

<b>COUNCIL</b> <b>11 APRIL 2017</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>  <b>6</b>
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**TITLE OF REPORT: NORTH HERTFORDSHIRE LOCAL PLAN 2011-2031**

REPORT OF THE STRATEGIC DIRECTOR OF PLANNING, HOUSING AND ENTERPRISE  
EXECUTIVE MEMBER: COUNCILLOR DAVID LEVETT

**1. SUMMARY**

- 1.1 This report updates Full Council on the progress in preparing a new Local Plan for North Hertfordshire. It explains the outcomes of the public consultation on the Proposed Submission Local Plan approved by Cabinet on 26 September 2016 following endorsement of key matters (strategic policies and sites) by Full Council on 20 July 2016.
- 1.2 The outcomes of recently completed work and ongoing discussions with relevant bodies under the Duty to Co-operate are reported. Other relevant updates are provided to help inform a decision.
- 1.3 This report seeks approval to submit the Local Plan and associated documentation to the Government for examination.

**2. RECOMMENDATIONS**

- 2.1 That the results of the Proposed Submission consultation, as set out in the Regulation 22 Consultation Statement attached as Appendix 1, be noted and recorded.
- 2.2 That Full Council approve the submission of the new Local Plan for North Hertfordshire, attached as Appendix 2, together with the Schedule of Proposed Additional Modifications, attached as Appendix 3, and other associated documentation for examination by the Secretary of State.
- 2.3 That Full Council approve and give effect to the revised Local Development Scheme for North Hertfordshire, attached as Appendix 4, from 12 April 2017.
- 2.4 That delegated powers be granted to the Head of Planning and Enterprise in consultation with the Executive Member for Strategic Planning & Enterprise to produce such additional documentation as is required (including documentation requested by the appointed Inspector and the proposing of main modifications) before and during the examination of the Local Plan.
- 2.5 That Officers continue to regularly update Members on the progress of the Examination through the Strategic Planning Matters reports which are submitted to Cabinet.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To ensure that North Hertfordshire continues to progress a new Local Plan for the management of development in the District.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1** The Council has a statutory duty to keep its Local Plan under review. Failing to prepare a Local Plan carries significant risks. Delaying the submission of the Local Plan or withdrawing this Plan and starting work again on a replacement would carry similar or greater risks, limiting the Council's ability to properly manage development. Options are discussed later in the report under Section 8.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1** The Proposed Submission Local Plan was approved by Cabinet on 26 September 2016 following endorsement of key matters (strategic policies and sites) by Full Council on 20 July 2016.
- 5.2** The Executive Member for Planning and Enterprise has been kept informed on the matters set out above on an ongoing basis.
- 5.3** The Local Plan Project Board has met on a number of occasions to discuss relevant issues and provide the necessary strategic guidance and direction for the production of the Local Plan.
- 5.4** Cabinet have been kept informed of key developments through Strategic Planning Matters reports which are a standing item on the agenda.
- 5.5** All members have been offered the opportunity to be briefed on the submission and prospective examination of the draft plan.

#### **6. FORWARD PLAN**

- 6.1** This report contains recommendations relating to a key decision that was first notified to the public in the Forward Plan on 17 October 2016

#### **7. BACKGROUND**

- 7.1** As the Local Planning authority, North Hertfordshire District Council has to prepare a Local Plan and keep it under review. The Local Plan has to set out the Council's plans for the area, including allocating sites for development, identifying areas to be protected from development and setting the policies to be used when determining planning applications.
- 7.2** A new Local Plan must proceed through four key stages:
- Preparation of the new plan
  - Publication of a final draft
  - Examination; and
  - Adoption
- 7.3** The detailed legislative, policy, evidential and historical background to the production of a new plan for North Hertfordshire was set out at length in the report to Full Council in July 2016 and also referred to in the report to Cabinet in September 2016. These reports also set out the findings of key evidence and summarised the content of the plan and are available as background papers on the Council website.

