

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**POLICY DEVELOPMENT GROUP – 11 FEBRUARY 2013**

Title of report	<b>CALL – IN OF CABINET DECISION OF 15 JANUARY 2013 ENTITLED ‘DELIVERING GROWTH AND PROSPERITY IN COALVILLE’</b>
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Purpose of report	To provide more information to Policy Development Group on the matters which have been raised through the call-in process.
Council Priorities	Safer and Healthier District Business and Jobs Value for Money
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>The implications of the decision were fully covered in the report to Cabinet which is also attached to this report as an Appendix.</p> <p>Not applicable</p> <p>The risks associated with the decision were fully covered in the report to Cabinet which is also attached to this report as an Appendix.</p> <p>The implications of the decision were fully covered in the report to Cabinet which is also attached to this report as an Appendix.</p> <p>Not applicable</p> <p>Nothing further than contained within the Cabinet report.</p>
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	None
Background papers	<p>Cabinet report of 15 January 2013 entitled 'Delivering Growth and Prosperity in Coalville' – attached as Appendix A</p> <p>Minutes from Cabinet meeting of 15 January 2013 – attached as Appendix B</p> <p>Background papers to the original background report are also available as set out in the Cabinet report.</p>
Recommendations	<p><b>POLICY DEVELOPMENT GROUP CONSIDERS THE REPORT AND AGREES ONE OF THE FOLLOWING OPTIONS:</b></p> <p><b>A) NO FURTHER ACTION BE TAKEN;</b></p> <p><b>B) CABINET SHOULD BE ASKED TO RECONSIDER ITS DECISION IN THE LIGHT OF COMMENTS FROM POLICY DEVELOPMENT GROUP;</b></p> <p><b>C) THE REPORT AND COMMENTS OF POLICY DEVELOPMENT GROUP ARE CONSIDERED BY FULL COUNCIL BEFORE REFERRAL BACK TO CABINET.</b></p>

## 1.0 BACKGROUND

- 1.1 Members will be aware that Cabinet considered a report on 15 January 2013 entitled "Delivering Growth and Prosperity in Coalville." A copy of the report which was considered by Cabinet is attached as Appendix A to this report.
- 1.2 Cabinet resolved at that meeting to approve the recommendations in the report. A copy of the draft minutes is attached as Appendix B. However, on 16<sup>th</sup> January 2013, the Chief Executive and Monitoring Officer both received notice from a number of councillors that they wished to call-in the decision of Cabinet for scrutiny.
- 1.3 The Monitoring Officer confirms that the constitutional requirements for call-in of a decision have been met.
- 1.4 The grounds for calling-in the decision are as follows:
1. "We believe that the paper shown in the Appendix delivered by the Portfolio Holder Trevor Pendleton could and should have examined evidence that the proposed

funding package was sustainable in the 25 year timescale described at the meeting. We consider that the P and D Group need to examine this detail and seek hard and factual evidence that the plan is deliverable;

2. We also believe that withholding from public and Member Scrutiny a plan for highway improvement at Hugglescote Cross Roads is not good practice and is unconstitutional. As Members we consider that we have no evidence that the costs put forward in the paper are deliverable and need's detailed Member Scrutiny. We also consider that as elected Members we are being prohibited on being provided with information on other alternatives mentioned in the paper. Withholding of on what will be contentious information from elected Members needs full scrutiny."

- 1.5 This report therefore seeks to address these grounds and also explains the process of call-in to members.

## **2.0 CALL – IN GROUND 1**

- 2.1 In addressing the questions of the 'funding package' set out in Ground 1, it is assumed that what is to be scrutinised is the funding package for each of the highway improvements set out in the Cabinet report and not the future funding package to support the possible borrowing of a LLEP loan which of course will be the subject of future reports to Cabinet and Council.

- 2.2 The first call-in ground questions the financial sustainability of the proposals within the Cabinet report. In addressing this concern it is important to emphasise that the report to Cabinet was not intended as a fully-costed financial model. Also the report is not seeking Cabinet approval for the highway schemes but a policy approach to enable the Council to secure funding for highway improvements. Decisions on highway improvements will be the subject of later Council decisions on planning applications. The report included information on known schemes and estimated costs as background information to inform Cabinet of the scale of highway improvements required in order to enable planned development levels. The report was clear that the costs of the highway schemes would be subject to change as more up to date information became available. However the purpose of the report was to show that based on the information already available, the cost of highway improvements in Coalville was likely to be significant and that based on current levels of contribution through Section 106 agreements, those improvements would not be deliverable and consequently levels of development in Coalville would very quickly reach a point of stagnation.

- 2.3 Some of the highway schemes contained within the report are further progressed than others, with detailed schemes having been prepared and agreed with the Highways Authority. In those cases the cost of improvements can be more readily relied upon. However other schemes, such as Hugglescote Cross roads and the Bardon Link Road for example are based on cost estimates.

- 2.4 The costs estimates of the schemes contained within Appendix 1 of the Cabinet report are based on information provided to the Council by the Highways Authority. This would also be the process on individual planning applications where contributions may be sought towards highway improvements. It also remains the case, as set out in paragraph 4.7 of the Cabinet report, that each contribution will be calculated on a case by case basis,

ensuring that where contributions are taken they are towards schemes that are directly impacted upon by that development and based on the most up to date costing information.

