

Supporting the Delivery of MMDR South

Report Author:	Sarah Legge , Assistant Director for Planning
Report Author Contact Details:	01664 502380 SLegge@melton.gov.uk
Chief Officer Responsible:	Edd de Coverly , Chief Executive
Chief Officer Contact Details:	01664 502536 edecoverly@melton.gov.uk
Portfolio Holder Responsible	Councillor Pip Allnatt - Leader of the Council & Portfolio Holder for Housing and Landlord Services
Corporate Priority:	3: Delivering sustainable and inclusive growth in Melton 4. Protect our climate and enhance our rural, natural environment
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	Ongoing
Exempt Information:	The Report contains exempt information in an exempt appendix. The information is exempt on the basis that it contains information relating to the financial or business affairs of a particular person or authority as defined in Schedule 12 of the Local Government Act 1972 (as amended).
Key Decision:	No
Subject to call-in:	No Not key decision

1 Summary

- 1.1 This paper sets out the background to the Melton Local Plan, the key infrastructure delivery requirements to maintain an up-to-date Plan and the necessity for all elements of the Melton Mowbray Distributor Road (MMDR), North, East and South to support this.
- 1.2 Additionally, the paper sets out the detail of this Council's existing commitments to Leicestershire County Council in respect of the MMDR South (and other infrastructure in Melton) and its importance to the relevance of the Melton Local Plan.

- 1.3 Leicestershire County Council (LCC) wrote to Melton Borough Council on 27 June 2023 (Appendix A) setting out its requests of this Council to ensure that it continues to proceed with the MMDR South project. This report details the requests and our responses to them.

2 Recommendation(s)

That Cabinet:

- 2.1 **Confirms Melton Borough Council remains fully committed to:**
- (i) supporting the delivery of the Melton Mowbray Distributor Road South (MMDRS) scheme;**
 - (ii) honouring its obligations under the Staged Payment Agreement (SPA) with Leicestershire County Council dated November 2021; and**
 - (iii) discharging any other obligations arising from documents approved by Cabinet at its Meetings in September, October and December 2021.**
- 2.2 **Confirms it remains committed to securing the delivery of the MMDRS in partnership with LCC. To that end, Cabinet:**
- (i) notes the progress made in collaboration with LCC following receipt of their letter at Appendix A.**
 - (ii) confirms it will explore the options and opportunities to further boost the delivery of housing and associated contributions towards the provision of road infrastructure in the short and medium term, and endorses the approach set out in paragraph 6.3 below; and,**
 - (iii) confirms it will explore the potential to secure 3rd party funding for the road should the opportunity arise.**

3 Reason for Recommendations

- 3.1 The MMDR schemes are essential to the delivery of the Melton Local Plan, and to the success of the town as set out in the Corporate Strategy and its Priorities. Without the Local Plan the borough would be subject to unplanned speculative development which would undermine local communities' confidence in the planning system and be likely to undermine the Council's strategy for sustainable development.
- 3.2 Following the May 2023 Local Elections, and recent correspondence with Leicestershire County Council (see appendix A), the Council's new administration wishes to publicly reaffirm the Council's commitment to the terms of the agreements entered into with Leicestershire County Council (LCC) in 2021.
- 3.3 The Council also wishes to set out the basis upon which it will continue to support LCC in delivering the MMDRS, bearing in mind constraints imposed by the legal system within which it must operate.

4 Background

- 4.1 Melton Mowbray is identified as a Key Centre for Regeneration and Growth in the Leicester and Leicestershire Strategic Growth Plan (2018). Based on further Leicester and Leicestershire (L&L) wide evidence, Melton Borough Council (MBC) has also committed

through a Statement of Common Ground to accommodate some of Leicester City's unmet needs as part of the Duty to Cooperate, alongside most of the other L&L authorities. The number of homes can be accommodated within the existing headroom of the Local Plan housing allocations (i.e. the current Local Plan meets all identified unmet needs and no more housing has to be found in the Plan Period).