##### ***Reasons for progressing the Plan***

- 7.4** North Hertfordshire's Local Plan No 2 with alterations was adopted in 1996. The age of this plan is, in itself, a key reason for progressing with a replacement. Two further key planning grounds are also highlighted:

- Firstly, the lack of an up-to-date plan and adequate supply of new housing land is significantly hampering the Council's ability to give clear planning advice and make effective decisions; whilst
- The Government has placed great emphasis on the need for all authorities to produce an up-to-date Local Plan. Those who do not could face interventions or sanctions.

**7.5** Full Council endorsed key elements of the draft plan – the proposed strategic policies and housing sites – in July 2016. The final version of the Proposed Submission Local Plan was then approved for public consultation by Cabinet in September 2016. This consultation has now been completed, and is reported upon below. The submission of the Plan for examination is the next procedural step.

**7.6** There are no specific powers in legislation for this Council to now amend the Plan which was consulted upon at the Proposed Submission stage.

**7.7** The key issue for Council to consider is whether the representations received to this consultation, or any other relevant changes since approval of the Proposed Submission Plan, raise issues of such magnitude that the plan should not (yet) proceed to examination for risk of being found non-compliant with relevant legislation and / or 'unsound' at the end of the examination process. The Council must consider that the plan is ready for examination in order to submit it.

## **8. ISSUES**

### ***Consultation on the Proposed Submission Local Plan – October to November 2016***

**8.1** Consultation on the Proposed Submission Local Plan took place over a six-week period from Wednesday 19 October to Wednesday 30 November 2016. The Plan was available on the Council's website for the duration of the consultation and also available to view at the Council offices and local libraries. Responses could be submitted online, by post or email.

**8.2** A link was provided from the front page of the District Council website for the duration of the consultation. More than 12,000 organisations and individuals on the Council's local plan database were contacted directly by email or letter. Press releases and adverts were used to raise awareness while there was also coverage by local TV and radio stations.

**8.3** Following the close of the consultation, all responses were logged and analysed by Council officers.

**8.4** A total of 2,549 valid responses were received to the consultation. Some of these commented on a single site or policy. Others covered a wider range of issues. Following analysis, a total of 5,675 representations to the Plan have been identified.

**8.5** For context, the district has an estimated population of 131,700 and approximately 56,000 households.

**8.6** The Council is legally obliged to prepare a Statement of Consultation. This is attached as Appendix 1. The relevant regulations require this statement to set out a summary of the main issues raised. It is not a requirement for the statement to identify each individual response or every issue raised nor the Council's response to those issues.

**8.7** All valid responses and representations have been published on the Council's on-line consultation portal and can be viewed by following the links from [www.north-herts.gov.uk/localplan](http://www.north-herts.gov.uk/localplan). Subject to the approval of the recommendations in this

report, the representations will all be submitted in full for consideration by the appointed Inspector during the examination of the Local Plan.

**8.8** Four of the main issues raised during the consultation are detailed further below:

- Site-specific objections to housing allocations
- Housing requirements including unmet needs from Luton
- Education provision; and
- Transport and highways.

**8.9** These have been selected based upon the quantum of objections received and / or whether the objectors are, under the relevant legislation, defined as statutory consultees or bodies to whom the statutory Duty to Co-operate apply. They do not cover all of the issues raised nor confer any particular status, ranking or emphasis. The Consultation Report should still be referred to for further information.

Main issues raised (1): Site-specific objections to housing allocations

**8.10** The majority of the representations received (approximately 70%) relate to the proposed housing allocations, the specific issues associated with them and / or the impacts upon local communities. The suitability of the proposed housing allocations is expected to form a substantial part of any future examination.

**8.11** Officers have given all of these representations due consideration. It is accepted (and was accepted in the previous reports to Council and Cabinet) that the allocation and development of these sites will result in some adverse impacts for existing residents of the District. However, it is equally considered that these harms are:

- i. below the thresholds at which the national policy advises an outright restriction on development or at which a planning inspector might support a policy of restraint;
- ii. capable of appropriate mitigation where relevant and necessary; and
- iii. outweighed in the planning balance by the pressing need for additional homes (and the onus placed upon this in other relevant examinations) and the lack of likely plausible alternatives should the Council determine not to meet its housing requirements.