- 2.5 Notwithstanding this, the first call-in ground has expressed concern over the financial deliverability of the proposals. The report to Cabinet indicated that on average the Council has successfully negotiated contributions on major housing schemes across the district of circa £5,000 per house. However those contributions have included the contribution achieved towards affordable housing.
- 2.6 Based on the information already known, the likely highway infrastructure costs of delivering development in Coalville is at least £19m. Funding for major infrastructure has historically been met from a combination of developer contributions as well as national and local capital investments. There is very little funding now available through national or local transport infrastructure funds and therefore the onus for delivering these improvements rests with local planning authorities in conjunction with developer interests. Given that the level of development in Coalville over the period to 2031 is likely to be around 4,000 new homes and if the required level of highway infrastructure investment is to be achieved, it is evident that the Planning Authority will need to adopt a different approach to its contributions.
- 2.7 Therefore the decision of Cabinet was very much a timely decision given that it is already evident, based on the information already available, that delivering growth and prosperity in Coalville will prove a difficult challenge. However as each year passes and as more developments are permitted in Coalville without contributing to the wider highway infrastructure requirements, that challenge becomes increasingly harder to deliver upon. Therefore the decision of Cabinet was to act now, based on what is already known, and with the support of the development industry, the future prosperity of Coalville can be secured.
- 2.8 The deliverability of the plan will very much depend on whether the development industry and Highways Authority and Highway Agency agree with the proposed approach and consider the Council's approach to be supporting growth and jobs or otherwise. If the decision of Cabinet is therefore eventually confirmed, a consultation exercise will follow as established in the Cabinet resolution, which will help provide evidence of the deliverability of the proposals.

### **3.0 CALL – IN GROUND 2**

- 3.1 As indicated in relation to call-in ground 1, the purpose of the report to Cabinet was to begin, on a strategic basis, to assess the likely level of contribution required to deliver highway improvements in Coalville. With respect to Hugglescote Cross roads, the Highways Authority have undertaken an assessment of potential schemes which would create additional capacity at the junction to enable the level of development envisaged in Coalville to be accommodated satisfactorily. This work is on-going.
- 3.2 If and when there is a greater prospect of a potential scheme being delivered at Hugglescote Cross roads, then either the Highways Authority will consult on that scheme or details will be consulted on as part of a planning application and so the proposed scheme will be open to public scrutiny. At this stage, however, the Highways Authority are not proposing a definitive scheme for the cross roads and instead are providing the

Planning Authority with indicative outline costs of a scheme in order for policy decisions (or decisions on individual planning applications) to be taken.

- 3.3 Therefore, given the above, the Highways Authority has confirmed that their deliberations on Hugglescote Cross roads are confidential and should not be made publicly available. The call-in ground also suggests that the lack of availability of a detailed plan for Hugglescote Cross roads is also unconstitutional. It is not clear, in what respect the decision would conflict with the constitution but it is contended that all necessary information for Cabinet to make the decision they did was readily available to them. Further, the report was also subject to external specialist legal governance advice which confirmed that it was appropriate to be considered by members. It is also important to consider what is or is not within the public interest in relation to release of information. Where road improvement schemes are being designed and modelled often road alignments can vary, impacting on different land areas, but the resultant scheme may affect none or a smaller number of land interests. Until there is a high degree of certainty over design it is not always in the public interest to release draft schemes. Importantly members will appreciate that it is the County Council who has chosen to keep this information confidential, not this Council. Officers of the District Council have not seen any of the plans for Hugglescote Cross roads and the District Council does not hold any of the plans relating to this highway scheme.
- 3.4 It is not unusual for the Council to make decisions on highway contributions based on cost estimates from the County Council without detailed schemes being available. For example, recently at Park Lane Castle Donington, the Council took a contribution of £250,000 to be used on improvement works to the High Street/Bondgate/Delvin Lane junction. A scheme was later designed and subject to consultation post planning application decision.
- 3.5 The call-in suggests that Members should have evidence that the costs put forward are deliverable before making a decision. However, it is normal for the Council, when making planning decisions, either on policy or on planning applications, to rely on the advice of the Highways Authority, particularly with regards to the costs of schemes.
- 3.6 The second call-in ground also indicates that alternative options referred to in the Cabinet report are being prohibited from being provided to members. It is not entirely clear what alternative options are being referred to here as the report does not make any reference to alternative options and nor is the decision of Cabinet predicated on an assessment of all or any options for any of the schemes. Instead Cabinet's decision is based on the advice of the Highways Authority on the likely cost of highway schemes in Coalville.
- 3.7 However, it is assumed that the reference to options is in respect of Hugglescote Cross roads, where in Appendix 1 to the Cabinet report, there is a reference to 'LCC Option 3'. This particular question was asked at Cabinet by Councillor Legrys and the response from the Highways Authority was that Option 3 was one of a number of options used to test capacity to accommodate growth at Hugglescote Cross roads. Option 3 was chosen for the purposes of this exercise as it provided the greatest level of capacity at the junction. However the Highways Authority also confirmed the options which have been examined are not in the public domain. This was therefore considered by Cabinet at the time of making their decision.

- 3.8 The Hugglescote Cross road scheme, if publically available, would not have a bearing on the Cabinet decision as the decision is not to approve this scheme but to approve a policy approach to enable the Council to secure financial contributions to deliver a range of highway improvements at the point they are required.
- 3.9 The Director of Services and the Portfolio Holder will attend the meeting of Policy Development Group to respond to questions from members in relation to the call-in.

#### **4.0 THE PROCESS**

- 4.1 The process for dealing with a call-in by members is set out in the constitution, Scrutiny Procedure Rules (page 140-147). In summary, these provide for the following process.
- i. Call-in should be used in exceptional circumstances where the Policy Development Group has evidence which suggests that Cabinet did not take its decision in accordance with the principles of decision making (in Article 13 of the constitution – pg 26). These are:
    - a. proportionality (i.e. the action must be proportionate to the desired outcome).
    - b. due consultation and the taking of professional advice from officers.
    - c. respect for human rights.
    - d. a presumption in favour of openness.
    - e. clarity of aims and desired outcomes.
    - f. explaining what options were considered and giving the reasons for the decision.
  - ii. The call-in was received by the Head of Legal and Support Services in time, in writing and duly signed by those members wishing to call it in. There were no grounds to reject the call in. Although it did not articulate in what way the Cabinet decision had failed to be in accordance with the above principles of decision making.
  - iii. If, having considered the decision, Policy Development Group are concerned about it, they may refer it back to Cabinet for reconsideration, with reasons and the nature of their concerns in writing.
  - iv. Cabinet will then reconsider the decision and amend it or not before adopting a final decision.
  - v. Policy Development Group may also, if concerned about the decision, decide to refer the matter to Council. Again, they would need to provide reasons and the nature of their concerns in writing. If the matter is referred to Council and they do not object then no further action is necessary and the decision will be effective from the date of that Council meeting.
  - vi. If Council do object to the decision they can refer it back to the next scheduled Cabinet for reconsideration with reasons and the nature of their concerns. The process is then as set out at (iv) above.

