

Public Document Pack

NORTH HERTFORDSHIRE DISTRICT COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

TUESDAY, 9TH MARCH, 2021

SUPPLEMENTARY AGENDA

Please find attached supplementary papers relating to the above meeting, as follows:

Agenda No	Item
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| 13. | <u>LOCAL PLAN IMPLEMENTATION</u> (Pages 3 - 18) |
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Please find attached a revised report to Cabinet on the above for consideration by the Overview and Scrutiny Committee.

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CABINET 16 MARCH 2021
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PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: LOCAL PLAN IMPLEMENTATION

REPORT OF THE SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR PLANNING & TRANSPORT

COUNCIL PRIORITY: RESPOND TO CHALLENGES TO THE ENVIRONMENT / ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY / SUPPORT THE DELIVERY OF GOOD QUALITY AND AFFORDABLE HOMES

1. EXECUTIVE SUMMARY

The purpose of this report is to review previous resolutions and to recommend a revised programme of work to support the implementation of the new Local Plan.

2. RECOMMENDATIONS

- 2.1. That the North Hertfordshire Masterplanning Guidance, attached as Appendix A, is approved and recognised as a material consideration in the determination of relevant planning applications.
- 2.2. That officers are authorised to commence work on a revised and updated programme of Supplementary Planning Documents and supporting evidence as set out in this report to support the Council's corporate priorities.
- 2.3. That to support recommendation 2.2, Cabinet:
 - a. Resolve not to pursue the preparation of a Community Infrastructure Levy for the District at this time; and
 - b. Approve the reallocation of the existing approved revenue budgets for Community Infrastructure Levy (£87,000) and the potential Single Issue Review of the Local Plan (£80,000) to create a budget for the delivery of the work on a revised and updated programme of Supplementary Planning Documents.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To ensure that resources are used most effectively to support the implementation of the new Local Plan for North Hertfordshire and to improve delivery upon corporate priorities relating to place leadership and the declared climate change emergency.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. Officers are of the view that the approach set out in this report is the most reasonable alternative. The progress of the Local Plan is subject to a separate report to this meeting. This sets out that the Examination is now at an advanced stage. Without prejudice to any forthcoming consultation or the Inspector's final report, the Council now needs to take tangible steps to ensure that the Plan, as presently proposed to be modified, can be successfully implemented.
- 4.2. It is important that the issues set out in this and other relevant reports to this cabinet meeting are viewed holistically. However, Members could determine to (individually or in combination):
- Continue to proceed with the currently approved suite of Supplementary Planning Documents (SPDs);
 - Request the production of further SPDs on particular issues they identify;
 - Resolve that a Community Infrastructure Levy is developed and implemented for the District at this time;
 - Continue to contemplate a focussed review of the Local Plan post-adoption to reflect emerging or adopted actions or priorities relating to climate change;
 - Retain the currently identified budgets for either or both of the above;
 - Identify and support the provision of additional resources to pursue (any combination of) pre-existing commitments and the recommendations in this report; and / or
 - Defer decisions on any or all of these matters until such time as:
 - i. the Examination of the Local Plan concludes;
 - ii. Full Council has resolved whether to adopt the new Local Plan; and / or
 - iii. There is greater clarity over the Government's intentions on matters including (but not necessarily limited to) design, building regulations and / or planning reform.
- 4.3. These options have been considered as part of a comprehensive review of resources, priorities and next steps. Further information relating to these matters are set out in this report.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Executive Member and Deputy are regularly kept up to date on strategic planning matters at fortnightly briefings.
- 5.2. A Local Plan Project Board was set up in February 2016 to provide the necessary strategic guidance and direction for the production and implementation of the Local Plan within the Council. Project Board, along with the joint chairs of the Council's Cabinet Panel on the Environment, were consulted prior to the publication of the recommendations in this report.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public on 5 February 2021.