**8.12** Officers remain of the opinion that development sites in the Plan have been appropriately identified, are justified by the evidence and represent an appropriate strategy for future development.

**8.13** In this context, the many site-specific issues are best considered through the broader spectrum of the examination. This will consider a number of matters on a district-wide basis. These are likely to include (but are not limited to) the appropriateness or otherwise of:

- i. the overall needs for housing in the area (see Main Issue (2) below);
- ii. the proposed strategy for meeting that need including directing a modest proportion of future housing development (around 1 in 6 new homes over the plan period) to the District's villages;
- iii. infrastructure provision (See Main Issues (3) and (4)); and
- iv. allowing the loss of, or some harm to, assets identified in national policy as potential grounds for restricting development in order to meet future development needs. This includes Green Belt and heritage assets (such as listed buildings or conservation areas)<sup>1</sup>.

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<sup>1</sup> See paragraph 14 and footnote 9 of the NPPF.  
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- 8.14** Conclusions on, and further scrutiny of, individual sites will follow from the consideration of these broader issues. Based on recent past experience, it is considered most likely that the examination will proceed in a phased manner and consider these broader matters of principle first (see Section 9)

Main issues raised (2): Housing requirements including unmet needs from Luton

- 8.15** A number of respondents have questioned whether the Plan is based on a robust assessment of future housing needs. In particular, two 'sub-issues' have been raised:
- Assumptions about migration, including the potential impact of 'Brexit'; and
  - The appropriateness of making provision for unmet housing requirements arising from Luton;
- 8.16** The evidence which supports the target for North Hertfordshire's own needs is contained in studies prepared jointly with Stevenage Borough<sup>2</sup>. This has been considered and scrutinised as part of their examination hearings in January 2017. The Inspector is yet to produce a formal report of her findings. However, she has allowed the Stevenage examination to proceed beyond this issue with no request for additional evidence work.
- 8.17** The timing and potential impacts of Brexit remain uncertain. This issue was discussed in the report to Council in July 2016 and officers consider this position remains true. Any further implications arising can be discussed as part of the examination. Notwithstanding this, the Government population figures which underpin the plan are already based upon lower levels of long-term migration into the country than has been experienced in recent years.
- 8.18** On this basis, it is considered appropriate to proceed on the basis of the currently identified housing targets to meet North Hertfordshire's own housing needs.
- 8.19** The housing evidence which supports the existence of an unmet housing need from Luton was considered and scrutinised as part of their examination hearings during 2016. The Inspector is yet to produce a formal report of his findings. However, he has similarly allowed the Luton examination to proceed beyond this issue.
- 8.20** Since approval of the Proposed Submission Consultation, further joint work with the Councils in the shared Luton Housing Market Area (HMA) has reconfirmed that the proposed allocations to the east of Luton are the maximum achievable and deliverable within the District. They will be required if the needs of the wider HMA are to be addressed.
- 8.21** Failure to deal with this issue would represent a substantial risk to the plan when the statutory Duty to Cooperate is considered.
- 8.22** Many respondents have again raised the question of whether a new settlement would represent a better strategy for meeting the District's housing needs. This issue is discussed in the Proposed Submission Local Plan and the evidence base. In summary, the long 'lead times' to a new settlement mean it is not appropriate to place any significant reliance on this as a means of delivering housing prior to at least 2026.

Main issues raised (3): Education provision

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<sup>2</sup> Strategic Housing Market Assessment Update (2015) and Updating the Overall Housing Need (2016). These studies form part of the evidence base underpinning the plan which will also be submitted for scrutiny as part of the examination. These studies are available on the Council website by following the links from [www.north-herts.gov.uk/localplan](http://www.north-herts.gov.uk/localplan).