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – 15 JANUARY 2013

Title of report	<b>DELIVERING GROWTH AND PROSPERITY IN COALVILLE</b>
Key Decision	a) Financial Yes b) Community Yes
Contacts	Councillor Trevor Pendleton 01509 569746 <a href="mailto:trevor.pendleton@nwleicestershire.gov.uk">trevor.pendleton@nwleicestershire.gov.uk</a>  Director of Services 01530 454555 <a href="mailto:steve.bambrick@nwleicestershire.gov.uk">steve.bambrick@nwleicestershire.gov.uk</a>
Purpose of report	To agree a change in priority required to make acceptable development proposals viable by seeking Section 106 contributions from developments in Coalville (including the wards of Coalville, Thringstone, Whitwick, Greenhill, Bardon, Snibston and Hugglescote) to be put towards highway infrastructure and so away from affordable housing.
Reason for Decision:	To assist in unblocking development in Coalville.
Council Priorities	Safer and Healthier District Business and Jobs Value for Money
Implications:  Financial/Staff	This report is recommending a change in policy (which will be subject to consultation) but it is not recommending that the Council should accept lower Section 106 contributions or require unsustainable higher contributions overall, but that more flexibility should be applied to prioritise essential highway infrastructure contributions. Overall therefore there should be no net financial impact on the Council nor on development proposals. The community/resident impacts are considered further in this report. These proposals will have no financial impact on the Council outside of the budget set by Council.
Link to relevant CAT	Not applicable.

Risk Management	<p>There is a risk that if the Council is unable to unblock key strategic development in Coalville then all future major developments may be blocked or at the very least significantly delayed. Stalled development has negative implications for meeting local development needs, support to the local economy and for this Council and County Council medium/longer term financial planning as New Homes Bonuses will not be secured. The District Council's Medium Term Financial Strategy assumes almost £2.8million in additional New Homes Bonus receipts by 2016.</p>
<p>Equalities Impact Assessment</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>Potential impact of a reduction of provision of affordable housing leading to a greater number of people potentially in housing need, however if development is stalled through insufficient highway infrastructure funding then there will be no housing provision, including affordable housing. An assessment of the impacts of reducing affordable housing provision is included in this report. Of those 'protected characteristics' it is anticipated that these impacts may have a greater proportionate impact on young people.</p> <p>Not applicable.</p> <p>Partnership working with Leicester and Leicestershire Enterprise Partnership (LLEP), the County Council and developers/landowners to bring forward development to meet local needs and to support economic recovery is supported by the Government's transformational agenda and approach to planning contained within the National Planning Policy Framework.</p>
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	On the advice of Bevan Brittan LLP the report is satisfactory
Consultees	None
Background papers	<p>Documents relating to planning application reference number 12/00376/OUTM  <a href="http://www.nwleics.gov.uk/pages/view_planning_applications">http://www.nwleics.gov.uk/pages/view_planning_applications</a></p> <p>Saved Local Plan and Pre-Submission Core Strategy  <a href="http://www.nwleics.gov.uk/pages/core_strategy_2012">http://www.nwleics.gov.uk/pages/core_strategy_2012</a></p>

<p>Recommendations</p>	<ol style="list-style-type: none"> <li>1. <b>AGREE TO THE PREPARATION AND CONSULTATION OF AN INTERIM SECTION 106 POLICY WHICH ESTABLISHES THE APPROACH TOWARDS PRIORITISING HIGHWAY INFRASTRUCTURE CONTRIBUTIONS IN COALVILLE, WHICH WILL BE REPORTED BACK TO CABINET AFTER THE CONSULTATION EXERCISE.</b></li> <li>2. <b>AGREE THAT FOR MAJOR DEVELOPMENTS IN COALVILLE, THE PLANNING COMMITTEE IS ASKED TO CONSIDER THE EMERGING POLICY AS OUTLINED IN THIS REPORT THROUGH SECTION 106 AGREEMENTS; AND</b></li> <li>3. <b>TO RECOMMEND THAT PLANNING COMMITTEE, WHERE APPROPRIATE, PRIORITISE THE REQUIREMENT FOR HIGHWAYS INFRASTRUCTURE CONTRIBUTIONS IN COALVILLE ABOVE AFFORDABLE HOUSING CONTRIBUTIONS WHERE SUCH CONTRIBUTIONS ARE NECESSARY, IN ACCORDANCE WITH THE EMERGING POLICY PROPOSALS.</b></li> </ol>
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## **1.0 BACKGROUND**

- 1.1 The Council's saved Local Plan identifies a 2,000 dwelling residential development proposal at Bardon Grange (Policy H4g) and the Pre-Submission Core Strategy, approved by Council on 24<sup>th</sup> April 2012, includes the Policy H4g proposal as part of a wider proposed Broad Growth Location at South East Coalville for at least 3,500 dwellings and at least 20 hectares of employment land plus associated development such as schools, local centres (e.g. shops, community facilities) and open space.
- 1.2 This level of development in Coalville, which for planning purposes is regarded as the town of Coalville and the surrounding villages, is designed to ensure that as the District's main town, Coalville is able to sustain itself as well as grow and prosper. The level of development envisaged in Coalville will bring significant investment to the town and will help support the efforts to rejuvenate the town. However, both the saved Local Plan proposal and the Pre-Submission Core Strategy South East Coalville Broad Growth Location, if adopted in due course as part of the Core Strategy, require significant highway infrastructure to be provided.
- 1.3 The Planning Committee in July 2012 granted outline planning permission for 800 dwellings and associated development on part of the Policy H4g site, subject to a Section 106 Agreement and a number of conditions. The Section 106 Agreement has been entered into and includes the need for the developers to design and secure planning permission for a new Vehicular Link Road between the Stephenson Way/Bardon Road Junction (known as the Bardon Link Road) and the development site such that traffic at a key stage of development can access and egress the development site directly onto the A511. Planning permission is conditioned so that up to 600 dwellings only can be occupied on the development site until the Bardon Link Road is operational. That is to

say, the last 200 proposed dwellings cannot be delivered until this road infrastructure is in place.