7. BACKGROUND

The Local Plan

- 7.1. Members will be aware of, and familiar with, many of the issues surrounding the Local Plan from the regular Strategic Planning Matters reports and the reports to the Cabinet and Full Council meetings of 17 April 2017, 10 December 2018 and 08 October 2020 as well as the earlier report to this meeting.
- 7.2. As well as progressing the new Local Plan to the conclusion of its examination and a decision upon its adoption, it is essential for the Council to consider how it will subsequently ensure successful implementation of the Plan's strategy. It is also of critical importance to consider how implementation of the Plan can support and deliver upon other key Council priorities.
- 7.3. The proposed Further Main Modifications are subject to a separate report to this meeting. However, for the purposes of this report, Members are reminded that the proposed Further Main Modifications will not propose substantive alterations to the housing development strategy contained in the Plan submitted for examination in June 2017, beyond changes to the anticipated timing and phasing of new development reflecting the passing of time. Should the Plan as currently anticipated to be modified proceed to adoption it will require a significant uplift in housing delivery over the coming decade and beyond. It will also require successful and simultaneous delivery of numerous significant and strategic developments around the District's main towns and villages.
- 7.4. Delivery of such growth in a sustainable, well planned and designed way that delivers the Council's local plan policies, corporate priorities and existing and emerging statutory obligations will require new ways of working. This will need to be pro-active and place and masterplan led and supported by a collaborative, co-ordinated, and corporate approach across the Council as well as working closely with Hertfordshire County Council and other key service providers. This reflects the key recommendations of the 2020 Peer Challenge exercise (also subject to a separate report). Many other local authorities, including the District's immediate neighbours, are adopting masterplan-led approaches to support sustainable communities where there is significant housing growth to deliver. This allows councils with their communities to meaningfully shape proposals.
- 7.5. Current practices in North Hertfordshire are built around the Development Management approach. This reflects the absence of strategic growth proposals within the District over a number of years with Great Ashby being the last example of development at scale in North Hertfordshire. However, this approach is often a reactive process as issues are identified and discussed on a case-by-case basis in response to the submission of individual (pre-)applications. Taking an active, placemaking lead prioritises the collaborative identification of key issues to be resolved and masterplanned in advance of or in parallel with the formal planning process.

Existing resolutions and commitments relating to implementation of the Local Plan

- 7.6. In July 2017, Cabinet considered a report outlining a recommended approach to the production of supplementary guidance to support the new Local Plan. Supplementary Planning Documents (SPDs) can set out additional detail on policies in the Plan but cannot themselves set new policy. An adopted SPD must relate to an adopted Plan policy. Within a wide-ranging report, Cabinet resolved that the new Local Plan should be supported by suite of three SPDs on:
- Developer Contributions
 - Design; and
 - Parking and Transport
- 7.7. A draft Developer Contributions SPD was presented to Cabinet in January 2020 and published for public consultation. In July 2020 a proposed final version of the SPD was considered taking into account the consultation responses. Cabinet resolved that this version of the SPD was adopted subject to the adoption of the new Local Plan within twelve months of the decision (i.e. by July 2021).
- 7.8. At the time the draft Developer Contributions SPD was presented, Cabinet additionally requested that officers reconsider the case for introducing a Community Infrastructure Levy (CIL) for new development in the District.
- 7.9. CIL effectively operates as a flat-rate 'tax' levied upon qualifying development based on the amount of floorspace being provided. It is collected on an authority-wide basis. However, unlike site-specific legal agreements, there is no guarantee at the point of the planning decision that monies will be spent on any particular matter or project relating to that planning application.
- 7.10. Cabinet requested that the CIL review be reported back to Cabinet before the end of the 2020 calendar year. Due to the delays in the Local Plan examination it was not possible to meet this timescale but the review is now presented as part of this report.
- 7.11. A draft of the Design SPD was considered by Overview and Scrutiny committee in September 2020. O&S requested additional time to consider the SPD and that further information be provided in the SPD prior to public consultation. This version of the SPD has yet to be presented to Cabinet. Given the significant and ongoing changes in national guidance relating to design since this meeting (see below), this SPD has yet to be re-presented.
- 7.12. Work has yet to commence on a Parking and Transport SPD.
- 7.13. In February 2020, Councillors approved the 2020/21 budget. This included an approved revenue growth bid for £80,000 funded over two years for a potential focussed review of the Local Plan post-adoption to reflect any new policies arising from the Council's declared climate emergency and associated work. Work on any formal review cannot take place until the current Local Plan examination concludes and a decision is taken on adoption of the Plan. In February 2021, Councillors approved the 2021/22 budget which included a carry forward of this funding.