- 4.2 The Melton Local Plan sets out to deliver a total of 6125 dwellings in the period 2011- 2036. The Plan has an adopted stepped housing trajectory which started with 170 dwellings per year (from 2011) and is now at 240 homes per year. It will rise to 320 from 2026/27 to the end of the plan period. The adopted housing targets are based on the government's standard method, evidenced delivery rates (considering market capacity) and the Council's positive appetite for growth to bring forward substantial investment into the town (including the MMDR). To date the Plan has been performing well against these targets.
- 4.3 Delivery of the MMDRS is essential to the delivery of one of the two Sustainable Neighbourhoods as allocated in the adopted Melton Local Plan (2011-2036). Policy SS4 of the Plan allocates land for housing and employment purposes in the Melton South Sustainable Neighbourhood (MSSN). The policy seeks to deliver 2000 homes, of which 1700 homes are to be delivered before 2036 (the end of the Plan Period). This is approximately one third of the total housing that the Plan is set to deliver across the Borough. To date, 555 homes have been permitted in the MSSN and are under construction. Additionally, the MMDRS, when coupled with the MMDR N&E, will allow for through-traffic HGVs to be routed away from the town centre, improving air quality and reducing traffic noise as part of a wider transport strategy.
- 4.4 Without the housing and employment land that the MMDRS supports (in addition to the MMDR North and East currently under construction), the delivery of housing around Melton would be at risk. The Melton Local Plan would then be likely to become "out of date". In that event, the Borough would become susceptible to speculative unplanned development.
- 4.5 During 2020/21 in seeking to support delivery of the MMDRS, MBC acknowledged the significant investment that is to be made in Melton by LCC and made clear commitments to assist in mitigating these risks where possible, whilst ensuring the Council was not unduly exposed to financial or legal risks. MBC duly agreed to provide a package of measures to support LCC's bid for Homes England Grant Funding from the Housing Infrastructure Fund (HIF). MBC responded positively to updates provided to LCC's Cabinet in July and September 2021 which set out a number of requirements they wished MBC to meet in order for LCC to sign the Grant Determination Agreement (GDA) and deliver the scheme.
- 4.6 All of the commitments entered into by MBC were carefully considered to avoid exposing the Council to undue financial or legal risks.
- 4.7 MBC subsequently discharged all of the obligations that it had accepted, including:
 - a) Adoption of a Developer Contributions Supplementary Planning Document ([Cabinet 23 September, 2021](#))
 - b) Approval of Masterplans for both the Melton North Sustainable Neighbourhood (MNSN) ([Cabinet 13 October, 2021](#)) and Melton South Sustainable Neighbourhood (MSSN) ([Cabinet 08 December, 2021](#)).

c) Approval to enter a Staged Payment Agreement (SPA) up to a cap of £1.75m plus indexation to support LCC with the costs associated with the scheme and related infrastructure ([Council 02 November, 2021](#)).

- 4.8 Bolstered by MBC's commitment, LCC entered into a GDA with Homes England in early 2022.
- 4.9 The projected costs of the MMDRS scheme have increased substantially in recent years, this would increase the financial cost to LCC unless alternative sources of funding can be secured. The additional costs also increase the risk associated with the significant level of developer contributions, which need to be forward funded, and would not be received until after the road is built. In 2019 the scheme was estimated to cost about £27.5m. The outturn cost is now projected to be as much as £61.4m. Homes England's grant funding remains at £18.5m. This is in addition to the MMDR N&E scheme for which the County Council was successful at securing grant funding from Department for Transport of £49.5m. The costs of that scheme have also increased substantially since the inception of the project from about £70m to approximately £125m.
- 4.10 The increased cost of the project has caused Homes England to require LCC to formulate a "Remediation Plan" which demonstrates the delivery of the MMDRS is still viable. LCC has sought MBC's support of the Plan, and as a part of this process wrote to MBC under cover of a letter dated 27 June 2023 setting out the ways in which MBC might provide it with further assistance. A copy of that letter is attached as Appendix A to this report.