- 1.4 The Bardon Grange planning permission is also conditioned so that no dwelling is occupied until improvements have been carried out to Junction 22 of the M1 and Junction 13 of the A42 (slip road widening and part time operating traffic light controls). This is a requirement from the Highways Agency. The same restrictive condition is expected to be required to be imposed on all other significant development proposals in Coalville and potentially also on major new developments in Ashby. However officers are negotiating with the Highways Agency to see if improvements can be phased to enable some development to proceed in advance of the full improvement works. Even if negotiations are successful these improvements will continue to present a block to development unless upfront investment is secured.
- 1.5 In addition to those infrastructure improvements outlined above, work that continues on the Council's draft Core Strategy has also identified other key highway infrastructure improvements that will be necessary in order to ensure that development in Coalville can proceed sustainably. Notably some of those key improvements include Hugglescote crossroads and junctions along the A511 between the M1 and A42. The list of likely highway contributions which is currently provided by the Highway Authority, including the current projected cost of those improvements is attached as Appendix 1 to this report.
- 1.6 Therefore based on Highway Agency requirements and on the emerging Core Strategy evidence base, significant upfront strategic highway infrastructure funds are needed from developers before strategic development proposals can in effect, be commenced in Coalville. Without these contributions, development in Coalville and to a lesser extent, Ashby is likely to be constrained unless significant upfront infrastructure funding is secured.

## **2.0 FINDING A SOLUTION**

- 2.1 Under current economic and funding conditions developers are unlikely to be able to access sufficient funding at acceptable terms to enable development to proceed. In order to enable development to commence (and therefore generate income to pay for the infrastructure) there is a widely recognised need for the public sector to assist developers to commence development.
- 2.2 The need for upfront infrastructure funding has been recognised and is supported by the Leicester and Leicestershire Enterprise Partnership (LLEP) through the Growing Places Fund Round 2 (GPFR2) process where just over £8m has been made available to provide project capital funding (indicatively up to £1.6m per project). Essentially this presents local planning authorities with a bidding opportunity to secure a loan to secure essential infrastructure with the loan being repaid from developer contributions secured by the local planning authority via Section 106 financial contributions and/or Community Infrastructure Levy if in place.
- 2.3 Officers have made two bids on behalf of the Council with the support of the County Council as Highway Authority for loans totalling £3.2m, towards the cost of implementing the Bardon Link Road and the motorway/A42 junction improvements. The detail around these LLEP loans will be the subject of a separate report to Cabinet.

- 2.4 Whilst the Council potentially accessing up-front infrastructure loans from the LLEP will help to kick start the provision of new highway infrastructure, a loan of £3.2m will only contribute a small part of the overall cost of providing essential highway infrastructure. Members will note from Appendix 1 that if the Core Strategy is to be delivered in a sustainable way, the estimated overall highway infrastructure cost in Coalville will exceed £20m. Provided this report and subsequent policy are approved, it is anticipated that this infrastructure would be funded by developer contributions, with no public sector subsidy required. However, if the Council is to accept a LLEP loan of £3.2m, this will need to be repaid and the Council will be reliant on developer contributions to do so. The risks and liabilities related to this loan agreement will be covered in full in a subsequent report to Cabinet and Council, which will include, where necessary any adjustments to the Medium Term Financial Strategy.
- 2.5 Based on an overall cost of £20m, it is estimated that the total cost per dwelling in Coalville is likely to be in the region of £4-5,000. It is further estimated that historically the Council has been able to secure this level of contribution on major developments, but only when the contribution towards affordable housing has been included as part of that contribution package.
- 2.6 Clearly therefore, if the Council is to support the growth of its communities, and help deliver prosperity to Coalville and the surrounding villages and the associated business and jobs that this will bring, further intervention, as Local Planning Authority, into the development market will be necessary.

### **3.0 OPTIONS**

- 3.1 Given the financial difficulties facing the development industry at the moment, the Council has a number of options to assist in ensuring that development proceeds, whilst also contributing to essential infrastructure costs. These options are:
- a) Not to approve any further development in Coalville until the Core Strategy is adopted and a full infrastructure plan is approved;
  - b) Not to approve any further development in Coalville until the Council has determined its approach to Community Infrastructure Levy (CIL); or
  - c) To continue to approve developments, but to prioritise contributions to essential highway infrastructure through Section 106 agreements over other possible infrastructure needs.
- 3.2 Options a) and b) will ensure that the evidence base against which highway contributions will be sought will be robust and will have been through a public examination. It will also ensure that all new developments will pay their fair share towards the necessary highway infrastructure costs in Coalville. However, the disadvantage with both of these options is that the adoption of the Core Strategy is at least 12 months away and the Council also has a responsibility to maintain a 5 year supply of housing land, something the Council is only just able to demonstrate. The adoption of CIL is even further away as, even if the Council decides it wishes to proceed with CIL, to progress this will require adoption of the Core Strategy. Both these options will also delay delivery of housing impacting negatively on meeting local housing need and support for the local economy.
- 3.3 Therefore, on balance, it is recommended that the Council should instead adopt an approach which allows for developments to proceed as soon as possible, whilst ensuring

that all appropriate developments make a fair and reasonable contribution to necessary highway infrastructure costs and other essential infrastructure, based on information that is currently available. This approach will require active enabling by the Council.