- 7.14. In June 2020, Cabinet approved its updated Housing Delivery Test Action Plan as required by Government in response to their housing delivery requirements. This included specific actions aimed at ensuring corporate readiness to deliver the growth contained in the new Local Plan (Theme 2 of the Action Plan) and facilitating development and economic recovery following Covid-19 (Theme 3).

Other corporate commitments

- 7.15. The Council declared a Climate Emergency in 2019 and all actions of the authority should be viewed in the context of this declaration. A Climate Change Strategy and Action Plan was approved in January 2020. An update to that strategy is considered in a separate report to this meeting and preceding this decision. Both that and this report contain further detail on how officers have worked to align recommendations with the aims and priorities of the Climate Change Action Plan to address the emergency. The budget bid in paragraph 7.13 above was made in response to the climate change agenda, recognising that the detailed scope of any actions remained to be determined.
- 7.16. In June 2020, Cabinet approved the Peer Challenge Action Plan following the Corporate Peer Challenge (CPC) process undertaken at the start of that year. In broad terms, the recommendations arising out of the CPC included:
- Broadening the Council's focus to an ambitious place-shaping agenda;
 - Aligning resources, policies and capacity to achieve priorities; and
 - Developing a narrative for place.
- 7.17. An update on the CPC is reported separately to this meeting.
- 7.18. The planning and delivery of significant developments cuts across Council directorates and other pre-existing commitments will also be of relevance, such as the March 2020 Cabinet resolution to update the Council's Green Space Strategy, as well as the approaches taken to other matters and services such as asset management or leisure.

Government policy and guidance

- 7.19. The new Local Plan has been prepared to conform with national planning policy (the NPPF) as it stood at the time of the plan's submission for examination¹. There have been numerous proposals and changes since submission of the Plan for examination in 2017. It is important to have regard to these in considering the (continued) appropriateness of resolutions and decisions aimed at supporting implementation of the Plan. The following are highlighted as being of particular relevance to this report.

¹ At examination, the Plan is assessed against the original (2012) version of the National Planning Policy Framework and associated Planning Practice Guidance.

- 7.20. At the time of the Plan's preparation, Government rationalised the standards that Local Plans could set in relation to new buildings. These focussed upon [published technical standards](#) relating to the size of new homes, water efficiency and accessibility. All of these standards are contained within the new Local Plan. At the same time, the Government set out its intention to remove authorities' right to set energy efficiency measures through plans. However, this change was not enacted meaning authorities can presently set energy efficiency requirements through policy to a maximum of a 19% improvement on CO₂ emissions above current building regulations. This is not included within the new Local Plan.
- 7.21. In October 2019, the Government consulted upon its [proposed Future Homes Standard \(FHS\)](#) which set out a pathway to a significant increase in building efficiency requirements through Building Regulations. It again asked whether the ability of local authorities to set efficiency requirements through planning policy should be restricted. The Council responded to this consultation objecting to this proposal, as reported to Cabinet in the Strategic Planning Matters report of March 2020.
- 7.22. Government has recently indicated in [its response to the Consultation](#) that it will not be restricting local authorities ability to set local standards in the short term. However, the forthcoming response to the Planning White Paper will clarify the longer term role of planning and local authorities in determining local energy efficiency standards. Government intends to introduce the necessary legislation to the FHS in 2024 ahead of its implementation in 2025. An interim uplift is to be introduced in 2022, reducing CO₂ emissions by 31% measured against current Building Regulations (i.e. above the planning cap).
- 7.23. In August 2020, Government consulted on its [Planning White Paper](#). This set out a proposed range of ambitious reforms to the planning system "*to streamline and modernise the planning process, bring a new focus to design and sustainability, improve the system of developer contributions to infrastructure, and ensure more land is available for development where it is needed*". Among its proposals, this consultation asked for views on the introduction of upfront masterplanning of new development as part of the plan-making process and a nationally set planning levy on new development that might replace the existing system of legal agreements and locally set Community Infrastructure Levy. The Council's response was reported to Cabinet in the Strategic Planning Matters report of December 2020. The Government has said it will outline the next steps in Spring 2021.
- 7.24. The Government is strengthening national planning policy on design quality. The updated [NPPF 2019](#) – which is already used for planning decisions - states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve (para 124).
- 7.25. In 2019 the Government also published its own [National Design Guide](#) which provides a clear definition of what good design is under 10 characteristics. The government expects the National Design Guide to be used in the assessment of design in planning applications and to support any reasons for refusal on design grounds. In January 2020 the Building Better Building Beautiful Commission (BBBBC) [published its final report Living with Beauty](#) and made a series of recommendations on improving design standards.