- 8.23** Objections have been received from Hertfordshire County Council (HCC) in relation to education provision. They consider that the Plan does not make adequate deliverable provision, in particular for secondary education. Stevenage Borough Council have made objections based upon the HCC position.
- 8.24** Forecasting future pupil numbers is a complex issue that is influenced by a number of factors including the types of new homes to be built (both within the District and in other local authority areas), the phasing of their delivery the relationship with demand for school places from existing housing over time and the resultant capacity of existing premises to accommodate future demand.
- 8.25** In particular, the peak of demand for new secondary school places arising from new housing does not arise until some years after development has occurred. Given the proposed phasing of sites within the plan, some of this demand will not be realised until after the end of the plan period in 2031. By this time, it is anticipated that the Local Plan will have been reviewed and updated at least once. In this time alternate solutions may become available to meet some of the forecast demand, such as within the proposed 'safeguarded' land to the west of the A1(M) at Stevenage.
- 8.26** Notwithstanding this, the plan includes a number of requirements for the provision of new primary and secondary schools alongside new development to ensure they can be appropriately planned from the outset. This includes the proposed strategic sites, such as north of Baldock (Policy SP14) and east of Luton (Policy SP19).
- 8.27** The proposed submission plan also includes contingent requirements for land for two smaller secondary schools to serve local needs at both Great Ashby and Knebworth. This approach would (numerically) meet the requirements identified by HCC in the local school planning area whilst still allowing the District to meet its overall housing requirements. HCC have raised concerns about the location(s) and deliverability of this solution.
- 8.28** The fact that two Councils have different views on an issue should not, in itself, give cause for an Inspector to conclude that the plan has failed the statutory Duty to Co-operate; the Duty to Co-operate is not a duty to agree. Officers are of the opinion that the position set out in the Proposed Submission Plan remains a sound and appropriate starting point for debate at the Examination. It is considered that any alternate approaches which may be required following consideration of all the relevant evidence fall within the scope of the Inspector's powers to prescribe.
- 8.29** Discussions with HCC remain ongoing with the intention of trying to reach an agreed position in advance of any examination hearings.

Main issues raised (4): Transport and highways

- 8.30** A number of site-specific representations (see Main Issue 1) raised concerns on local highway issues and / or the District's highway network more generally.
- 8.31** HCC, in their role as highway authority, also raised a number of concerns relating to the potential impacts of new development. This included the cumulative impacts from proposed developments across Hertfordshire and beyond.
- 8.32** At the same time, HCC's consultation on their new Transport Vision in Autumn 2016 signalled a shift in strategic thinking. This encourages far greater emphasis on more sustainable travel choices such as cycling and public transport. This consultation postdates the preparation of the Proposed Submission Local Plan.
- 8.33** A number of further discussions have been held with HCC to determine the most appropriate way forward. NHDC have agreed a 'direction of travel' with HCC to address these concerns. Work on a detailed Transport Strategy, which will sit

alongside the plan and be updated over its lifetime, has begun and will be available in time to inform the examination hearings. This will:

- Explain the role and outcomes of the transport modelling undertaken to date;
- Consider the cumulative impacts of NHDC's local plan when considered alongside, in particular, the plans of Stevenage, Luton, Central Bedfordshire and Welwyn Hatfield councils;
- Address localised issues and concerns not necessarily reflected in high-level transport modelling (such as at Knebworth and Codicote high streets);
- Identify how the Plan can contribute towards the future transport priorities of HCC as expressed in consultations upon their forthcoming update of the Local Transport Plan and other priorities such as air quality;
- Inform an approach to strategic interventions which are not strictly required to support the Local Plan but may deliver greater benefits in the longer-term such as a Hitchin Bypass and east-west links across the district;
- Determine how best to integrate sustainable transport provision (public transport, walking and cycling) within proposed new developments to encourage use of these modes;
- Set out a rolling programme of works and projects across the District.

