

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LOCAL PLAN ADVISORY COMMITTEE – 18 APRIL 2016

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| Title of report | DRAFT LOCAL PLAN – CONSULTATION RESPONSES |
| Contacts | <p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Planning Policy Team Manager 01530 454677 ian.nelson@nwleicestershire.gov.uk</p> |
| Purpose of report | To consider responses received to the recent consultation on the draft Local Plan and to highlight suggested changes |
| Council Priorities | <p>These are taken from the Council Delivery Plan:</p> <p>Building confidence in Coalville Value for Money Business and Jobs Homes and Communities Green Footprints Challenge</p> |
| <p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> | <p>None</p> <p>None</p> <p>A risk assessment of the project has been undertaken. As far as possible control measures have been put in place to minimise these risks, including monthly Project Board meetings where risk is reviewed.</p> <p>The Council has to be able to show how consultation has influenced the Local Plan and so it is important for Members to consider all responses.</p> <p>None, but this will be undertaken at Submission stage of the local plan</p> |

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| Human Rights | None |
| Transformational Government | Not applicable. |
| Comments of Head of Paid Service | The Report is Satisfactory |
| Comments of Deputy Section 151 Officer | The Report is Satisfactory |
| Comments of Deputy Monitoring Officer | The Report is Satisfactory |
| Consultees | Local Plan Project Board |
| Background papers | <p>Consultation responses copies of which are available on request from the Planning Policy team.</p> <p>Tables E to K which set out the comments made to the consultation on the draft Local Plan and officers' responses to the comments and which can be viewed at www.nwleics.gov.uk/pages/local_plan_have_your_say</p> <p>National Planning Policy Framework which can be found at www.gov.uk/government/publications?topics%5B%5D=planning-and-building</p> <p>Written Statement from Department of Communities and Local Government www.gov.uk/government/speeches/planning-update-march-2015</p> |
| Recommendations | <p>THAT THE ADVISORY COMMITTEE:</p> <p>(I) NOTES THE RESPONSES RECEIVED TO THE CONSULTATION ON THE DRAFT LOCAL PLAN AS SET OUT IN TABLES E TO K;</p> <p>(II) NOTES THE SUGGESTED CHANGES TO THE LOCAL PLAN AS OUTLINED IN THE REPORT</p> <p>(III) COMMENTS ON THE ISSUES RAISED AND THE SUGGESTED CHANGES</p> |

1.0 INTRODUCTION

- 1.1 Members will recall that at the 9 March 2016 meeting of the Advisory Committee consideration was given to a report in respect of comments received to Chapters 4 to 7 of the draft Local Plan and which also noted the intention to bring another report to Advisory Committee dealing with the remaining chapters of the Local Plan.

1.2 This report deals with the following chapters from the draft Local Plan:

- Chapter 8 – Infrastructure and Facilities
- Chapter 9 - Environment
- Chapter 10 – Historic Environment
- Chapter 11 – Climate Change
- Chapter 12- Implementation and Monitoring

1.3 In addition, the report also considers some matters from the earlier chapters which were not dealt with in the previous report, including housing requirements and the issue of the provision of sites for gypsies and travellers.

1.4 It will be helpful if members can bring along their hard copies of the draft Local Plan in order to understand how the suggested changes will affect the Local Plan.

2.0 A BRIEF RECAP

2.1 In total 326 individuals and organisations made 1,935 detailed comments. In addition, a further 424 standard letters were received, principally in relation to the proposed development north of Ashby de la Zouch (Money Hill) and concerns regarding possible development south of the A453 near East Midlands Airport.

3.0 STRUCTURE OF REPORT

3.1 Published alongside this report as Background Papers are seven tables (Tables E to K) which set out in tabular form the comments received and officers' response for each of the policies included in Chapters 8 to 12 as referred to above, as well as those in relation to housing requirements and the provision of sites for gypsies and travellers.

3.2 The report itself provides a summary of some of the key issues for each policy, provides additional explanation to that set out in the appropriate Table and identifies the changes which are suggested as a result of the consultation. Where wording changes are required, in some cases this will include the exact changes that are suggested by officers, but in other cases additional work was ongoing at the time of preparing this report to agree the wording.