- 7.26. The [Government responded to the BBBBC report](#) in January 2021 and key recommendations it will be taking forward are:
- Ensuring that new development is of high-quality design and carried out with greater community consent including making beauty and place-making a strategic policy in NPPF;
 - Putting an emphasis on approving good design and refusing poor quality schemes;
 - Asking local planning authorities to produce their own design codes;
 - Aiming for new streets to be tree-lined; and
 - Improving biodiversity and access to nature through design
- 7.27. These aims are reflected in the current [consultations on draft revisions to the NPPF and a new draft National Model Design Code](#) which include:
- Requiring all local planning authorities to prepare design guides or codes consistent with national guidance and which reflect local character and design preferences;
 - That planning policies and decisions should place significant greater emphasis on the provision and long-term retention and maintenance of trees; and
 - That larger-scale development should be accompanied by clear expectations for the quality of place and ensure the use of appropriate tools such as masterplans and design codes to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.
- 7.28. The [Environment Bill](#) was published in January 2020 it is anticipated to become law later in 2021. The Environment Bill 2020 sets out how the government plans to protect and improve the natural environment in the UK and address the environmental and climate change crisis. It will act as one of the key vehicles for delivering the Government's 25 Year Environment Plan.
- 7.29. Amongst many measures the draft Environment Bill introduces a mandatory requirement for biodiversity net gain in the planning system, to ensure that new developments enhance biodiversity and create new green spaces for local communities to enjoy. It also introduces provisions requiring the development of Local Nature Recovery Strategies across England.
- 7.30. Local government has an essential role to play responding to environmental challenges at a local level, leading place-specific responses and driving innovation. It is anticipated the Bill will create a framework in which strong local government leadership will be enhanced to drive the necessary, and once-in-a-lifetime environmental improvements to reverse decades of biodiversity loss and improve air quality.

8. RELEVANT CONSIDERATIONS

- 8.1. As can be seen from the background above, there are a wide range of pre-existing commitments and resolutions. These need to be viewed against a rapidly evolving national policy context and new local commitments made since the previous review of guidance in 2017. It is essential to ensure the work programme supporting implementation of the new Local Plan is achieving best value both in terms of resources, timely preparation and contribution to wider objectives.