### ***Other matters***

- 8.34** The Government's Planning White Paper was published in February 2017. It identifies a range of proposals to further reform the planning system and speed up the delivery of Local Plans and new development. A number of measures in the Paper are subject to on-going consultation. The proposals in the White Paper have yet to be given effect as this will require changes to legislation and / or national policy. As such, no specific actions are currently considered necessary. Should any of the proposals in the White Paper come forward, they can be considered through the examination process.
- 8.35** Planning officers continue to monitor the outcomes of other local plan examinations on an on-going basis. The Council has been represented at the examinations of the Stevenage, Luton and St. Albans Local Plans. Officers have not identified any substantive additional issues arising from these (beyond those already discussed).
- 8.36** The Council has continued to engage with neighbouring councils and other bodies to ensure compliance with the statutory Duty to Co-operate. A Duty to Co-operate Statement is being prepared to accompany the submission of the local plan. This will set out the agreed outcomes of this activity. A number of Memoranda of Understanding, or other agreements, are being prepared. These will demonstrate to an Inspector that the Council has reached a common position
- 8.37** The Executive Member was granted delegated powers to sign such agreements by Cabinet in March 2016. Agreements are currently in preparation with a number of bodies including Stevenage Borough Council, Central Bedfordshire District Council, Luton Borough Council, Thames Water, Anglian Water, Natural England, The Environment Agency, Hertfordshire LEP and Hertfordshire County Council.
- 8.38** Since approval of the Proposed Submission Local Plan, and in addition to the work already identified above, further new or updated evidence has been prepared to inform the plan. This includes upon issues such as employment, air quality and Gypsy and Traveller accommodation.
- 8.39** The evidence base supporting the Proposed Submission Local Plan would also be submitted for consideration during the examination. The studies supporting the plan are available on the Council website at [www.north-herts.gov.uk/localplan](http://www.north-herts.gov.uk/localplan).

### ***Proposed amendments to the Local Plan***

- 8.40** Following the consultation and additional work identified above, Officers have identified a number of minor changes to the Proposed Submission Local Plan that would address some of the issues raised. These are contained in the Schedule of Proposed Additional Modifications attached at Appendix 3.
- 8.41** The schedule sets out additional modifications which the Council intends to make to the Local Plan prior to any future adoption. The Council considers these to be 'additional modifications' for the purposes of the relevant legislation as they do not significantly alter the policies or strategy of the plan. However, it will be for the Inspector to determine if any of these changes (and any other changes) should be 'main modifications' and subject to additional consultation (see Section 9 below).
- 8.42** The suggested changes primarily relate to detailed policy wording to satisfy the requirements of statutory agencies (such as Natural England or the Environment Agency) or to ensure that the policy requirements can be successfully delivered upon through the Development Management process.

### ***Local Development Scheme***

- 8.43** Local plans must be prepared in accordance with the adopted Local Development Scheme (LDS). The LDS is a timetable setting out when key milestones in the preparation of the plan – including those identified in paragraph 7.2 of this report - are achieved.
- 8.44** The current LDS for the North Hertfordshire Local Plan was approved in December 2015. An updated LDS is attached as Appendix 4. This amends the timetable to reflect the actual dates of the Proposed Submission consultation and the anticipated timings for the submission and examination of the Plan pursuant to this report. It also clarifies those consultations which the Council considers formed part of the formal 'preparation' stage of the plan.
- 8.45** Once a plan has been submitted, the detailed timings of the examination and any next steps will be for the appointed Inspector to determine.
- 8.46** The LDS also sets out the Council's intention to update its Statement of Community Involvement (SCI). The SCI sets out the Council's policy on involving the community in the preparation of policies and the determination of planning applications.
- 8.47** It is the Council's intention to update the SCI in parallel with the Local Plan examination. This will provide additional guidance on how promoters and developers of significant sites should engage with the public as their schemes evolve prior to any planning application. This will include, but will not necessarily be limited to, the Strategic Sites identified in the plan.
- 8.48** A draft SCI will be consulted upon in Autumn 2017 and adopted in early 2018, subject to confirmation of the timing of the proposed examination of the Local Plan.

## **9. NEXT STEPS**

- 9.1** Subject to Full Council accepting the recommendations of this report, officers will undertake the final steps necessary to enable the Council to physically submit the Plan for examination.
- 9.2** This includes printing copies of relevant documentation (such as the sustainability appraisal and evidence studies) and the representations from the Proposed Submission consultation. Officers will seek to complete further Memoranda of Understanding with relevant parties for approval by the Executive Member for Planning & Enterprise under delegated powers granted by Cabinet in March 2016.