#### **4.0 THE PREFERRED APPROACH**

- 4.1 By prioritising contributions to necessary highway infrastructure, the Council will be indicating that where highway contributions are deemed to be essential, these contributions will be maximised. In order to adopt such an approach, the Council will need to be more flexible in the amount that might be reasonably achieved on other contributions. It is worth noting at this point that the Council is already operating flexibly in development negotiations in order to facilitate development.
- 4.2 Also, nationally, the Coalition Government has indicated its priority, both through the National Planning Policy Framework (NPPF), and Ministerial statements, to delivering growth. The Government has made it clear that they would encourage Local Planning Authorities to re-negotiate on planning permissions that have stalled, and that where this is the case, the Government expects planning authorities to adopt a more flexible approach to the provision of affordable housing.
- 4.3 It is proposed therefore that the area of contributions that would be reduced to accommodate this approach would be affordable housing. It is not proposed that any other contributions, which are required, e.g. health, education, open space, would be reduced.
- 4.4 It is a matter for members to determine which area of contribution they wish to reduce. As well as those listed above, some house builders report for example that the Council's approach to design is adding a cost, albeit relatively small, to the overall development costs in the district. However, it is recommended that affordable housing is the contribution to be reduced because the negotiation on the level of affordable housing is entirely a matter for the District Council as Local Planning Authority. The Council's existing Supplementary Planning Document also already sets a lower target for Coalville (and Ibstock) of 20% affordable housing provision, primarily due to the more marginal viability of delivering affordable housing in those settlements, however in setting this lower target in Coalville, members were also mindful of the affordability of the existing housing stock in Coalville and the desire to encourage a greater balance within the future housing stock.
- 4.5 The situation in Coalville has reached a point, like many other locations throughout the country, where development has stalled or is close to stalling. One of the tools available to the Council to enable development to proceed, is to adopt an approach, as envisaged by the Government, which maximises those contributions that will help unblock developments – albeit at some cost to the provision of affordable housing and to households who will be affected by the under-occupancy rules from April 2013 and who will be unable to down-size to alleviate their financial situation due to the existing and future lack of smaller affordable homes. The potential impact of such a decision is explained in more depth in Section 5.0 of this report.
- 4.6 If members agree that a new approach is necessary, it would be appropriate for the Council to develop a policy to establish this approach. Whilst Cabinet expressing a view would in itself be a material consideration, a new policy will need to be subject to consultation any

other processes outlined in Regulations; and if subsequently adopted by Cabinet, would be given significant weight in the decision making process as a material consideration.

- 4.7 It is recommended that the proposed approach will be applied on a case by case basis to all major planning applications (more than 50 dwellings) in Coalville (as defined in this report). Major applications for non-residential/commercial development (e.g. employment, retail) (defined as above 10,000 sq m floorspace) will also be required to contribute and will be assessed on a case by case basis. Working closely with the Highways Agency and Highways Authority, the Council will determine whether a highways contribution is necessary and appropriate in each case and an appropriate contribution will be calculated and requested. Cabinet should also note that if this approach is agreed, some schemes which are currently permitted but have yet to start may seek a renegotiation on their Section 106 contributions. Where this happens, any revised application will be determined in the light of the new policy approach.
- 4.8 In circumstances where meeting the request for highways and all other contributions, including affordable housing, renders a scheme unviable, the Council will normally expect this to be supported by a viability report but where this is accepted, the Council will negotiate and accept lower contributions on affordable housing to ensure that highway infrastructure contributions can be delivered. In some cases this may even mean accepting no contributions towards affordable housing. In all of these cases where lower contributions are agreed, the Council will normally either set a shorter time period for the planning permission to be implemented and/or seek to include a clause in the 106 agreement which would allow for periodic review of the agreement to take account of any change in economic circumstances. The Council's preferred approach will be to set shorter permission timescales as this will encourage earlier implementation of planning permissions. The Council will also seek to negotiate with applicants to ensure that highway contributions are paid at early stages within developments in order to 'front-load' the funding of important highway schemes.
- 4.9 It is important to point out that contributions on schemes will only be sought towards highway infrastructure that is considered to be essential and meets appropriate requirements such as the Reg. 122 tests of the Community Infrastructure Levy (CIL) Regulations. An assessment of whether individual contributions meet those tests will continue to be undertaken at the time of determining individual planning applications.
- 4.10 If adopted by Cabinet, the policy would be kept under constant review and should circumstances change which require a fundamental change to the policy then a future report will be submitted for Cabinet's consideration. Also for the avoidance of doubt, should the Council, in due course choose to adopt a CIL, then the policy, if agreed, will be superseded.
- 4.11 Adopting a policy will not only help support business, jobs and growth in the local economy, but it will also provide a mechanism for ensuring much needed improvements to highway infrastructure can take place in good time. Such an approach will also help to ensure that the funding for this highway infrastructure is 'front-loaded'.

## **5.0 IMPACT ON AFFORDABLE HOUSING**

- 5.1 A reduction in contributions towards affordable housing in Coalville in order to maximise the contributions towards essential highway infrastructure would represent a departure

from the Council's current Section 106 policy. Before deciding on whether this would be appropriate Cabinet should be aware that there would inevitably be consequences of such an approach:

- i) A significant housing need already exists within the district. The last housing needs study for the district which was undertaken in 2008 as part of the Strategic Housing Market Assessment (SHMA), indicates that the level of affordable housing provision within the district required to meet the identified need is at least 355 new affordable dwellings per annum;
- ii) In 2010/11, 42 affordable houses were built in the district, representing just over 22% of all dwellings completed. Therefore even at current levels of provision, the housing needs of many people within the district are not being met. Reducing the level of provision will further exacerbate this issue. Over the next 20 years it is proposed to build approximately 4000 new homes in the Coalville area. 800 of those homes would be affordable homes if provision was made in line with the current target.
- iii) A lack of affordable housing will impact on some of the most vulnerable people within the district and has the potential to increase the number of homelessness cases within the district or at least will restrict the Council's options for re-housing them and therefore increase the use of bed and breakfast and other temporary accommodation.
- iv) Over the last three years the number of homelessness cases doubled from 101 to 199. The Council has a statutory duty to support all reported homeless cases and in providing this support the Council's costs have increased over the last year by approximately £25,000.
- v) With welfare reforms impacting on under-occupying social tenants from April 2013 there will be a much greater demand for smaller affordable homes. The existing stock in the district is predominantly larger family-type housing units and there are not enough smaller homes to move people into. A total of 557 district tenants will be affected by this alone and will also be affected by the changes to Council Tax support from April 2013.
- vi) The existing affordable housing provision in the Coalville area are predominantly 3-bed homes and as a result of welfare reform many of these tenants will be affected by the under-occupancy rules from April 2013 and will want to move for affordability reasons.
- vii) Of the nine 'protected characteristics' it is expected that the greatest impact will be on young persons (aged between 18-30) as often it is this age group that is within the greatest housing need. Of the eight other 'protected characteristics' it is not expected that this policy would proportionately have any greater impact.