3.3 Electronic copies of the Tables will be available at the meeting should Members wish to refer to them. Paper copies are not supplied in view of the size of the documents.

3.4 From these tables individuals or organisations who made comments will be able to see officers' responses.

3.5 Comments that the LPAC may make in respect of the suggested changes will be reported to full Council for its consideration when agreeing the publication version of the Local Plan.

4.0 MATTERS FROM EARLIER CHAPTERS

- 4.1 Most of the policies from chapters 4 to 7 were covered in the previous report considered by the Advisory Committee. However, this was not the case in respect the issues of housing requirements and provision for gypsies and travellers. These are considered below. The consultation comments and officer responses to these policies are included in Table E.

S2 – Future housing and economic development needs

- 4.2 Members will recall that the draft Local Plan identifies a housing requirement of 535 dwellings each year for the period 2011-2031 (10,700 dwellings in total). This is higher than the Objectively Assessed Need identified in the Strategic Housing Market Assessment (SHMA) which is 350 dwellings each year (7,000 dwellings in total) and is also the figure included in the Memorandum of Understanding (MOU) agreed by all the Leicester and Leicestershire Housing Market Area (HMA) authorities.
- 4.3 The housing requirement was set at a higher level to take account of the potential impact of the then proposed Strategic Rail Freight Interchange (Roxhill) on the number of jobs in the district compared to those assumed in the SHMA. This has since been approved by the Secretary of State on 12 January 2016.
- 4.4 A significant number of residents consider that the housing requirement is too high, with particular concerns expressed regarding the impact upon existing infrastructure. On the other hand some housebuilders consider that the requirement is too low, with one representation from Gladman suggesting the requirement should be 637 dwellings each year (12,740 in total).
- 4.5 Additional work, from an independent consultant who worked on the SHMA, has been commissioned to provide more evidence regarding the likely impact of the Roxhill development on the housing figures, particularly now that this has been approved. The work is not yet completed.
- 4.6 Concerns have also been expressed by Charnwood Borough Council and Oadby and Wigston Borough Council regarding the level of housing requirement. Discussions are ongoing in respect of this matter with representatives of all of the HMA authorities under the auspices of the Duty to Co-operate. These discussions have yet to be concluded, but the principal concern raised relates to the risk to the other authorities as a result of our Local Plan deviating away from the SHMA and the MOU. It has been suggested that the next stage of the Local Plan should be delayed to await the outcome of the recently commissioned HMA wide Housing and Economic Development Needs Assessment (HEDNA) which will identify new Objectively Assessed Needs for the HMA and individual districts/boroughs and will then lead on to a new MOU (or equivalent agreement). This work, however, is unlikely to be concluded until late in 2016 at the earliest. One of the reasons for commissioning the HEDNA is that the SHMA is not based on the most up-to-date national household projections (2012) and so the SHMA is at significant risk of challenge. Indeed the recent appeal decision at Greenhill Road, Coalville illustrates this point as do a number of other appeal decisions across Leicestershire.
- 4.7 The issues above have to be weighed against the Government's measures introduced to speed up the production of Local Plans. Amongst these is a proposal for the Government to intervene in the preparation of Local Plans where one is not in place by early 2017

(understood to be April). In the event of intervention then the Government proposes to intervene "to arrange for Local plans to be written in consultation with local people".

- 4.8 Delaying the Local Plan would make its adoption prior to the Government's deadline very difficult to achieve and so could leave the Council open to the risk of the Government intervening in the preparation of the Local Plan and at risk at appeals. Furthermore, it would result in the Government withholding New Homes Bonus and so impact upon the Council's financial position.
- 4.9 The Council is, therefore, somewhat 'on the horns of a dilemma'. On the one hand its desire to get a new Local Plan in place in view of the age of (and limited weight that can be given to) the current Local Plan reflects the Government's intention that local authorities should have their Local Plans in place as soon as possible. On the other hand waiting for the new HEDNA to be prepared would provide up-to-date forecasts of future housing (and economic requirements) not only in the District but across the wider HMA, thus removing any concerns among the other HMA authorities, as to whether the Council has complied with the Duty to Co-operate in preparing the Local Plan.
- 4.10 In view of the above, in addition to the ongoing discussions with the HMA authorities, officers are also seeking advice from a legal perspective, from a former senior Planning Inspector and officials from the Department for Communities and Local Government. At the time of preparing this report these discussions have yet to be concluded. A verbal update will be provided at the meeting and it is also intended that the outcome of these discussions will be reported to a meeting of Cabinet for its consideration.

