



12 June 2020

Our Ref Cabinet 23.06.20  
Contact. Committee Services  
Direct Dial. 01462 474655  
Email. [committee.services@north-herts.gov.uk](mailto:committee.services@north-herts.gov.uk)

To: Members of the Cabinet:

Councillor Martin Stears-Handscomb, Leader of the Council (Chair)  
Councillor Paul Clark, Deputy Leader of the Council, Executive Member for Planning and Transport (Vice-Chair)  
Councillor Ian Albert, Executive Member for Finance and IT  
Councillor Judi Billing MBE, Executive Member for Community Engagement  
Councillor Elizabeth Dennis-Harburg, Executive Member for Recycling and Waste Management  
Councillor Gary Grindal, Executive Member for Housing and Environmental Health  
Councillor Keith Hoskins MBE, Executive Member for Enterprise and Co-Operative Development  
Councillor Steve Jarvis, Executive Member for Environment and Leisure

Deputy Executive Members: Councillors Ruth Brown; Ian Mantle; Sam North; Helen Oliver; Sean Prendergast; Carol Stanier and Kay Tart.

**NOTICE IS HEREBY GIVEN OF A  
MEETING OF THE CABINET**

to be held as a

**VIRTUAL MEETING**

on

**TUESDAY, 23RD JUNE, 2020 AT 7.30 PM**

Yours sincerely,

Jeanette Thompson  
Service Director – Legal and Community

**\*\*MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION ON YOUR TABLET BEFORE ATTENDING THE MEETING\*\***

## **Agenda** **Part I**

<b>Item</b>	<b>Page</b>
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chair will decide whether any item(s) raised will be considered.	
<b>3. CHAIR'S ANNOUNCEMENTS</b> <u>Climate Emergency</u> Members are reminded that this Council has declared a Climate Emergency. This is a serious decision and means that, as this is an emergency, all of us, officers and Members have that in mind as we carry out our various roles and tasks for the benefit of our District.  <u>Declarations of Interest</u> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
<b>4. PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from the public.	
<b>5. ITEMS REFERRED FROM OTHER COMMITTEES</b> Any Items referred from other committees will be circulated as soon as they are available.	
<b>6. STRATEGIC PLANNING MATTERS</b> REPORT OF THE SERVICE DIRECTOR – REGULATORY  To receive a report which identifies the latest position on key planning issues affecting the District.	(Pages 7 - 34)

7. **DISTRICT WIDE SURVEY 2019 - KEY FINDINGS** (Pages  
REPORT OF THE COMMUNICATIONS MANAGER 35 - 50)
- To advise Cabinet of the key findings and action points arising from the 2019 District Wide Survey.
8. **HITCHIN MARKET - NEW CONTRACT** (Pages  
REPORT OF THE COMMERCIAL MANAGER AND THE SERVICE 51 - 56)  
DIRECTOR – COMMERCIAL
- To seek approval for the new management contract regarding Hitchin Market.
9. **CORPORATE PEER CHALLENGE ACTION PLAN** (Pages  
REPORT OF THE DEPUTY EXECUTIVE 57 - 78)
- To consider and approve the Corporate Peer Challenge Action Plan.
10. **SHAPING OUR FUTURE - ORGANISATIONAL DEVELOPMENT** (Pages  
REPORT OF THE CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE 79 - 86)
- To set out and agree outcomes for the 'Shaping Our Future' Programme and to consider and establish a working group and associated proposed terms of reference and membership.
11. **HOUSING DELIVERY TEST ACTION PLAN** (Pages  
REPORT OF THE SERVICE DIRECTOR – REGULATORY 87 - 116)
- To consider and approve for implementation the Housing Delivery Test Action Plan.
12. **REGULATION OF INVESTIGATORY POWERS ACT ('RIPA') UPDATE** (Pages  
**AND ANNUAL REVIEW** 117 -  
REPORT OF THE SERVICE DIRECTOR – LEGAL AND COMMUNITY AND 158)  
MONITORING OFFICER
- This report provides an annual update and proposed amendments to the Council's current RIPA Policies following an inspection and report.
13. **REVENUE BUDGET OUTTURN 2019/20** (Pages  
REPORT OF THE SERVICE DIRECTOR - RESOURCES 159 -  
172)
- Inform Cabinet of the summary position on revenue income and expenditure as at the end of the financial year 2019/20.
14. **INVESTMENT STRATEGY (CAPITAL AND TREASURY) END OF YEAR** (Pages  
**REVIEW 2019/20** 173 -  
REPORT OF THE SERVICE DIRECTOR – RESOURCES 200)
- To consider the Investment Strategy (Capital and Treasury) End of Year Outturn Review 2019/20.