5 Main Considerations

Melton Local Plan

- 5.1 The Melton Local Plan sets out the strategy for growth of the Borough over the period 2011-2036 and was adopted in October 2018 following successful examination in public. The adoption of the Plan was the culmination of around 5 years work, and resulted in a Plan which has been performing well to date. The Plan is currently under review as per the requirements set out in the National Planning Policy Framework as it approaches its fifth anniversary of adoption in October 2023.
- 5.2 The Council has a substantial supply of land for housing, which currently stands at 9.1 years. It is also delivering new homes at a rate in excess of the targets set out in the Plan. The housing is being delivered in accordance with the Plan's Strategy. Overall, the Plan is thus performing well.
- 5.3 The MMDR N&E scheme is now under construction, and this is ensuring that the Melton North Sustainable Neighbourhood is delivering the development as set out in the Local Plan (Policy SS5). This is also a key piece of infrastructure required to both deliver the Plan and alleviate traffic congestion in Melton Mowbray.
- 5.4 However, if the MSSN and the MMDRS (in addition to the MMDR N&E and the MNSN) are not delivered that is likely to frustrate or significantly delay the delivery of new homes. Put another way, the substantial supply of housing land will not be "translated" into the delivery of new homes. In those circumstances, it is probable that the Melton Local Plan will be rendered "out of date" in terms of the National Planning Policy Framework. That would seriously undermine the utility of the Local Plan as a mechanism for delivering local people's aspirations for Melton and the rest of the Borough.

- 5.5 Should the Melton Local Plan be deemed out of date, the problems that would create could endure for some time; the preparation of a new Plan would take (under the current regulations) c. 3-5 years. The Levelling Up and Regeneration Bill (which is likely to become law in autumn 2023) provides that the last date to submit a Local Plan for examination under the current regulations will be 30 June 2025. This is the date that the Council is working towards for submission of the Local Plan Review Update. Therefore, the Council cannot begin work on a new Local Plan until the regulations associated with the new legislation are published. That is expected to be in mid-2024. The Council would therefore be without an up-to-date adopted or emerging Local Plan for a considerable length of time, further risking unplanned and speculative planning applications.
- 5.6 At its [Cabinet Meeting on 13 July 2022](#), MBC agreed to sign a Statement of Common Ground (SoCG) on housing and employment need across Leicester and Leicestershire. The SoCG forms part of the Council's legal duty to cooperate and is based on Leicester and Leicestershire wide evidence on housing needs. The SoCG agrees to an apportionment of Leicester City's unmet housing and employment land needs up to 2036. MBC agreed to assist with Leicester City's unmet housing needs and deliver an additional 69 dwellings per year. This was possible because the Council was proactive in the preparation of its Local Plan in acknowledging that the City's unmet needs would need to be dealt with in the coming years. Consequently, the housing target that Melton Borough Council chose to pursue is more than required. The current housing land supply trajectory can deliver this unmet need within the existing housing allocations.
- 5.7 Should the development strategy in the adopted Plan be undermined by the non-delivery of the MMDRS and the MSSN, MBC would not be able to continue to accept its apportionment of Leicester City's unmet needs as per the SoCG. This adversely affects both Leicester City's draft Local Plan (due to be submitted for examination imminently), and the apportionment of housing across the entire Leicestershire area, potentially affecting other Plans currently under examination (Charnwood).

Melton South Sustainable Neighbourhood Masterplan

- 5.8 The requirement for housing that is specified in the Local Plan is a "minimum" not a maximum amount of housing. In that context, the MSSN Masterplan demonstrates that a further 830 dwellings can be delivered in excess of the Policy requirement defined within the Plan Period. The Masterplan also demonstrates delivery of around 24 hectares of employment land, some 4 hectares over the policy requirement. The Masterplan anticipates some of the additional homes may be built on land which is allocated for employment. The latest evidence is that the Council may need to find a further 10ha of employment land during the Plan Period. Consequently, it is unlikely to be feasible to contemplate the loss of further employment land to housing.

6 Consideration of 'Additional Planning Options'

- 6.1 In its letter of 27 June 2023 (Appendix A), LCC have asked MBC to explore potential planning solutions to support them in ensuring that the project can proceed. MBC has previously demonstrated this commitment by our timely delivery of masterplans and the Developer Contributions SPD as referred to above at paragraph 4.7.
- 6.2 MBC were therefore keen to discuss what was envisaged by LCC and any potential further planning solutions, whilst recognising they need to continue to operate within the

boundaries of ensuring compliance with the relevant legislation, whilst also noting the upcoming regulatory changes anticipated.