H7 – Provision for gypsies travellers and travelling showpeople

- 4.11 It is suggested that:
- criterion 4a be amended to read "Be located with reasonable access to a range of services, such as shops, schools, welfare facilities or public transport;
 - criterion 4e be amended to read "Be capable of being provided with adequate services, including water supply, power, drainage, sewage disposal and waste disposal facilities";
 - criterion 4 (f) be amended to read " Be compatible with landscape, environment, heritage and biodiversity as well as the physical and visual character of the area."
- 4.12 Members will recall that previous reports have made reference to Maldon District Council who were also proposing to allocate sites for gypsies and travellers in a separate document but who had received an initial Inspector's Report which questioned this approach. The matter had been "called in" by the Secretary of State for his consideration. On 6th March 2016 the Secretary of State advised Maldon District Council that he disagreed with the Inspector's conclusions and so he will now appoint a different Inspector to examine the whole of the Maldon Local Plan (a copy of the Secretary of State's letter is set out in Appendix A to this report).
- 4.13 Whilst the Secretary of State's decision in the case of Maldon does not guarantee that an Inspector considering the North West Leicestershire Local Plan will automatically be supportive of the proposal to allocate sites for gypsies, travellers and showpeople in a separate document, it does provide a degree of comfort such that it is considered

appropriate to continue to prepare a separate document as proposed in the draft Local Plan.

Ec4 – Brickworks and Pipeworks

- 4.14 This issue was also not dealt with in the previous report and so is considered here. The consultation comments and officer responses to this policy are included in Table F.
- 4.15 It was proposed to include this policy to provide some certainty in the event that sites currently used for brickworks or pipeworks were to cease production. At the time that the draft Local Plan was prepared it was understood that most such sites did not have restoration conditions in place. Therefore, in the event of cessation of activities there would be something of a policy vacuum to guide decisions on future uses and, as importantly, no means to require restoration. However, it is understood that restoration conditions are in place and so this policy is no longer needed and so it is proposed to delete it.

5.0 CHAPTER 8– INFRASTRUCTURE AND FACILITIES

- 5.1 This chapter has generated a significant number of responses, particularly in respect of policies IF1 (Development and Infrastructure) and IF3 (Open Space, Sport and Recreation).
- 5.2 The consultation comments and officer responses to this chapter are included in Table G.

IF1 - Development and Infrastructure

- 5.3 Three separate questions were asked in respect of this policy:
- Whether the overall approach being taken was supported (question 32);
 - Are there any other items of infrastructure we should be seeking (question 33);
 - Is there a lack of any specific infrastructure in a part of the district (question 34)
- 5.4 In response to the comments made to the 3 questions it is proposed to:
- include a specific policy in respect of Telecommunications development
 - include reference in the text to working with a range of stakeholders to secure public funding to deliver new infrastructure where possible;
 - include specific reference to community safety;
 - include reference to cultural facilities
 - amend the definition of open space in the glossary to make its meaning clearer;
 - amend paragraph 8.1 to refer to ‘transport’ rather than ‘roads’
- 5.5 For Members’ information an Infrastructure Delivery Plan is being prepared with the assistance of external consultants. This will look at the current provision of a range of infrastructure and the likely future needs, and identify any gaps in provision and will form the basis of future work for the Council to co-ordinate future infrastructure provision with a range of partners. This study will be completed prior to consideration of the Local Plan by Council.

IF2 – Community Facilities

- 5.6 It is proposed to amend the policy to include reference to cultural facilities and to also include reference to ‘places of worship’ in paragraph 8.10. In addition, the supporting text

will be reworded for greater clarity and definitions will be included in the glossary of community and cultural facilities.