- 9.3** It is intended to submit the Plan to the Planning Inspectorate (PINS) by the end of May 2017 at the very latest.
- 9.4** Following submission of the plan, PINS will appoint an Inspector to conduct the examination. The timing and scope of the examination will be for the Inspector to determine. Officers have informally indicated a preference to PINS for the examination sessions to be held in the autumn of 2017.
- 9.5** The examination sessions will be held in public. This means that anyone can attend to listen to the debate. Only those invited by the Inspector to participate in each session are allowed to speak.
- 9.6** Recent practical experience suggests that the examination sessions will be split. Legal and major strategic issues are now often discussed at 'Stage 1' hearings to consider critical matters, including the Duty to Cooperate. Subject to these being satisfactorily addressed, the plan would then proceed to further stages of examination.
- 9.7** The Council would need to produce additional documentation throughout the examination process. This is likely to include answers to preliminary questions and statements on specific issues requested by the appointed Inspector. During the course of the examination, the Inspector may request that the Council draft a Main Modification on a specific issue where he/she has identified that a change to the plan is required. These will be prepared under delegated powers in consultation with the Portfolio Holder. Cabinet will be regularly updated on the progress of the examination through the Strategic Planning Matters reports which are a standing item on the agenda.
- 9.8** For the duration of the examination, an independent Programme Officer acts as the independent liaison between the Inspector, the Council and all other interested parties. A Programme Officer will be appointed subject to the approval of the recommendations in this report. A venue for, and the timings of, the examination hearings will be announced in due course.

#### ***Powers of the appointed Inspector***

- 9.9** The starting point of any examination is that the local planning authority has submitted a plan which it considers 'sound' and capable of adoption. In reality, it is almost inevitable that changes to the plan will arise as a result of the evidence presented to the examination or other changes which occur during the process.
- 9.10** Should changes be required to the plan as a result of the examination process, the Inspector is empowered to propose Main Modifications in order to make the plan sound and capable of adoption.
- 9.11** In practice, these powers are quite wide-ranging and can be used to make significant changes to submitted plans. By way of example, changes of 25% in housing targets and the addition or removal of substantial sites have fallen within the scope of 'main modifications' in other local plan examinations.
- 9.12** Any 'main modifications' would be issued by the Inspector following the examination hearings and subject to further public consultation.
- 9.13** The issues above and the recommendation to submit should be viewed in this context.

## **10. LEGAL IMPLICATIONS**

- 10.1** Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended by Section 110 of the Localism Act 2011) sets out the duty to co-operate between

Local Planning authorities and other prescribed bodies, to maximise the effectiveness in the preparation of the local plan other relevant documents, so far as they relate to a strategic matter.

- 10.2** This places a legal obligation on Councils and other bodies to work together to provide effective solutions on cross-boundary issues. Failure to comply with this Duty cannot be remedied at examination and would be fatal to any submitted plan.
- 10.3** Other legal issues and matters of soundness can be capable of being addressed through the examination process (see Section 9). However, the Council must submit a plan it considers ready for independent examination
- 10.4** The Council can submit a schedule of suggested modifications alongside the approved plan to deal with more minor alterations that address concerns raised by consultees. It is proposed to do this (see paragraphs 8.40 to 8.42).
- 10.5** Guidance produced by the Planning Inspectorate – who will conduct any future examination on behalf of the Secretary of State - also allows for an ‘addendum of focussed changes’ to be submitted with the published plan. However, this would need to be prepared, approved, consulted upon and then submitted alongside the approved Proposed Submission Local Plan.
- 10.6** The final option available to Council at this stage is to withdraw the plan in its entirety and begin work again on a replacement.
- 10.7** The Planning and Housing Act 2016 (and associated regulations) provide the legal basis for the Secretary of State to intervene on the Local Authority’s behalf and at the Local Authority’s expense if Local Development Plans are not in place by March 2017.
- 10.8** By virtue of regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, adoption of the final Development Plan documents must be by Full Council. This is reflected in paragraphs 4.2.1(d) and 4.4.1(a) of the Council’s Constitution.
- 10.9** Submission of draft Development Plan Documents to the Secretary of State, and their final adoption are a matter for Full Council under the Regulations and the Terms of Reference for Full Council Paragraph 4.4.1(a) of the Constitution
- 10.10** The legal framework for the preparation, submission, examination and adoption of Development Plan Documents is set out in the Planning & Compulsory Purchase Act 2004 (as amended). Detailed regulatory requirements are contained in the Town & Country Planning (Local Planning) (England) Regulations 2012.