- 8.2. Officers in consultation with relevant Members have spent the early part of 2021 reviewing the current approaches. This has identified a number of key issues. These include:
- Ensuring consistency with emerging national planning policy guidance on securing design quality in new development and preparing masterplans, local design guides and codes;
 - A need to be ready to implement new environmental statutory obligations under the emerging Environment Act, including biodiversity net gain;
 - Introducing clear masterplanning guidance to guide a place and design-led approach for significant development that effectively implements and integrates local plan policies and corporate priorities on an area and site basis;
 - Formalising new ways of working to provide place-leadership and a corporate and holistic approach to the planning and design of new communities so they are delivered in a timely manner to a high standard of quality;
 - Existing gaps in the Council's evidence base and planning guidance to support the successful implementation of local plan policies and secure sustainable development and positive planning and place outcomes (e.g., design, biodiversity, green infrastructure and sustainability);
 - Whether, in this context, the previously approved suite of SPDs is suitably scoped to address these planning issues and requirements and align with the Administration's policies, particularly in the context of the climate emergency;
 - The rapidly narrowing window between any adoption of the current Plan and the start of a proposed whole plan review by the end of 2023 (as committed to at examination) in which to now accommodate any focussed review of policy through formal plan-making processes;
 - The potential conflict between any such review and changing / emerging Government policy particularly with regards to the Building Regulations and energy efficiency;
 - That, although a case could be made for the introduction of CIL, it is imperative under any system to improve processes and evidence to most effectively secure contributions;
 - The potential for a changed system of developer contributions arising out of the White Paper; and
 - That in the current financial climate there are insufficient resources to do everything and it is necessary to use these effectively by prioritising and focussing upon where planning can achieve best value and outcomes.
- 8.3. Considering the above holistically, this report recommends a revised package of measures which seek to improve upon the outcomes and outputs of the pre-existing commitments and resolutions.

Masterplanning Guidance

- 8.4. Successful implementation of the local plan and sustainable high-quality development is reliant on robust and comprehensive policies to guide quality places.

- 8.5. The latest proposed modifications to the Plan put forward by the Council include significant amendments to Policy SP9 on Design & Sustainability to support the move towards a more pro-active and enhanced place-leadership role. The policy (as proposed to be modified) sets out
- The requirement for Strategic Masterplans to be produced for all significant development in the district and these to be agreed by the Council;
 - 10 design objectives to inform and assess masterplans and planning applications; and
 - Clear requirements for what should be in the Strategic Masterplans to secure quality and delivery.
- 8.6. This will provide an essential policy 'hook' in the local plan to require quality masterplans to be produced in advance of planning applications and a policy basis for rejecting inadequate schemes. The approach is similar to that taken in East Hertfordshire District Council.
- 8.7. To implement this approach, the Council needs to produce operational masterplanning guidance that clarifies the process the Council expects landowners to take in collaboration with the Council. This advice is set out in Appendix C to this report. It comprises a 10-step process spanning from an initial inception to baseline analysis, agreeing a site specific and place-making vision for the site, developing and testing options, public consultation and the final masterplan report. There will be opportunities for member briefing and community input into this process.
- 8.8. To implement this masterplan approach requires improved ways of working both internally and with the County Council as a key service provider. A recommended approach to project management and governance is set out in the attached guidance. This includes a Project Board with senior leadership and cross-party representation to support the long-term vision and delivery of significant development across the district given these sites will take many years (potentially up to 15) to be implemented. It is also recommended that the Senior Leadership Team considers and identifies a place-making and design champion – linked to the Peer Challenge outcomes - to support place-leadership, the success of the masterplan and design-led approach to new development and the step change required across the district.
- 8.9. Subject to its approval, officers will develop and implement the necessary groups and protocols as well as producing more detailed guidance for developers that will be published on the Council website. Masterplanning guidance will be updated iteratively as required as processes are put in place and lessons learnt from implementation.

Revised programme of SPDs

- 8.10. In light of the above considerations, officers are now of the view that the range of SPDs approved by Cabinet in June 2017 is too narrowly focussed. Given the progress of time, these would not achieve what could now be delivered through the suggested pathway. In particular they would not provide sufficient information to:
- Respond to significant proposed changes on national guidance on design;
 - Address corporate priorities around climate change, place leadership and sustainability; and
 - Secure net gains in biodiversity and deliver emerging provisions in Environment Bill