- 5.7 In respect of the issue of assets of community value the draft policy states at criterion c) that the fact that a community facility is listed as an asset of community value “*will be regarded as a material consideration*”.
- 5.8 Guidance issued by the government (Community Right to Bid: Non-statutory advice note for local authorities - Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Regulations 2012) notes that “*it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case*”.
- 5.9 The words “*all the circumstances of the case*” suggest that a decision about whether the fact that a community facility is listed as an asset of community value should be regarded as a material consideration should be taken on a case-by-case basis rather than having a policy presumption one way or the other. It is therefore, proposed to delete criterion c) and to instead treat each case on its merit in accordance with this guidance.

IF3 – Open space, sport and recreation

- 5.10 A significant number of responses have been received suggesting that the Local Plan should identify Local Green Spaces. In particular, a number of respondents have suggested that land at the Bath Grounds and around Ashby Castle should be identified as Local Green Space. Similarly a number of respondents express concerns regarding the fact that sites which are identified in the adopted Local Plan as Sensitive Areas are no longer proposed to be identified as such.
- 5.11 The NPPF states that:
- “The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*
- *where the green space is in reasonably close proximity to the community it serves;*
 - *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
 - *where the green area concerned is local in character and is not an extensive tract of land.”*
- 5.12 On the basis of the above it will be appreciated that there are quite specific requirements to be able to identify a Local Green Space, some of which would be far easier to justify through a Neighbourhood Plan having regard to the very local nature of such plans.
- 5.13 Therefore, it is considered that the approach set out in the draft Local Plan (i.e. to not designate Local Green Space) should be maintained. In terms of Ashby de la Zouch it should be noted that the Ashby Neighbourhood plan does propose a number of Local Green Spaces. Once the Neighbourhood plan is “made” it will be part of the Development Plan for the area.

- 5.14 It is also proposed to
- amend part 4 of Policy IF3 to read "In assessing the appropriateness of development which would result in the loss of a site which at the time the development proposed is considered, is an open space, sports or recreation facility within the Limits to Development, the following principle will be taken into consideration";
 - amend the definition of open space in the glossary to make its meaning clearer;
 - amend paragraph 8.14 to provide examples of the uses of open space and;
 - Delete reference in the policy to specific national standards and to refer to local evidence being used to determine the amount of open space requirement as part of new development

IF4: Transport Infrastructure and new development

- 5.15 In terms of the policy it is proposed to include reference to 'Transport Assessments in part (1) of the policy.
- 5.16 It is also proposed to include reference to the Coaville and Ashby Cycle Strategies within the evidence base and to identify as part of the supporting text that travel plans, transport assessments and statements form part of the decision-taking process.
- 5.17 At its meeting on 18 November 2015 Leicestershire County Council's Cabinet agreed that none of the proposed options put forward in the consultation for improvement work at Hugglescote crossroads be pursued further. It is therefore proposed to delete reference to Hugglescote crossroads in Policy IF4 (e).

IF5 – Leicester to Burton rail line

- 5.18 There is quite a lot of support for this policy and for the reopening of the line to passenger traffic. Work is currently ongoing with Leicestershire County Council to assess the potential for re-opening the line. It is suggested that the policy be amended to refer to the "provision of public transport services" rather than "the reinstatement of passenger services" as the latter suggests that the only option would be rail services. This may not be the case and so it would be prudent to keep the options open.
- 5.19 It is also proposed to amend paragraph 8.25 to make reference to the Long Eaton to Willington freight line which cuts across the northern part of the district.

IF6 – Ashby canal

- 5.20 Most responses to this policy are supportive, but it has been highlighted that the current proposed route, which follows the line of the former canal, may no longer be the most appropriate and so an alternative route should be identified. It is considered that it would not be appropriate to identify an alternative route as part of the Local Plan as there is insufficient certainty about what an alternative route might be or its technical feasibility. Furthermore, it could also raise potential issues relating to blight. Therefore, it is proposed that the policy be amended to allow for a possible alternative route subject to it being demonstrated that the existing proposed route is no longer suitable and that the alternative route is technically feasible.

