

# CABINET

## 27 January 2015

\*PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

**7**

### TITLE OF REPORT: STRATEGIC PLANNING MATTERS

REPORT OF THE STRATEGIC DIRECTOR OF PLANNING, HOUSING AND ENTERPRISE  
PORTFOLIO HOLDER: COUNCILLOR DAVID LEVETT

#### 1. SUMMARY

1.1 This report informs Members of the current positions regarding:

- Sustainable Drainage Systems;
- Chilterns Area of Outstanding Natural Beauty Management Plan;
- Central Bedfordshire examination;
- Luton housing market area memorandum of understanding;
- Neighbouring authorities' plans; and
- North Hertfordshire Local Plan.

1.2 To consider and endorse the Chilterns Area of Outstanding Natural Beauty (AONB) Management Plan 2014 - 2019. A copy of the Management Plan is available in the Members Room. An electronic copy is available on the AONB website at: [www.chilternsaonb.org/management-plan](http://www.chilternsaonb.org/management-plan)

#### 2. RECOMMENDATIONS

2.1 That the report on strategic planning matters be noted.

2.2 That Cabinet endorses the Chilterns Area of Outstanding Natural Beauty - Management Plan 2014 – 2019: A Framework for Action and promotes its use by all relevant organisations.

#### 3. REASONS FOR RECOMMENDATIONS

3.1 To keep Cabinet informed of recent developments on strategic planning matters.

3.2 Part IV of the CRoW Act 2002 places a statutory requirement on local authorities and Conservation Boards to prepare and adopt an AONB Management Plan. North Hertfordshire District Council being an active partner in the Chilterns Conservation Board is therefore encouraged to endorse the revised Chilterns Management Plan.

#### 4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

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

5.1 The Portfolio Holder for Planning and Enterprise has been kept informed on the matters set out above.

5.2 Members were notified in the Portfolio Holder's Report to Cabinet on 24 June 2014 of the need to endorse the new Management Plan the draft of which was widely consulted on by the Chilterns AONB.

## **6. FORWARD PLAN**

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## **7. BACKGROUND**

7.1 Members will be aware of, and familiar with, many of the issues surrounding the strategic planning matters referred to in paragraph 1.1 above. This report is intended to provide Members with the current positions on these matters.

## **8. ISSUES**

### ***Sustainable Drainage Systems***

8.1 Following the extensive flooding in 2007, an independent review was carried out into the causes of the floods, known as the Pitt Review. It concluded that sustainable drainage systems (known as SUDS) were an effective way to reduce the risk of flash flooding. SUDS are intended to slow the rate of surface water run-off, mimicking natural drainage in both rural and urban areas.

8.2 In response to the Pitt Review the Government passed the Flood and Water Management Act 2010. This envisages greater use of SUDS in new development. In 2011-2012 the Government consulted on proposals on a way of making SUDS mandatory for most new developments. The mechanisms envisaged at this time focussed on County Councils (as 'lead local flood authorities') administering a system of SUDS approval separate from the planning system. Developers would therefore have had to obtain both planning permission from the District Council and SUDS approval from the County Council. The Government came close to implementing this SUDS approval regime on a number of occasions between 2012 and 2014, but each time the appointed day for the system to start approached it was postponed.

8.3 In September and October 2014 the Government consulted upon an alternative mechanism, bringing SUDS approval within the planning system rather than making it a separate system. The way the Government is looking to do this is through changes to the National Planning Policy Framework and Planning Practice Guidance stipulating that SUDS should be provided on schemes of ten or more dwellings (or equivalent size for non-residential developments).

8.4 One of the main areas of difficulty in such a system is securing the long-term maintenance of the SUDS. The September 2014 consultation envisaged that SUDS could be maintained by one of:

- service management companies;
- water / sewerage companies;
- local authorities; or
- the property owners.

- 8.5 The Government published its response to the consultation on 18 December 2014. The Government acknowledges that a significant majority of respondents had concerns about long-term maintenance of SUDS under such a system, and about the ability of local planning authorities to access the necessary expertise to determine applications involving SUDS. It proposes making lead local flood authorities statutory consultees on planning applications, but otherwise envisages implementing the changes largely as proposed in the September 2014 consultation. A written ministerial statement to parliament is awaited setting out next steps, including the timetable for the changes to come into effect.

### ***Chilterns Area of Outstanding Natural Beauty Management Plan***

- 8.6 Under the Countryside and Rights of Way Act 2000 (CRoW Act 2000) the Chilterns Conservation Board has a statutory duty to produce a Management plan for the Chilterns Area of Outstanding Natural Beauty (AONB) and to review it every five years. The previous plan covered the period 2008 – 2013. This new plan has been produced with input from many local authorities, organisations and individuals and it is therefore a joint vision for the Chilterns. Consultation on the draft plan was carried out in late 2013 with a consultation response being sent by this Council.
- 8.7 Where an AONB is the responsibility of more than one local authority, as in the case of the Chilterns, the CroW Act encourages the local authorities responsible to develop a partnership, a Conservation Board, to manage AONBs and to take on the responsibility for producing the Management Plan from the local authorities. North Hertfordshire District Council is a member of the Chilterns Conservation Board.
- 8.8 The Chilterns Conservation Board adopted the Chilterns AONB Management Plan 2014-2019 at its meeting on 25 March 2014 and is now seeking endorsement of the Plan by the relevant local authorities. It does not differ significantly from the previous Plan.
- 8.9 The revised Plan fulfils three functions. Firstly, it is the statutory plan which sets out the Board's policies for the management of the Chilterns AONB and for the carrying out of its functions in relation to it. The actions the Board itself will take to deliver the Plan's objectives are set out in the Board's business plan. Secondly, it informs public bodies of the means by which they can demonstrate compliance with their statutory duty to "have regard to" the purpose of designation of the AONB when undertaking their functions. Thirdly, it guides the engagement of public bodies, landowners, businesses and individuals in the management of the AONB. It includes information regarding available and potential delivery mechanisms. The types of actions the Board would encourage others to take individually or in partnership with others, including the Board, to deliver the Plan, are set out in the Engagement Plan.
- 8.10 It is noted that the Chilterns Management Plan is intended to supplement and complement the District Local Plan and other documents prepared by the District Council and does not replace the policies in these Plans or any other documents. Its role is to provide advice and guidance for all within the Chilterns AONB as to the positive ways in which the environment of the Chilterns can be conserved and enhanced.

