the Panel's meetings listed in Background Papers section of this report, also attached at **Appendix 3**.

## **6. Equality Impact Assessment (EIA)**

The Improvement and Organisational Development Manager stated that the need for an Equality Impact Assessment would be considered following the final submission of the report.

## **7. Key Findings**

The Panel obtained evidence from a range of sources both internal and external as described in section 4 above.

The following key findings are set out in sections linked to the evidence the Panel received which led them to those findings.

### Key points from the local developers:

- (i) The working relationship between the local developers and the Council's Planning officers was described as challenging at times. It was felt that the use of agency workers recently had caused some continuity issues with a lack of suitable handover and lack of knowledge. Resolution of the staffing/ recruitment issue was considered important by all.
- (ii) Pre-start conditions were identified as a key delay in the development process. It was felt that some conditions could be dealt with later on in the process to allow development to commence on site. It was also felt that there was a large number of pre-start conditions requested which were not always necessary.
- (iii) Reserve matters were cited as another issue causing delays. There was a suggestion that the details could be discussed in a wider forum to allow for all interested parties to air their views and come to an agreement quicker. It would also allow for a more general discussion about what was expected so there could be a level of continuity throughout the design process for every site.
- (iv) A lack of labour force and materials were cited as an issue for local companies. It was part of the planning and development process to ensure materials were available for the sites and there were enough house builders to build in order to meet set deadlines. This was believed

to be a nationwide problem so the search for labour and materials was competitive.

- (v) Larger sites were identified as causing more problems due to their size and the surrounding problems such as infrastructure requirements. Larger developments could require schools, shops, open spaces and healthcare which were costly and could delay progress. Utility works such as gas and electricity were also needed as well as input from the Highways Authority. All of these factors added to the complexity of developing a larger site.
- (vi) Disagreement between the Council officers and local developers over the proposed housing mix was cited as causing a delay to the process. This was due to the Council wanting to meet the needs of the residents on the housing waiting list versus the most profitable house sizes for developers.
- (vii) A number of communication issues were raised between the developers and officers as well as with local partner organisations. The Panel suggested that they could act as intermediary to help combat some of the problems.

Key points from Councillor Richardson, Leader of Blaby District Council:

- (i) Blaby Council was taking a different approach to calculating their Five year housing supply and using the Liverpool model instead of the preferred Sedgfield model. The reason being that they could spread out the requirement over a period of time and plan developments in a timely manner. There was also a lot of training provided for officers and the Plans Committee to ensure an understanding of the model used and the process involved. This helped the committee to present robust decisions.
- (ii) There was a lot of time and effort put into the pre-application process to ensure that agreements were in place before the development began. The likelihood of a successful agreement was down to good communication on both sides and an agreement of the shared outcome.
- (iii) There was a national demand for Planning Officers which meant that the Council was experiencing difficulty in recruiting. They were combatting the problem by endeavoring to provide a variety of experience for officers as well as good terms and conditions to ensure retention. There was also more money from the planning fee income being spent on employing officers to track the Five year supply. The Economic Investment Manager at Blaby was tasked with managing the Five year supply and reporting on any changes.
- (iv) Community engagement was cited as a strong element in creating successful developments. The Council aimed to create a good community

feel to every development to ensure that the residents were engaged and took ownership of their area. This was proving to be successful.

- (v) Councillor Richardson reiterated the importance of good communication and engagement between partners, officers and developers to create successful developments. There were good examples of working together to create successful developments such as New Lubbesthorpe.

#### Key points raised by Charnwood Council officers

- (i) The Council was using the Sedgefield method for calculating the Five year housing supply in accordance with government guidance. The government preferred this method as it required any historic under supply in the delivery of homes to be added to the Five year housing requirement, rather than being spread out and moved towards the end of the plan period. Using the government's preferred approach meant that the Council could be confident that the housing supply calculations could withstand scrutiny at appeals.
- (ii) Although the Planning team was tracking the Five year housing supply and reporting it to the Local Development Framework Project Board and to members of Plans Committee, the figures were not being scrutinised by any Council committees. In time, the figures would be challenged through the appeals process or by public examination of the local plan which would scrutinise the figures and test the Council's defence. It would only be through one of these processes that the figures could be confirmed or rejected.