## **11. FINANCIAL IMPLICATIONS**

- 11.1** The costs of preparing the Local Plan and associated evidence base and costs of its examination are covered in existing revenue budgets for 2017/18. These budgets are supplemented by an accrued reserve.
- 11.2** Any decision on the Local Plan must be made on its planning merits but there are potentially significant financial risks attached to not having a plan in place.
- 11.3** Without an up to date Local Plan the Council is increasingly vulnerable to planning applications in areas where it may wish to resist development. The cost of trying to resist developments is generally far higher than the cost of negotiating developments supported by an up to date Local Plan.
- 11.4** Without an up-to-date Local Plan, the Council is unable to introduce a Community Infrastructure Levy (CIL), thus limiting future options for how the Council may wish to secure financial contributions from development.

**11.5** Central Government decided not to proceed with a proposal to withdraw 2017/18 'New Homes Bonus' payments from Councils who had not submitted a Local Plan. However, the Government will revisit the case for withholding New Homes Bonus from areas not delivering on housing growth from 2018-19. This is currently a significant funding stream to the Authority (around £1.2m per year). Any funding reduction would equate to additional efficiencies or income generation that would need to be found.

## **12. PLANNING IMPLICATIONS**

**12.1** Until such time as a new Local Plan is adopted, the saved policies of the Local Plan No 2 with Alterations remain the starting point for the determination of planning applications.

**12.2** Paragraph 216 of the NPPF states that emerging policies can be taken into account in the determination of planning applications having regard to the stage of preparation of the new local plan, the extent of unresolved objections and the conformity of the draft policies with national policy.

**12.3** Agreeing submission of the plan would mark a further milestone in the production of a new plan. Publication of the representations received to the Proposed Submission Consultation allows for these to be taken into account in making planning decisions.

**12.4** By agreeing to submission of the plan, sufficient weight can be attributed to the proposed allocations in the plan to demonstrate a five-year supply of housing land.

## **13. RISK IMPLICATIONS**

**13.1** Sustainable Development of the District and the Local Plan are both Top Risks. The Sustainable Development of the District risk has two sub risks; National & Regional Planning issues and Neighbouring Authorities. Failure to make timely progress on the Local Plan would increase the likelihood of these risks occurring.

**13.2** The Local Plan is assessed as one of the highest risks that NHDC currently faces. The identified consequences on the Local Plan risk include

- Development not sustainable;
- Development harms the environment;
- Needs for housing and other development fail to be properly met;
- Hostile planning applications if Local Plan found unsound or delayed;
- Hostile planning applications for development due to lack of five year land supply; and
- Costs of challenge.

**13.3** Agreeing the recommendations in this report will enable the Council to continue progress with the Local Plan.

**13.4** The plan reflects work undertaken with other authorities on strategic matters. In particular it will make an allowance for growth from the Luton housing market area, and provides land to meet employment requirements arising from Stevenage.

**13.5** The District Council has signed, or is in the process of negotiating, Memoranda of Understanding (or equivalent) with various councils and other bodies under powers delegated to the Executive Member by Cabinet in March 2016.

**13.6** Any decision to carry out more work would result in both substantial delay and additional costs, more so in the case of an instruction to withdraw and start over. These approaches could also leave the Council at a high risk of intervention or sanction by the Secretary of State who could then direct the production of a new plan. These courses of action are not recommended.