- 6.3 In response to the letter (Appendix A), officers met with LCC colleagues on 09 and 16 August 2023. Additional information was provided by email on 29 August 2023 to provide additional clarity and discussions are ongoing to consider potential solutions. The Council's current position in relation to each point is discussed below:

1. The political leadership of MBC should resolve at a Full Council meeting to confirm MBC's commitment to the November 2021 contract.

Noted, please see the content of this report. As there is no decision to be taken it is not a resolution at Council that is required in this instance, hence the matter is presented to Cabinet.

2. Secondly, there should be a resolution at a MBC Full Council meeting in support of towards finding planning solutions so this project can proceed, as proposed below:

- a) **MBC will, consistent with its legal obligations, continue to prioritise the Strategic Transport Contributions (STC) in any relevant S106 agreements in line with MBC's adopted Supplementary Planning Document**

Agreed, MBC will continue to utilise and promote the Developer Contributions SPD.

- b) **MBC will support a review of the STC to reflect the latest cost estimates enabling an immediate uplift, applicable to all applications where final observations have not been issued, recognising that viability considerations will be relevant to final requests just as they are now. This review would be followed by an annual uplift in the STC, in line with inflation.**

Agreed, recognising the inflationary pressures since 2017, MBC officers will support the review in accordance with CIL Regulations.

- c) **MBC will expedite the delivery of applications that contribute STC to minimise forward funding by LCC, subject to developers engaging with MBC and submitting applications for planning permission.**

MBC will work continue to work positively and pro-actively with all developers to grant planning permission as soon as possible where a scheme is acceptable. This commitment applies in particular to schemes for allocated sites or sites with outline planning permission that will assist the delivery of strategic infrastructure such as the MMDRS. MBC welcomes LCC's support in ensuring timely responses as a statutory consultee to ensure this happens.

- d) **MBC will encourage its planning officers to cooperate with LCC in relation to addressing any planning applications concerned with the delivery of education provision (e.g. in the event that LCC considers it necessary to alter its development plans to build fewer but larger schools, to minimise land take, in or around Melton).**

Agreed in principle. However, care will need to be taken to ensure existing planning obligations are not prejudiced by any new arrangements.

- e) **MBC will facilitate the delivery of additional housing to provide for future need (subject to the receipt of the planning applications for housing), in addition to the current allocation, to increase STC to support the viability of necessary infrastructure delivery.**

LCC has indicated the delivery of MMDRS would be assisted by the delivery of an additional 850 dwellings (minimum) within 10 years of completion of the road, or by the end of the Plan Period, whichever is soonest. One (but only one) of the benefits of providing these additional dwellings would be in part to help reduce the funding gap for the road. MBC is content to explore this proposal in so far as it is consistent with the strategy of the adopted Local Plan, or a review of the Local Plan, and provided the work that is carried out complies with the relevant provisions of the Planning Acts and Local Plans Regulations.

In order to give further assurance to LCC, MBC proposes that as part of the Local Plan Review and Update, a change is tabled to policy IN1: Melton Mowbray Transport Strategy (MMTS) to ensure that STC's continue to be valid for all developments within a defined area (to be evidenced by LCC on the basis of transport modelling through the Local Plan Review & Update / Duty to Cooperate process). This could form part of an 'area-based contribution strategy' for the Melton Mowbray Transport Strategy, including the MMDR scheme as a whole. STC's could continue until it could be demonstrated that the scheme had been paid for in full.

- f) **MBC will facilitate the redistribution of current employment allocations to allow for additional housing within the Sustainable Neighbourhood to support the viability of necessary infrastructure delivery.**

MBC will consider any proposal to develop housing on employment land on its merits having regard to the provisions of the development plan and other material considerations. In general, however, the question whether employment land should be systematically redesignated as housing land ought to be considered by a review of the Local Plan.

- g) **MBC will seek to secure appropriate 3rd party investment (e.g. levelling up funding) to reduce the funding gaps if the scheme proceeds.**

Agreed in principle provided an application does not prejudice existing funding for the MMDRS.

- 6.4 It is important to note that MBC is required to comply with all relevant laws, regulations and guidance regulating the exercise of its planning powers. For the avoidance of doubt, no part of this report is intended to fetter the discretion of MBC's planning committee.