- 5.21 In addition it is proposed to:
- amend paragraph 8.34 to include the correct title for the Transport and Works Act
 - update paragraph 8.36 to reflect the existing status of the extent of restoration undertaken

IF7 Parking provision and new development

- 5.22 It is proposed to make reference to cycle parking provision within the supporting text and the detailed guidance contained within the Leicestershire County Council 6Cs Design Guide.
- 5.23 It is also proposed to delete reference in the policy to the requirement to normally seek the provision of 2 car parking spaces per dwelling. This is because a written statement from the Department for Culture and Local Government to Parliament on 25 March 2015 says the following text needs to be read alongside paragraph 39 of the NPPF “local planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network.” In this instance the Council does not have compelling evidence to justify a standard of 2 spaces per dwelling and so does not comply with this statement.

6.0 CHAPTER 9 - ENVIRONMENT

- 6.1 The consultation comments and officer responses to this chapter are included in Table H.

En1 – Nature Conservation

- 6.2 It is proposed to amend the last bullet point in (2) to refer to ‘irreplaceable habitats’ and to refer to ‘aged or veteran’ trees rather than ‘ancient, whilst at (3) delete ‘tree lines’ and refer to ‘trees and hedgerows’.

En2 - River Mease Special Area of Conservation

- 6.3 No changes are proposed in respect of the policy, but it is proposed to amend the supporting text at paragraph 9.17 to clarify the impact of agriculture on the phosphate issue. In addition, a list of parish areas within the river Mease catchment will be included in the supporting text.
- 6.4 Since the publication of the draft Local Plan a Developer Contributions Scheme 2 has been published which identifies a second development window. This was something that the Habitats Regulations Assessment (HRA) of the draft Local Plan required in order to be able to demonstrate that the requirement of the Habitats Regulations that the Local Plan should not adversely affect the integrity of the river Mease Special Area of Conservation could be satisfied.
- 6.5 A further iteration of the HRA will be required before the Local Plan is reconsidered by Council and this will take account of the latest position in respect of the updated Developer Contributions Scheme.

En3 –The National Forest

6.6 It is proposed to:

- amend the supporting paragraph 9.30 by including the wording “There is also increasing evidence that woodland creation and woodland management can help in reducing flood flows, particularly in smaller catchments”;
- amend (1)(e) to state 'achieve the National Forest Company's woodland cover targets' rather than a specific target of 33%
- insert the words 'associated with woodland' in paragraph 2 after 'open space provision'

En4 – Charnwood Forest

6.7 It is proposed in part (2)(a) that the word 'sustainable' be deleted before tourism in order to be consistent with previous comments in respect of policy Ec15 (Tourism and cultural development).

En5 – Area of Separation

6.8 A number of respondents are concerned about the inclusion of the word 'significant', presumably because it is seen as being not stringent enough. The word 'significant' has the effect of quantifying the extent of any adverse impact. Whilst it is accepted that it would be appropriate to delete the word 'significant' it is considered that it would not be appropriate to leave the wording of the policy so open. It is proposed, therefore, to delete the word 'significant' and replace it with 'demonstrably'. In this way it will be necessary to demonstrate that there is an adverse impact upon the current openness and undeveloped character of the Area of Separation.

6.9 A number of respondents have suggested that more Areas of Separation should be identified in the plan. This is so as to provide protection against development which could undermine the character and identity of a particular settlement. However, policy S4 (Countryside) makes it clear that the potential impact of a development, either individually or cumulatively with other development, which would threaten separation between different settlements will be resisted in any areas subject to countryside policies. If specific Areas of Separation were identified and an application was submitted on a site outside of one of these areas and it was considered that it raised separation issues, it would be very difficult to justify refusal on these grounds as this potential issue should have been addressed as part of the preparation of the Local Plan. The proposed approach set out in policy S4 would allow separation issues to be legitimately considered in any circumstance.