5.2 If the recommended approach is adopted, the Council will be able to mitigate some of these impacts, by:

- i) Continue to work with Registered Social Landlords (RSL's) and other developers on identifying and providing more affordable housing exception sites across the district;
- ii) Working with RSL's and other providers to examine whether any of the Council's landholdings, across the district, which may be surplus to requirements can help to improve the level of provision of affordable housing across the district;

- iii) Continue to use commuted sums held by the Council to support RSL's in delivering sites across the district;
- iv) Working with housing developers across the district to ensure that the level of affordable housing provision on other sites (outside of Coalville) is maximised;
- v) Ensuring that the size and type of market dwellings built reflect the changing housing need in the district taking account of relevant welfare reform implications;
- vi) Ensuring that where affordable housing contributions are to be reduced, this is supported by a robust viability assessment;
- vii) Ensuring the Strategic Housing service is robust and fit for purpose to provide the necessary essential support to those people who are in housing need and particularly targeting advice to younger people.

5.3 Cabinet should also note that whilst the recommended approach will inevitably lead to a reduction of the level of affordable housing provision within Coalville, this is within the context that without any intervention, development in Coalville will not be able to proceed and will stagnate and in such circumstances there would only be very limited affordable housing provision on small sites. The approach proposed in this report will lead to significant a reduction in new affordable housing provision in Coalville.

## **6.0 CONCLUSION**

6.1 This report is seeking Cabinet's approval to prepare a policy which will prioritise Section 106 contributions in Coalville to ensure that essential highway infrastructure can be delivered, at the expense of some affordable housing provision in Coalville.

6.2 The factors which contribute to this decision are finely balanced. The reduction in affordable housing provision is not without its consequences and whilst there is some action the Council can take to mitigate those consequences, they will not be entirely eradicated. However, as the district's main town and in the light of the saved Local Plan and emerging Core Strategy, Coalville will benefit significantly from the level of investment that will accompany the scale of growth and development currently envisaged.

6.3 New highway infrastructure, associated construction jobs, population growth and new disposable expenditure within the area will help support existing and new shops and businesses. As things stand, if existing policies are applied rigidly, this growth and increase in prosperity in Coalville will not take place. Whilst there can be no guarantees that a change of policy will stimulate development in Coalville, it will certainly assist and will demonstrate that the Council is committed to supporting the regeneration of Coalville.

## **7.0 CONSULTATION**

7.1 If agreed by Cabinet the proposed policy approach will be subject to consultation including with the key housing developers with an interest in sites in Coalville, with a number of RSL's who are active in the district and Leicestershire County Council as Highways Authority. The results of the consultation will be reported to Cabinet.

## **8. OTHER SITES**

8.1 The approach outlined in this report is specific to the provision of highway infrastructure in and around Coalville and principally will impact on major development proposals in Coalville. However, there may also be situations elsewhere in the district where it may be

necessary to take a similar approach i.e. to secure funding for essential new or improved infrastructure, or where a scheme is unable to provide all of the usual section 106 requests.

- 8.2 In those cases elsewhere in the district, negotiations will take place on a case by case basis and decisions will be made by Planning Committee, but as with the approach in Coalville, where developers are seeking to secure lower contributions than would otherwise be necessary this will always be supported by a robust viability report.

**NWLDC Highway contributions**

<b>Junction</b>	<b>Drawing ref</b>	<b>Cost estimate</b>	<b>Notes</b>
M42 junction 13	Buchanan's drawing no. 17446-B-004	£1,352,000	Base on Growing Places Fund Round 2 Bid
Hoo Ash roundabout	Coalville Transport Study Fig. 11.21	£609,840	
Thornborough Road roundabout	Coalville Transport Study Fig. 11.9	£890,120	
Whitwick Road roundabout	WYG drawing no. A059068-35-18-52-A	£890,120	Cost estimate based on Thornborough Road roundabout.
Broom Leys Road signals	Coalville Transport Study Fig. 11.15	£1,084,160	
Birch Tree roundabout	Coalville Transport Study Fig. 11.11	£1,054,900	
Beveridge Lane roundabout	Coalville Transport Study Fig. 11.9	£1,264,340	
Flying Horse roundabout	N/A	£20,240	Cost of installation of MOVA signal control.
M1 junction 22	Buchanan's drawing no. 19953-OS-104	£848,000	Base on Growing Places Fund Round 2 Bid
Hugglescote crossroads	LCC Option 3	£472,200	Design and civils cost only. Land valuation and statutory undertakers costs should be available by mid December.
Bardon link road		£8,500,000	Bardon Road signalised junction to roundabout at northern point of Bardon Grange site. Cost estimate based on DWH drawings from 2000.
New bus services - Coalville to Leicester and Ibstock to Coalville		£2,000,000 - £4,000,000	
<b>Rounded total</b>		<b>£19,000,000 - £21,000,000</b>	
<b>Total divided by 4300 dwellings</b>		<b>£4419 - £4884 per dwelling</b>	
Note: will also be requirement for site specific infrastructure/contributions , Travel Packs/Passes			
The figures above are based on those available at 7th December 2012 and may be subject to change, including contributions towards required works to Hugglescote cross roads amd Memorial Square			

## APPENDIX B

MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Coalville on TUESDAY, 15 JANUARY 2013

Present: Councillor R Blunt (Chairman) (In the Chair)

Councillors R D Bayliss, T J Pendleton, N J Rushton and A V Smith.