- 8.11. To resolve this and improve upon the outcomes, it is recommended that the following actions are taken:
1. Re-scope the Design Guide SPD to respond to the emerging revisions to NPPF on design requirements, align with the national design guide and emerging guidance on model design codes and build upon the requirements of Local Plan Policy SP9;
 2. Incorporate the previously approved Parking and Transport SPD into a Sustainability SPD that would be significantly broader in its scope. This would also consider issues including energy efficiency and carbon reduction, climate change adaptation and health and well-being, reflecting those elements of the revised Climate Change Strategy that can be secured or encouraged through the planning system;
 3. Produce a Biodiversity SPD to secure net gain on new sites and in anticipation of 10% biodiversity net gain becoming a mandatory requirement through the Environment Bill;
 4. Support the above through an updated and expanded evidence base that would specifically include:
 - i. Settlement-level character appraisals to inform area and locally specific design guidelines with local community input and aspirations;
 - ii. An updated Green Infrastructure Plan and Strategy (potentially incorporating or informing elements of the corporate Green Space Strategy previously committed to by Cabinet) to clarify where and what new green space is required across the district aligned to planned growth and need; and
 - iii. An ecology network plan to inform the most appropriate approaches to biodiversity (as above) and identify opportunity areas for new and enhanced habitat
- 8.12. The Supplementary Planning Documents could be largely prepared internally with draft versions of all documents being prepared through the remainder of 2021 and early 2022. However, the evidence base would require expert consultancy support – with NHDC officer resource to procure and project management these commissions - with an indicative budget for these work streams of c.£150,000.

Single Issue Review

- 8.13. The above workstreams will have significant resource implications for the planning service and it is important to consider how these might be best realised (see also sections 10 and 15).
- 8.14. As set out above, the currently approved budget includes funding for a potential focussed review of the Plan post-adoption to consider the Council's climate priorities. At the time of the budget request it was considered this was the most likely route through which the planning implications of the climate emergency might be considered and addressed. It has previously been anticipated that any such review would most likely focus upon securing improved energy efficiency in new buildings. However, the budget bid was clear that the outcomes of the Council's climate change policy work would be a key determinant of the eventual work programme.

- 8.15. Government have recently announced that in response to the Future Homes consultation they will not implement legislative changes that would outright prohibit local authorities from producing such planning policies. However, they have also reinforced their intention to increase statutory Building Regulations above and beyond any requirements that might be set through planning (see Paragraph 7.22).
- 8.16. The prospective benefits of delivering the Council's climate objectives through a formal review of planning policy have been considered against the potential costs. In summary, officers have identified there are significant time and cost implications of pursuing a formal plan review. Even if it were focussed on a relatively narrow and specific matter – such as the energy efficiency of new buildings – it would still need to progress through all the same statutory steps as the current local plan. A Single Issue Review would be subject to an Examination in Public and the same tests of legal compliance and soundness, necessitating a comprehensive evidence base and environmental appraisal of any policies. It would likely utilise the currently identified £80,000 budget in full with outcomes of any examination unlikely until 2024. These factors all present inherent risks in terms of timing, costs and resources. Given evolving Government policy in this area (see Section 7), there is a significant risk of any policies being overtaken by events in the intervening period.
- 8.17. It is now considered most effective in the short- to medium-term for the Council to express and achieve its aspirations on climate change matters through the SPDs outlined above. These have a number of advantages over a formal policy review, whilst recognising this approach would constitute guidance rather than statutory policy. SPDs provide a far quicker route to adoption and action against the revised Climate Change Strategy and Action Plan and declared climate emergency. Evidence and draft SPDs could be procured and progressed during 2021 in time to meaningfully influence the fundamental design elements of substantial new developments proposed in the new Local Plan.
- 8.18. The anticipated Further Modifications to the Plan would now commit the Council to an early review of the whole Local Plan to commence by the end of 2023. This would then - subject to the precise nature of anticipated planning reforms - be able to consider the issue of climate change and the pathway towards carbon net zero strategically and across all policy areas including the overall development strategy. Funding for the whole Plan review will need to be considered through future budget-setting cycles.
- 8.19. In turn, this would allow the currently identified resources to be reassigned to the recommended programme of works above.