It was highlighted by the Panel at this point that a level of scrutiny was needed to ensure that the Five year housing supply figures were monitored and scrutinised as necessary.

- (iii) The biggest issue cited was getting the developers to start building. The planning permissions had been granted but work on the site was not commencing. This was causing frustration for the Council as it was causing delays and the Council was not meeting its housing requirements. Communication was highlighted as a problem by the developers and the officers acknowledged that there had been staffing and recruitment issues which had contributed to this although they were endeavouring to resolve this. There was a suggestion that the developers had their own business agenda which affected the timing and pace of progress on developments which was beyond the control of the Council and had the potential to add to the delays.

## **8. Linking Key Findings to Panel's Terms of Reference**

The Panel reviewed its key findings to determine whether the issues identified in its Terms of Reference and set out in section 3 above have been adequately considered.

The Panel used the evidence it received from the Planning Officers to clarify the stage of development for each of the major sites. It also confirmed this with the local developers and clarified any areas of slippage.

The Panel interviewed the Leader of Blaby District Council as well as receiving written responses from Melton Borough Council and Councillor Hamilton providing information on local authority approaches across the country, to allow the Panel to investigate the national situation regarding the five year housing supply as well as gather examples of good practice which could be applied to this Council.

Interviewing the local developers allowed the Panel to identify barriers to development and highlight areas for improvement. This was reiterated when they interviewed the Council Officers who provided their opinion on the situation.

The interviews provided a good basis to create recommendations for what could realistically be achieved by the Council. This was supported by the background information supplied and the responses gathered from Leicestershire Highways Authority and Melton Borough Council.

## **9. Recommendations and Panel Observations Not Requiring Further Action**

### **9(a) Panel Observations Not Requiring Further Action**

The Panel wishes to draw the Board's attention to the following observations which it considers do not require further action.

1. That the Panel believes a robust exit strategy should be in place to alleviate confusion and minimise delays when a member of staff leaves. This refers to project handover and IT tasks such as deleting email accounts and communicating any staff changes to Members as well as officers.
2. Due to the differing viewpoints between the Council officers and local developers it was felt that communication on both sides could be improved, mostly at the pre-application stage where the development could be talked through and agreed.

3. The Panel was reassured to hear that the Council was using the Government preferred model for calculating the five year housing supply.
4. The Panel welcomed the changes to the revised National Planning Policy Framework as it has improved the Council's position regarding its five year housing supply.

## **10. Recommendations Requiring Further Action**

The Panel wishes to make the following recommendations to the Board:

1. That the Council's Business Plan be amended to include the five year housing supply figure as one of the Council's Key Performance Indicators (KPIs).
2. That the Council's Business Plan be amended to include the various deadlines by which planning applications of different types should be determined as KPIs.
3. That the Chair of the Panel and the Lead Member for Planning to write a letter to Government reinforcing the need for enforcement sanctions for non-completion of developments.
4. That a best practice review of the Council's processes for dealing with section 106 agreements, reserved matters applications and pre-commencement conditions be completed to identify any areas of improvement.
5. That the current review of the Core Strategy be completed in accordance with the timetable set out in the Local Development Scheme agreed by the Cabinet most recently on 15th March 2018.

### Reasons

1. To ensure the figures are reported and monitored corporately and by the Performance Scrutiny Panel on a regular basis.
2. To ensure that the figures are reported and monitored corporately and by the Performance Scrutiny Panel on a regular basis
3. To reiterate the need for more powerful sanctions for non-completion and delayed developments.
4. To ensure that those processes are streamlined and speeded up, therefore enabling permitted developments to begin more quickly, and to reassure Members that the Council is following best practise in relation to its processes.
5. To ensure that it remains the most relevant for the residents of Charnwood and that the review is completed in a timely manner.

## **10. Background Papers**

Scope Document (Appendix 1)

Development Completion List (Appendix 2)

Agenda Papers and Notes of Panel meetings available on the Council's website at:

[https://www.charnwood.gov.uk/committees/five\\_year\\_housing\\_supply\\_scrutiny\\_panel](https://www.charnwood.gov.uk/committees/five_year_housing_supply_scrutiny_panel)

Meeting 1 - 20th March 2018

Meeting 2 - 18th April 2018

Meeting 3 – 6th June 2018

Meeting 4 – 5th September 2018

Meeting 5 – 3rd October 2018

Notes of Panel meetings 1-4 also attached (Appendix 3)

Information considered by the Panel as detailed in Paragraph 4 of this report and available on request.