In attendance: Councillors R Adams, P Clayfield, D Everitt, J Geary, R Johnson, J Legrys, S Sheahan, L Spence and R Woodward.

Officers: Mr S Bambrick, Mr R Bowmer, Ms C Fisher, Mrs C Hammond and Miss E Warhurst.

### **78. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **79. DECLARATION OF INTERESTS**

There were no interests declared.

### **80. PUBLIC QUESTION AND ANSWER SESSION**

There were no questions from the public received.

### **81. MINUTES**

Consideration was given to the minutes of the meeting held on 12 December 2012.

RESOLVED THAT:

The minutes of the meeting held on 12 December 2012 be approved and signed by the Chairman as a correct record.

**Reason for decision:** To comply with the Constitution.

### **82. COUNCIL TAX BASE 2013/14**

The Corporate Portfolio Holder presented the report to members.

RESOLVED THAT:

1. Subject to the approval of the Local Council Tax Support Scheme by Council on 22 January 2013, the calculation of the Council Tax Base for each Parish and Special Expense area for the financial year 2013/2014, as shown in appendix 2 to the report, be approved and adopted.

2. Subject to the approval of the Local Council Tax Support Scheme by Council on 22 January 2013, in accordance with Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 si 2012/2914, the amount calculated by North West Leicestershire District Council as its Council Tax Base for the financial year 2013/2014 shall be 28,431.

3. Subject to the approval of the Local Council Tax Support Scheme by Council on 22 January 2013, the amounts of Council Tax Support Grant for each Town and Parish

Chairman's initials

Council detailed in appendix 3 be approved for the financial year 2013/2014.

4. The calculations of non-domestic rating income and other amounts required by the Non-Domestic Rating (Rates Retention) Regulations 2013 (draft) outlined in paragraph 4 be approved.

**Reason for decision:** The statutory requirement to facilitate the setting of Council Tax for the forthcoming financial year.

### **83. AIR QUALITY REPORTS 2012**

The Community Services Portfolio Holder presented the report to members.

Following a question from the Chairman, the Community Services Portfolio Holder advised members that there had been slight improvements and some of the Air Quality Management Areas had been reduced.

RESOLVED THAT:

1. The 2012 Air Quality Update and Screening Assessment be received.
2. The 2012 Air Quality Detailed Assessment of Castle Donington AQMA be received and approved, and that the amendment of the AQMA be approved.
3. The 2012 Air Quality Further Assessment of Copt Oak AQMA be received and approved, and the amendment of the AQMA be approved.

**Reason for decision:** To amend the current Air Quality Management Order (High Street, Bondgate, Castle Donington) following the Detailed Assessment and to amend the current Air Quality Management Order (Copt Oak) following the further assessment.

### **84. DELIVERING GROWTH AND PROSPERITY IN COALVILLE**

The Chairman had received a request from Councillor J Legrys to ask questions on this item. He advised Councillor Legrys that the Portfolio Holder would present the report and then respond to each of Councillor Legrys' questions in turn.

The Regeneration and Planning Portfolio Holder presented the report to members. He advised members that there were no monies for highway infrastructure and it would be difficult to fund infrastructure with all of the current Section 106 requirements. He informed members of the options, the preferred approach and the impact that this would have on affordable housing provision within Coalville.

The Housing Portfolio Holder seconded the motion although expressed concern at the potential reduction in affordable housing provision. However he accepted that a proactive approach was needed to unblocking development in Coalville and therefore supported the proposed approach.

The Leader also expressed support but indicated that he had asked for consideration to be given to how the Council might be able to use its powers and assets to assist in delivering affordable housing in Coalville.

The Regeneration and Planning Portfolio Holder went on to answer Councillor Legrys' questions. He read each question and answer in turn.

Chairman's initials

1. What is the 'threshold' and/or timeline for implementation of the highway improvements?

The Highway improvements collectively are those which are considered necessary to be delivered during the Core Strategy plan period. i.e. up to 2031 in order to enable the level of planned development to occur. Within Coalville this is over 4,000 new dwellings.

There is currently no precise timetable as to when each improvement would be delivered as this will to some extent also depend on the available funding and the views of the County Highway Authority and the Highways Agency.

This will be informed by the traffic modelling work which the Council has commissioned to support the Core Strategy and which will assess a range of measures designed to mitigate any impact of development on the highway network.

2. Are the drawings mentioned in the report in the public domain - if so where can copies be obtained?

The Coalville Transport Study is available on the Council's website at:  
[www.nwleics.gov.uk/pages/evidence\\_base](http://www.nwleics.gov.uk/pages/evidence_base)

The other drawings relating to M42 junction 13, Whitwick Road roundabout and M1 Junction 21 are available to view in the Council's Planning and Development Team office and will be placed on the website and emailed to Cllr Legrys for his information.

The only drawing that is not available relates to Hugglescote crossroads. The Highways Authority have confirmed that this drawing has been used to provide a cost estimate only and is not a public document

3. What is the 'base year' for the estimates?

The cost estimates were provided to the Council in 2012 and therefore that is the base year.

4. What rate of inflation has been added to the estimates?

No inflation has been added to the estimates.

5. What is the rate of Highway Engineering 'Contingencies' that has been added to the estimates?

Optimism bias (or contingency for negative event) has been set @ 44% based on Government guidance. The 44% is at this stage because of significant unknowns plus there is an added 10% for detailed design and supervision. Total contingencies is 54%.

6. Will you provide details, costings and timeline for the 'new bus services'?

The details of the bus services that are known at this stage are provided by the Highways Authority and are as follows:

Coalville Town Centre to Leicester City Centre. Assuming 5 buses for 5 years. Total cost included in Appendix 1. Revenue unknown.