Community Infrastructure Levy

- 8.20. Officers have similarly re-considered the merits of Community Infrastructure Levy (CIL) in line with the Cabinet resolution of January 2020. The key risk to the Council on taking a definitive decision to pursue CIL at this stage is that any proposals may be overtaken by a national levy approach as mooted in the Planning White Paper rendering any preparatory works and costs abortive. As set out above, the Government has set out its intention to unveil the next steps in relation to the Planning White Paper later in 2021. Moreover, implementing CIL requires an up-to-date and adopted Local Plan. As set out separately to this meeting, a decision on adoption of the Plan is also now expected later this year. In this context it is considered sensible to await further clarity on these matters such that a decision can be taken in line with forward business planning for the 2022/23 budget cycle (equally this approach could allow a decision to be taken in the absence of any clarity from Government within a reasonable timescale).
- 8.21. Beyond these fundamental points, there are arguments both for and against the introduction of CIL (in its current form) for the District. Among the matters weighing in favour are greater certainty and consistency for developers, the Council and the community, a reduced need for complex negotiation of individual legal agreements – particularly those that require contributions on County matters such as education and highways resulting in a three-way legal agreement – and a better means for capturing development gain from smaller sites in particular.
- 8.22. Over the last decade a significant proportion of new housing development and the vast majority of residential planning applications have been for schemes of 20 units or less and there would be potentially significant administrative efficiencies for schemes of this scale under CIL, particularly in terms of officer time and speed of decisions². It is considered likely that a soundly-based CIL rate for the District would likely match and potentially exceed current levels of contribution secured through s106, in part through better capture from smaller schemes that, in turn, might better address the cumulative burdens that such schemes can place upon local services and infrastructure.
- 8.23. CIL would provide greater certainty of funding to local areas through the ‘parish precept’ which guarantees 15% of relevant receipts to the Parish Council rising to 25% where a neighbourhood plan is in place. It is likely that the collection and administration of CIL would eventually become self-funding as the Council would be able to recoup 5% of receipts for costs.
- 8.24. Against this are the time and resource implications of meeting the statutory implementation requirements and developing the necessary administrative infrastructure. The Council would need to forward fund these given that the relief of administration costs can only commence once the CIL is implemented and collected. Other considerations include that the largest sites (which form the significant majority of anticipated future development in terms of dwelling numbers, albeit from a relatively small number of planning applications) would still require s106 legal agreements even if a CIL were pursued³ and that CIL can be set at ‘risk averse’ levels.

² Recognising that CIL is set based upon geographic areas rather than development size.

³ Large developments or strategic sites are often ‘zero-rated’ for Community Infrastructure Levy (i.e. they ‘pay’ a rate of £0 per m2) to reflect this.

- 8.25. When this matter is viewed in isolation, officer analysis comes down in favour of introducing CIL reflecting the arguments above. However, one key lesson from the review is that – under either system – the Council should enhance its evidence base and processes to ensure that it is optimising contributions (in their broadest sense) from new development. The proposed revisions to the programme of SPDs and associated evidence base above would significantly enhance the Council's ability to negotiate effective legal agreements on new development and bring significant benefit in this regard.
- 8.26. Given the progress and presently anticipated outcomes of the Local Plan examination, in concert with the Government's stated timetable for progressing the White Paper proposals, it is presently considered most appropriate to focus resources towards ensuring the Council has the right tools to appropriately guide the most significant development schemes in the District. These will be the substantive legacy of the Plan as well as providing major opportunities to positively address the key priorities identified in this report and the revised Climate Change Strategy and Action Plan.
- 8.27. On balance, and having regard to the issue of Local Plan implementation and resourcing in the round, it is therefore recommended that Community Infrastructure Levy is not pursued at this time. However, as above, this matter should be revisited once the proposed programme of works in this report is substantially progressed – thereby freeing up officer resource – and / or there is greater clarity on the Government's proposals and timetable for planning reform.

9. LEGAL IMPLICATIONS

- 9.1. Under the Terms of Reference for Cabinet, paragraph 5.6.8 of the Constitution states that the Cabinet may monitor quarterly revenue expenditure and agree adjustments [to the revenue budget] within the overall budgetary framework.
- 9.2. Under the Terms of Reference for Cabinet, paragraph 5.6.18 of the Constitution states that the Cabinet may exercise the Authority's functions as Local Planning Authority (except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory).
- 9.3. The legal framework for the production of Supplementary Planning Documents and 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.
- 9.4. The provisions for planning obligations are set out under Section 106 of the Town and Country Planning Act 1990. The process for introducing a Community Infrastructure Levy is set out in Section 211 of the Planning Act 2008 and a variety of accompanying regulations.