7 Options Considered

- 7.1 MBC discontinues support for LCC through withdrawing from the Staged Payment Agreement (SPA). This option has been discounted for the reasons as set out above, particularly in respect of the impact on the Local Plan. Furthermore, this Council entered into a legally binding agreement to support LCC to deliver the infrastructure that Melton

requires. The reputation of the Council would be substantially adversely impacted should we decide to no longer proceed with the SPA.

- 7.2 MBC seeks to renegotiate the SPD with the County Council. This option is only likely to involve requests for additional funding from the County Council given the macro-economic circumstances in regard to inflation and interest rates substantially increasing build costs. For this reason, this is not a recommended option.
- 7.3 Acknowledge the existing agreement (SPA) and continue to support LCC in delivering the MMDRS to allow delivery of the adopted Local Plan. This option is the preferred and recommended option for the reasons as set out above in the 'background' and 'main considerations' within the report.

Options that MBC could consider should LCC not deliver the MMDR South

- 7.4 Should the MMDRS not proceed, the Council will be required to consider further alternative options, with the first consideration to be to protect the integrity of the adopted Local Plan, or else be required to develop a new Local Plan (subject to the constraints outlined above at paragraph 5.5).

8 Consultation

- 8.1 Consultation has been ongoing with members for many years post the adoption of the Local Plan, including post-2023 elections involving newly elected members.
- 8.2 The decisions to approve the Masterplans, and to adopt the Developer Contributions SPD were made by this Council's Cabinet in late 2021. The Staged Payment Agreement was signed following a decision made by Council in December 2021 (following recommendation by Cabinet). These documents are linked in paragraph 4.7 above.
- 8.3 The Local Plan Review was approved to commence in April 2022 by Council. The results of the Review are due to be heard by Council in September 2023, with a view to updating the Local Development Scheme and commencing the first statutory consultation, Issues and Options (Regulation 18) in the autumn. This should enable the Plan to be updated and submitted to the Planning Inspectorate prior to the deadline of 30 June 2025.

9 Next Steps – Implementation and Communication

- 9.1 N/A

10 Financial Implications

- 10.1 Should members support the recommendation as outlined above there would be no further financial implications to the Council other than those previously identified through the reports detailing the SPA.

Financial Implications reviewed by: David Scott, Assistant Director for Resources

11 Legal and Governance Implications

- 11.1 Members are not being asked to sign a new agreement or make a decision other than to continue to support LCC as previously agreed by Cabinet and Council. It is therefore not considered that there are any further legal implications to be considered at this stage.

Legal Implications reviewed by: Alison McKane, Assistant Director for Governance and Democracy

12 Equality and Safeguarding Implications

- 12.1 None

13 Data Protection Implications (Mandatory)

- 13.1 A Data Protection Impact Assessment (DPIA) has not been completed for the following reason:

- i) There are no data protection implications of this report as there is no personal data being shared, discussed or disclosed.

14 Community Safety Implications

- 14.1 None

15 Environmental and Climate Change Implications

- 15.1 Should the MMDRS proceed there will be less HGV related noise and pollution in the town centre, and improvements to air quality should be seen.
- 15.2 The MMDRS would be constructed in accordance with all relevant legislation and regulations, particularly in respect of ecology, biodiversity and archaeology. The submission of planning documents will detail this in full once the relevant surveys etc. have been completed.

16 Other Implications (where significant)

- 16.1 None other than those set out above in respect of the Melton Local Plan.

17 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	LCC fail to build the MMDRS, rendering the Melton Local Plan out of date.	Significant	Critical	Medium Risk
2	This Council fails to uphold the existing agreement/s with LCC in respect of the MMDRS and infrastructure (so long as LCC builds the road)	Very Low	Critical	Medium Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant			1	
	3 Low				
	2 Very Low			2	
	1 Almost impossible				

Risk No	Mitigation
1	Cabinet agree to the recommendations of this report and officers continue to work closely with LCC to bring the MMDRS forward.
2	Cabinet agree to the recommendations of this report and continue to support the SPA.

18 Background Papers.

18.1 None, hyperlinked through the document.

19 Appendices

19.1 Appendix A: Letter to Melton Borough Council from Leicestershire County Council dated 27 June 2023.

Appendix B: Exempt information