Ibstock to Coalville Town Centre. Assuming 5 buses for 5 years. Total cost included in Appendix 1. Revenue unknown.

Chairman's initials

These are based on services of 30 minute frequency on routes between Coalville Town Centre and Leicester City Centre, and Ibstock and Coalville Town Centre. The exact details and timelines cannot be worked up without significant additional information, including build out rates, phasing, and the results from the LLITM work commissioned by the Council.

7. Option 3 for Hugglescote X Roads is mentioned - but what were the other options and why was option 3 chosen?

The Highways Authority have developed a number of options that provide varying levels of capacity. It is understood that Option 3 was chosen because it maximises junction capacity.

8. £8.5m is allocated for the 'Bardon Link Road' will this be sufficient?

£8.5million is the current cost estimate based on the most up to date information available. The estimate excludes any estimate for land acquisition (if required). The appendix does however recognise that all estimates are subject to change. Most schemes also need to have detailed design work and site surveys carried out (e.g. land conditions; utilities surveys) before more accurate cost estimates can be made.

9. Funding for A511 Improvements from junction 22 to the Birch Tree has always been a desire for (at least) the last 20 years and 'not new'. Most is currently outside NWLDC LPA jurisdiction. What input into the proposed NWLDC highway funding pot will further development within Hinckley and Bosworth Borough area be expected?

The highway improvements within the Cabinet report appendix do not include highway improvements between Junction 22 of the M1 and Birch Tree Roundabout as improvements are limited to works to the two junctions and not the highway linking them.

The position of the Highways Agency is that the specified improvements to Junction 22 of the M1 is as a result of the planned developments in Coalville. The Highways Agency will not be requiring planned development in Hinckley and Bosworth to contribute. Officers have questioned the Highways Agency position and will monitor future planned development levels in Hinckley and Bosworth close to influence of Junction 22 of the M1 and if necessary will raise this again with the Highways Agency and raise it with Hinckley and Bosworth Borough Council under the Duty to Co-operate.

RESOLVED THAT:

1. Cabinet agrees to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to Cabinet after the consultation exercise.

2. Cabinet agree that for major developments in Coalville, the Planning Committee is asked to consider the emerging policy as outlined in this report through Section 106 agreements; and

3. Cabinet recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals.

Chairman's initials

**Reason for decision:** To assist in unblocking development in Coalville.

**85. DISPOSAL OF THE DISTRICT HEATING BUILDING,  
BROUGHTON STREET, COALVILLE**

The Corporate Portfolio Holder presented the report to members.

RESOLVED THAT:

Cabinet declares the site surplus to requirements and approves the recommendation to dispose of the freehold to the Fire and Rescue Services at the recommended price as determined by the District Valuer of £40,000 inclusive of fees (fees approximately £2,000).

**Reason for decision:** The disposal value exceeds the delegated decision threshold of £30k. The Corporate Leadership Team have given consent for a report to Cabinet recommending to dispose of the freehold value to the Fire and Rescue Services at £40,000 inclusive of fees.

**86. SUPPORTING LEICESTERSHIRE FAMILIES**

The Regeneration and Planning Portfolio Holder presented the report to members. He updated members on the development of the service and highlighted the locality proposals for North West Leicestershire.

RESOLVED THAT:

1. Cabinet note and support the on-going development of the Supporting Families Programme in North West Leicestershire.
2. Cabinet delegate authority for the signing of the memorandum of understanding and service level agreement with Leicestershire County Council to the Director of Services.

**Reason for decision:** To ensure Cabinet is kept up to date with on-going service developments.

**87. APPLICATION FOR A DEVELOPMENT CONSENT ORDER – EAST MIDLANDS  
GATEWAY – RESPONSE TO STATEMENT OF COMMUNITY CONSULTATION  
RELATING TO A PROPOSED STRATEGIC RAIL FREIGHT DISTRIBUTION  
DEVELOPMENT NEAR TO LOCKINGTON, HEMINGTON AND CASTLE DONINGTON**

The Regeneration and Planning Portfolio Holder presented the report to members.

RESOLVED THAT:

1. Cabinet agree the response as set out in appendix 2.
2. Cabinet agreed that they did not wish to make any additional comments.

**Reason for decision:** To formally approve the Council's response to the Statement of Community Consultation and formulate any additional comments Members wish to submit.

Chairman's initials

**88. RESPONSE TO THE DEPARTMENT OF COMMUNITIES AND LOCAL GOVERNMENT (DCLG) CONSULTATION ON 'PLANNING PERFORMANCE AND THE PLANNING GUARANTEE'**

The Regeneration and Planning Portfolio Holder presented the report to members. He highlighted that the authority at present worked closely with applicants to agree timescales for which major applications would be processed. He also pointed out that it was proposed to ask Government to address the roles of statutory consultees in relation to the slow response times from them which can be the reason for the delays in determination of some major applications.

RESOLVED THAT:

Cabinet agree to respond to the DCLG consultation in accordance with the comments contained in appendix 1.

**Reason for decision:** To inform the Council's response to the consultation document.

**89. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED THAT:

In pursuance of Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the remainder of the meeting on the grounds that the business to be transacted involves the likely disclosure of exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Act and that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

**Reason for decision:** To enable the consideration of exempt information.

**90. WAIVER TO COUNCIL'S CONTRACT PROCEDURE RULES – HOOD PARK LEISURE CENTRE**

The Community Services Portfolio Holder presented the report to members. She advised members that this would allow the Council to support a local business in accordance with the Buy Local initiative and install a state of the art water treatment system at the Leisure Centre at minimal cost to the Council.

RESOLVED THAT:

Cabinet grant a waiver to the Council's Contract Procedure Rule 5.11 pursuant to rule 3.2 to secure the installation and servicing of plantroom equipment for Hood Park Leisure Centre.

**Reason for decision:** To install a new state of the art water treatment system at Hood Park Leisure Centre at minimal cost to the Council, thereby improving customer service and extending the life of the equipment.

The meeting closed at 5.34pm.

Chairman's initials