En6 – Land and Air Quality

6.10 It is proposed to:

- delete reference in the policy and paragraph 9.46 to Coal Mining Development Referral Area and replace with "defined Development High Risk Area";
- delete last sentence of 9.46 and replace with " and those exceptions as identified on the Coal Authority's exemptions list, all new development proposals within the defined Development High Risk Area must be supported by a Coal Mining Risk Assessment, or equivalent, in order to identify any potential risks to the new development and any required remediation measures required. These

assessments must be carried out by a suitably qualified person to the current British Standards and approved guidance".

7.0 CHAPTER 10 – HISTORIC ENVIRONMENT

7.1 The consultation comments and officer responses to this chapter are included in Table I.

He1 – Conservation and enhancement of North West Leicestershire’s historic environment

7.2 Representations in respect of this policy have been received from Historic England, the government’s advisor on heritage matters, as well as the council’s Conservation Officer (who commenced employment with the council after the draft Local Plan was prepared and hence had no input in to the draft policy). In addition, other representations have raised concerns regarding consistency with the NPPF. Discussions have taken place with both parties as a result of which a number of extensive changes are now proposed to address the various concerns.

8.0 CHAPTER 11 – CLIMATE CHANGE

8.1 The consultation comments and officer responses to this chapter are included in Table J.

Cc1 – Renewable energy

8.2 Since the draft Local Plan was prepared the Government has issued new guidance in respect of proposals for renewable wind energy. In particular, a Ministerial Statement of 18 June 2015 by the Secretary of State for Communities and Local Government made it clear that *“When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if: the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan;..”*.

8.3 The policy in the draft Local Plan does not identify any areas which may be potentially suitable for wind energy proposals. A study has been commissioned which considers issues such as height of turbines and distance from residential properties and then identifies those areas which, in respect of these matters, may be suitable for wind turbines. It does not consider landscape impacts as this is a) a site specific consideration and b) depends upon the scale of an actual proposal.

8.4 It is proposed to include a separate policy in respect of renewable energy proposals from wind power, as well as one for renewable energy proposals from other sources. The former will draw upon the study referred to above and will also address landscape impact issues.

Cc2 – Sustainable design and construction

8.5 It is proposed to delete this policy as a result of the outcome of the housing standards review in March 2015, which announced a new approach to the setting of technical household standards. The approach introduces optional building regulation requirements for access, water efficiency and space standards. An additional new security standard has been included within the building regulations (part Q). As a result of these changes local planning authorities can no longer require any additional requirements above and beyond those covered by the Building Regulations within their local plans. It is therefore proposed

to include the supporting text from paragraph 11.15 of the draft Local Plan as part of the supporting text of the draft design policy S5.

Cc3 – Water: flood risk

- 8.6 It is proposed to amend paragraph 11.16 to state “Increased rainfall, which is one of the predicted consequences of climate change, will result in increasing the risk of flooding from rivers”.
- 8.7 Since the publication of the draft Local Plan for consultation new guidance has been published by the Government in respect of allowances to be made for the impact of climate change as part of flood risk assessments. Initially the Environment Agency was suggesting that this would require an update to the Council’s Strategic Flood Risk Assessment. Following discussions the Environment Agency has advised that in view of the very limited amount of new development proposed over and above that which has planning permission or a resolution, that the Strategic Flood Risk Assessment should include a statement which details how the new climate change guidance will be applied in the future. It is proposed to make such an amendment.

Cc4 – Water: Sustainable Drainage Systems

- 8.8 It is proposed to:
- Amend heading of policy to state Sustainable Drainage Systems;
 - Refer to Leicestershire County Council as the lead Flood Authority in paragraphs 11.9 and 11.2;
 - Include an additional paragraph to support draft policy Cc4 in relation to reducing flood risk, increasing biodiversity and improving water quality;
 - Include reference to preparing a Supplementary Planning Document to support the policy on the delivery of SUDS and other mitigation mechanisms.

9.0 IMPLEMENTATION AND MONITORING

- 9.1 The consultation comments and officer responses to this chapter are included in Table K.

Im1 – Implementation and Monitoring of the Local Plan

- 9.2 It is proposed to amend part (3) will be to include engaging with statutory consultees.