- 15. GARDEN WASTE COLLECTION SERVICE IMPACTS OF COVID** (Pages  
REPORT OF THE SERVICE DIRECTOR – PLACE 201 -  
206)
- To consider and agree initiatives and recompense that recognises the inconvenience caused to our residents by the impact of Covid 19 on the collection of garden waste.
- 16. BUSINESS CONTINUITY PLANNING UPDATE** (Pages  
REPORT OF THE DEPUTY CHIEF EXECUTIVE AND SERVICE DIRECTOR 207 -  
– LEGAL AND COMMUNITY 210)
- The report provides an update on actions following the part 2 exempt report of 24 March 2020 and resolutions from the urgent part 2 decision taken on 3 April 2020.
- 17. COMMERCIAL WASTE COLLECTION SERVICE - IMPACTS OF COVID-19** (Pages  
REPORT OF THE SERVICE DIRECTOR – PLACE 211 -  
216)
- To consider the impact of Covid 19 on the commercial waste collection service and consider what charges should be made for the 1st Quarter.
- 18. EXCLUSION OF PRESS AND PUBLIC**
- To consider passing the following resolution:
- That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A of the said Act
- 19. BUSINESS CONTINUITY PLANNING UPDATE** 217 -  
REPORT OF THE DEPUTY CHIEF EXECUTIVE AND SERVICE DIRECTOR 220  
– LEGAL AND COMMUNITY
- The report provides an update on actions following the part 2 exempt report of 24 March 2020 and resolutions from the urgent part 2 decision taken on 3 April 2020.
- 20. COMMERCIAL WASTE COLLECTION SERVICE - IMPACTS OF COVID-19** 221 -  
REPORT OF THE SERVICE DIRECTOR – PLACE 226
- To consider the impact of Covid 19 on the commercial waste collection service and consider what charges should be made for the 1st Quarter.

**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: STRATEGIC PLANNING MATTERS**

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**

1.1 This report identifies the latest position on key planning issues affecting the District.

**2. RECOMMENDATIONS**

2.1. That the report on strategic planning matters be noted.

2.2. That the submissions in Appendices A to E be noted and endorsed by Cabinet.

**3. REASONS FOR RECOMMENDATIONS**

3.1. To keep Cabinet informed of recent developments on strategic planning matters and progress on the North Hertfordshire Local Plan.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1. None

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

5.1. The Executive Member for Planning and Transport and Deputy have been briefed on the matters set out above. The Local Plan Project Board is regularly consulted and updated upon matters affecting the ongoing Local Plan Examination.

**6. FORWARD PLAN**

6.1 This report does not contain a recommendation on a Key Executive decision and has therefore 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. As with previous reports, only those matters where there has been substantive new information or change are reported upon.