10. FINANCIAL IMPLICATIONS

- 10.1. There are no new revenue implications arising from this report. It is proposed that the recommendations are funded through the reallocation of existing, approved budgets.

- 10.2. As set out above the approved budget for 2021/22 includes revenue funding of £80,000 and £87,000 associated with the Single Issue Review and Community Infrastructure Levy respectively. It is proposed that these budgets are reassigned to support the recommendations of this report.
- 10.3. A high-level estimate is that approximately £150,000 of revenue expenditure would be required to deliver these recommendations. Allowing for contingencies, this could be accommodated from the existing £167,000 funding identified above. The revenue costs of the proposed revised programme would primarily consist of expert consultancy support on design, biodiversity and green infrastructure matters to support the production of the proposed SPDs and provide the necessary evidence base to underpin the approach to masterplanning and securing of developer contributions.
- 10.4. The revised SPD work can only be afforded by the reallocation of the budget from the Single Issue Review and Community Infrastructure Levy (i.e. not undertaking that work). The total spend from carrying out all these pieces of work would significantly exceed the budget available. The extent of the budget required for all the work, in the context of the overall financial position of the Council, would require a decision by Full Council.

11. RISK IMPLICATIONS

- 11.1. The Council's new risk Management Framework specifies that we will now actively manage and monitor risks scoring 4 or higher on the risk matrix.
- 11.2. The Local Plan holds a current risk score of 9. In relation to this report, the risk identifies potential consequences of development which is not sustainable or harms the environment. The proposed programme of work is aimed at mitigating this risk and addressing identified gaps in current environmental evidence to inform detailed scheme design as the proposed allocations in the Plan are brought forward.
- 11.3. Open Space in Major New Developments has a risk score of 8. A more structured and evidence-based approach to green infrastructure and biodiversity should ensure that future developments include open spaces that meet identified needs and requirements, including appropriate arrangements for their long-term management.
- 11.4. Delivering the NHDC Climate Change Strategy has a risk score of 6 noting potential consequences might include a failure to reduce impact on the local environment to the expected level.
- 11.5. Section 106 and Community Infrastructure Levy holds a current risk score of 5. The risk recognises the potential failure to make required improvements to infrastructure and also the balance to be struck between resource implications and contributions in any consideration of introducing a Community Infrastructure Levy.

12. EQUALITIES IMPLICATIONS

- 12.1. None

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report. Subject to approval of its recommendations, any procurement will be conducted in accordance with the Council’s contract standing orders.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. Any Supplementary Planning Documents (SPD) must be ‘screened’ to determine whether statutory environmental assessment is required which would consider the social, economic and environmental implications of proposed policies and allocations. Any SPD must relate to an adopted Local Plan policy. These SPDs are planned to support the new Local Plan which has been subject to statutory environmental assessment. This revised programme of work has been co-ordinated to support the Council’s revised Climate Change Strategy.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The Strategic Planning & Enterprise team is not fully staffed with one permanent vacancy and one new Project Officer post approved as part of the budget setting process for 2021/22. Subject to the outcome of this report, managers will ensure the staffing structure within the team is aligned with the future work programme and seek to recruit to vacant posts.

16. APPENDICES

- 16.1 Appendix A – North Hertfordshire Masterplanning Principles

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18. BACKGROUND PAPERS

- [Review of North Hertfordshire Planning Guidance – report to Cabinet July 2017](#)
- [Draft Developer Contributions SPD – report to Cabinet January 2020](#)
- [Peer Challenge Action Plan – report to Cabinet June 2020](#)
- [Housing Delivery Test Action Plan – report to Cabinet June 2020](#)
- [Draft Design SPD – report to Overview & Scrutiny Committee September 2020](#)
- [North Hertfordshire Local Plan – report to Extraordinary Full Council Meeting October 2020](#)