**ANNEX 2**

<b>Panel Recommendation to the Scrutiny Management Board and Reason</b>	<b>Officer Responses (if any)</b>
<p>That, if the Council's housing land supply falls below 5.5 years, a quarterly report is provided to the Performance Scrutiny Panel and the Lead Member attend Performance Scrutiny Panel to explain what actions are in place to return the five year housing supply to a satisfactory level.</p> <p><i>REASON: To ensure that the figures are scrutinised by the Panel on a regular basis and any action can be taken if required.</i></p>	<p><b>Response of the Head of Planning and Regeneration</b></p> <p><i>The Government consulted on the action that should be taken by Council's to address shortfalls in supply and the delivery of homes through the Housing White Paper. Having considered the options the Government published a revised NPPF in July 2018 which requires authorities to prepare an Action Plan where housing delivery falls below 95% of the housing requirement. That Action Plan could be prepared under the Head of Planning and Regeneration's delegated authority if the proposed action can be delivered within resources or considered by Cabinet where it required additional resources or a change in policy. Notwithstanding that the Government has opted for the regime referred to above, it is possible for additional scrutiny to be applied to the Housing Land Supply through the Performance Scrutiny Panel. However, it should be noted that the Government has promoted annual supply statements owing to mid-year positions being time-consuming and unreliable given the arbitrary approach taken to annual housing need at the mid-year points. The Council would undoubtedly be subject to scrutiny on five year land supply through statutory appeal processes if the land supply were at 5.5 years due to the attraction to the development industry to challenge that figure. Whilst the scrutiny to be brought by Performance Panel might have a different scope or intention it should be borne in mind that this would be an additional burden on the local planning authority at a time when resources would be being directed towards managing appeals, therefore adding to competing priorities and requiring additional resources or re-directing from other</i></p>

	<p><i>processes.</i></p> <p><b>Recommendation of the Head of Planning and Regeneration</b></p> <p><i>That no further action is taken.</i></p>
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<b>Panel Conclusions not Requiring Further Action</b>	<b>Officer Responses (if any)</b>
<p><b>Conclusion 1.</b></p> <p>That the Panel believes a robust exit strategy should be in place to alleviate confusion and minimise delays when a member of staff leaves. This refers to project handover and IT tasks such as deleting email accounts and communicating any staff changes to Members as well as officers. The Head of Planning and Regeneration has been asked to consider this as an operational management matter.</p>	<p><i>Noted. The Planning and Regeneration Service currently prepares exit strategies and action based transition plans to manage staff changes.</i></p>
<p><b>Conclusion 2.</b></p> <p>Due to the differing viewpoints between the Council officers and local developers it was felt that communication on both sides could be improved, mostly at the pre-application stage where the development could be talked through and agreed. The Head of Planning and Regeneration has been asked to consider this as an operational management matter.</p>	<p><i>Noted. The Planning and Regeneration Service currently seeks project managed programmes of activity from developers in order to help with resource planning and also advocates the use of the pre-application process.</i></p> <p><i>It may be noted that delays are often incurred in the pursuit of appropriate development proposals due to the local planning authority seeking policy compliant schemes which will deliver Cabinet's vision and expectations for Charnwood. Officers are of the view that in this regard the issues raised in conclusion 2 are not purely about</i></p>

Panel Conclusions not Requiring Further Action	Officer Responses (if any)
	<i>communication, which is considered on the whole to be reasonable, but rather about agreement in that respect.</i>
<p><b>Conclusion 3.</b></p> <p>The Panel was reassured to hear that the Council was using the Government's preferred model for calculating the five year housing supply.</p>	<i>Noted.</i>
<p><b>Conclusion 4.</b></p> <p>The Panel welcomed the changes to the revised National Planning Policy Framework as it has improved the Council's position regarding its five year housing supply.</p>	<i>Noted.</i>