## **14. EQUALITIES IMPLICATIONS**

- 14.1** The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 14.2** In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 14.3** An Equality Impact Assessment has been produced assessing the plan's compliance with relevant legislation and requirements. The Planning Inspectorate specifically request this document accompanies submission of the local plan.
- 14.4** The latest national guidance on gypsy and traveller sites, and specifically defining those who retain a 'nomadic' lifestyle, must also be considered alongside the protections afforded to some travellers by virtue of their ethnicity under the Equality Act 2010.

## **15. SOCIAL VALUE IMPLICATIONS**

- 15.1** As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

## **16. HUMAN RESOURCE IMPLICATIONS**

- 16.1** There are no new human resource implications arising from the contents of this report. The Planning Policy team is fully staffed. Temporary staff or consultants were brought in to assist during the preparation of the Local Plan in order to cover vacancies and long term absences and provide specialised technical advice. This approach will continue as required through the examination process.

## **17. APPENDICES**

Appendix 1 – Regulation 22 Consultation Statement.

Appendix 2 – North Hertfordshire Local Plan 2011-2031 Proposed Submission Draft, October 2016.

Appendix 3 – Schedule of Proposed Additional Modifications.

Appendix 4 – Local Development Scheme, April 2017.

**Note:** Appendices 1, 3 and 4 are included in hard copy with this report in the committee bundle. All Members were provided with a hard copy of the Proposed Submission Draft Local Plan and associated maps (Appendix 2) at the time of the consultation in October 2016 and this has not been re-provided. This document is also available to view on the Council website at [www.north-herts.gov.uk/localplan](http://www.north-herts.gov.uk/localplan).

## **18. CONTACT OFFICERS**

### ***Report authors***

**18.1** Louise Symes, Strategic Planning and Projects Manager  
01462 474359      [louise.symes@north-herts.gov.uk](mailto:louise.symes@north-herts.gov.uk)

**18.2** Nigel Smith, Principal Strategic Planning Officer  
01462 474847      [nigel.smith@north-herts.gov.uk](mailto:nigel.smith@north-herts.gov.uk)

### ***Contributors***

**18.3** Ian Fullstone, Head of Development and Building Control  
01462 474480      [ian.fullstone@north-herts.gov.uk](mailto:ian.fullstone@north-herts.gov.uk)

**18.4** Clare Skeels, Senior Planning Officer  
01462 474424      [clare.skeels@north-herts.gov.uk](mailto:clare.skeels@north-herts.gov.uk)

**18.5** David Hill, Senior Planning Officer  
01462 474453      [david.hill@north-herts.gov.uk](mailto:david.hill@north-herts.gov.uk)

**18.6** Laura Allen, Senior Planning Officer  
01462 474826      [laura.allen@north-herts.gov.uk](mailto:laura.allen@north-herts.gov.uk)

**18.7** Helen Leitch, Principal Landscape and Urban Design Officer  
01462 474513      [helen.leitch@north-herts.gov.uk](mailto:helen.leitch@north-herts.gov.uk)

**18.8** Ian Couper, Head of Financial Services and Risk Management  
01462 474243      [ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk)

**18.9** Nurainatta Katevu, Property & Planning Lawyer  
01462 474364      [nurainatta.katevu@north-herts.gov.uk](mailto:nurainatta.katevu@north-herts.gov.uk)

**18.10** Kerry Shorrocks, Corporate Human Resources Manager  
01462 474224      [kerry.shorrocks@north-herts.gov.uk](mailto:kerry.shorrocks@north-herts.gov.uk)

## **19. BACKGROUND PAPERS**

**19.1** Full Council Report 20 July 2016 – North Hertfordshire Local Plan.

**19.2** Cabinet Report 26 September 2016 – North Hertfordshire Local Plan.

**19.3** Full Council Report 21 January 2016 – Updated Local Development Scheme.

**19.4** Strategic Planning Matters Reports to Cabinet on 26 July 2016, 27 September 2016, 22 November 2016, 20 December 2016, 24 January 2017 and 28 March 2017.

**19.5** The Proposed Submission Local Plan, associated evidence base and representations to the consultation are all available via [www.north-herts.gov.uk/localplan](http://www.north-herts.gov.uk/localplan).