### ***Central Bedfordshire Examination***

- 8.11 The examination into the Central Bedfordshire Development Strategy has now been confirmed to start on 3 February 2015. The inspector has raised a number of questions he wishes to explore at the first sessions, focussing on whether Central Bedfordshire has complied with the duty to co-operate and on whether the housing and employment

evidence properly supports the strategy, including the need to accommodate unmet need from Luton. After hearing the evidence on these points the inspector has indicated he will come to an interim view before deciding whether to proceed to examine other elements of the plan.

### ***Luton housing market area memorandum of understanding***

- 8.12 Linked to the Central Bedfordshire examination, the Council has now entered into a Memorandum of Understanding with the other authorities in and around the Luton housing market area (namely Luton, Central Bedfordshire, Bedford, Milton Keynes, Aylesbury Vale, Dacorum, St Albans and Stevenage). This proposed memorandum was drafted in Summer 2014. It envisages the participating authorities carrying out a piece of work looking at how housing needs arising in the Luton housing market area should be met.
- 8.13 At the time of writing the only authority which has not signed the memorandum is Luton itself. Luton's refusal to sign the memorandum (despite being involved in the meetings which drafted it) was the main reason this Council did not sign the memorandum when it was first drafted. Clearly the work envisaged by the memorandum would be difficult to pursue without the co-operation of Luton.
- 8.14 With the Central Bedfordshire examination approaching it was necessary to decide whether or not to sign the memorandum. Signing the memorandum would show a willingness to participate in work under the duty to co-operate which is along the lines of work already recognised as necessary. Continuing to decline to sign the memorandum would only be advisable if we were happy to articulate clear reasons why the memorandum should not proceed, and be happy to argue that case at the Central Bedfordshire examination. Whilst there are elements of the memorandum which could perhaps be clearer, it was not considered that it was so flawed that a continued refusal to sign could be sustained.
- 8.15 Accordingly, the memorandum was signed under the delegated powers of the Portfolio Holder for Planning and Enterprise on 11 December 2014 (as reported verbally at the 16 December 2014 Cabinet meeting). The memorandum and covering letter are included as Appendix A to this report.
- 8.16 In a related matter, a decision was handed down from the High Court on 19 December 2014 regarding the Judicial Review brought by Luton against Central Bedfordshire's decision to grant the major development of over 5,000 homes in the green belt north of Houghton Regis. Luton submitted ten grounds of challenge, primarily focussed on arguments that the development was premature in advance of Central Bedfordshire's Development Strategy, had failed to secure adequate affordable housing, and included too much retail floorspace.
- 8.17 Mr Justice Holgate dismissed Luton's claim on all counts, and described four of Luton's ten grounds of challenge as "wholly unarguable". He also said "It is most unfortunate that this project, which will deliver much needed development and nationally important infrastructure, has been delayed by a challenge lacking in legal merit."

### ***Welwyn Hatfield Local Plan***

- 8.18 Welwyn Hatfield has recently published draft Local Plan papers. The main sites it contains are east of Welwyn Garden City and north-west of Hatfield. Other sites are included at Welwyn and Woolmer Green, including areas which immediately border North Hertfordshire. Consultation details are awaited at the time of writing.

## **North Hertfordshire Local Plan**

- 8.19 Consultation on the draft North Hertfordshire Local Plan is underway, due to end on 6 February 2015.
- 8.20 The 2013-2014 Annual Monitoring Report has now been published on the website. The main headlines for that year are:
- A net increase of 259 new homes, 59 of which were affordable homes;
  - 79.5% of new housing was on previously developed land;
  - A net loss of 751m<sup>2</sup> of employment floorspace;
  - A net loss of 2,938m<sup>2</sup> of shops, financial and professional services and leisure facilities.

## **9. LEGAL IMPLICATIONS**

- 9.1 The Terms of Reference for Cabinet confirm that they should exercise the Council's functions as Local Planning Authority except where functions are reserved by law to the responsibility of the Council or delegated to the Strategic Director of Planning, Housing and Enterprise.
- 9.2 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 development plan and other local development plan documents, so far as they relate to a strategic nature. These bodies should consider if they are able to work together jointly on such matters and must have due regard to any guidance given by the Secretary of State.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There are no direct financial implications arising from this report.

## **11. RISK IMPLICATIONS**

- 11.1 No direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Cabinet Top Risks.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 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.
- 12.2 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.
- 12.3 There are not considered to be any direct equality issues arising from this report although individual schemes or considerations hereafter will be subject to appropriate review to ensure they comply with latest equality legislative need.

**13. SOCIAL VALUE IMPLICATIONS**

- 13.1 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 paragraphs 12.

**14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 There are no new human resource implications arising from the contents of this report.

**15. CONTACT OFFICERS**

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**16. APPENDICES**

Appendix A: Letter to Central Bedfordshire including signed memorandum of understanding.