## 8. RELEVANT CONSIDERATIONS

### *Other Plans and Examinations*

- 8.1. **Central Bedfordshire** – A range of [additional information](#) has been submitted to the examination. This includes technical papers on housing, transport and employment and an updated sustainability appraisal. A consultation will be held on these documents in due course. This will assist the examiners in identifying the main issues for further hearing sessions which are anticipated later in the year. Details of any consultation and / or response by this Council will be included in future reports.
- 8.2. **Uttlesford** – The Uttlesford Local Plan was [withdrawn from examination in May 2020](#). This follows the significant concerns raised by the examining Inspectors in relation to the delivery of the proposed garden settlements, and the lack of assessment of potential alternatives to this approach. Work will now begin on a new plan for the authority.
- 8.3. **Welwyn Hatfield** – A response to the consultation on a revised preferred strategy was prepared with the Executive Member and submitted for consideration. This is attached at Appendix A. It reiterates this Council's view that North Hertfordshire would be unable to accommodate any shortfall in housing provision.
- 8.4. Further hearings that were due to take place in May 2020 were postponed due to Covid-19 and will be rearranged in due course (see update on our own Local Plan below).
- 8.5. **St Albans** – The Inspectors examining the new Local Plan [wrote to the Council](#) in April 2020 setting out their post-hearings concerns (as reported in January) in further detail. Whilst they do not represent final findings, it states there is a very strong likelihood that the either the Plan is withdrawn from examination or it is recommended for non-adoption because of a failure to meet the statutory Duty to Co-operate.

### *North Hertfordshire Local Plan*

- 8.6. As previously reported, scheduled hearings that were due to take place in March 2020 were postponed due to Covid-19. Initial guidance from the Planning Inspectorate placed all Local Plan hearings on hold.

- 8.7. This [guidance was updated on 28 May](#) 2020 following a [Written Ministerial Statement](#) (WMS) by the Secretary of State. This set out an expectation that moving to digital events and processes would be key to driving the planning system forward.
- 8.8. Following the WMS, the Inspector asked whether the Council was willing to explore the possibility of holding virtual hearings. The Council has responded positively having suggested this as a possible approach prior to the initial postponement of the sessions. More detailed feedback has also been provided by officers via the Programme Officer following liaison with the Council's retained legal representatives and the IT department. [The Planning Inspectorate will use Microsoft Teams as the platform for virtual events](#). The Council will need to ensure it can effectively participate in any sessions.
- 8.9. Hearings into the [South Oxfordshire Local Plan](#) are expected to act as the 'pilot' for digital Local Plan Examination hearings. These are due to take place in July 2020. Lessons learnt from this examination will be used to inform the approach taken to other examinations.
- 8.10. The Executive Member for Planning and Transport has written to the Secretary of State for Housing, Communities and Local Government seeking reassurances that the conclusion of our own Local Plan examination is seen as an equally high priority. This letter is attached as Appendix B. Any response will be reported to a future meeting.

### ***Neighbourhood Plans***

- 8.11. The Preston Neighbourhood Plan was made on 3 April 2020. The Preston Neighbourhood Plan is now part of the statutory Development Plan and will be used in relevant decisions.
- 8.12. Consultation on the Baldock, Bygrave and Clothall Neighbourhood Plan closed on 25 March 2020. A total of 10 individuals and organisations responded to the consultation, with a total number of 56 representations. All of the representations are [available to view on the website](#) and the District Council's response is attached as Appendix C.
- 8.13. Consultation on the application to designate part of the parish of Rushden and Wallington as a neighbourhood planning area Wallington was undertaken in February and March 2020. Only two responses were received, neither of which raised any objections to the proposed designation. The neighbourhood planning area for Wallington was confirmed by a delegated decision made on 24 April 2020.

### ***Government Announcements and measures relating to Covid-19***

- 8.14. In response to the Covid-19 pandemic, the Government has altered various planning requirements and regulations. These include, but are not limited to:
- Issuing regulations to allow planning committees to take place 'virtually';
  - Suspending all referenda on neighbourhood plans until May 2021;
  - Temporarily relaxing restrictions on overnight deliveries to supermarkets;

- Allowing builders to apply for variation of planning conditions that restrict working hours. Local planning authorities have been asked to look favourably and quickly at requests to extend working up to 9pm Monday to Saturday. Extending working beyond these hours may be justified in some cases; and
  - Authorising restaurants to temporarily operate as takeaways without the need for planning permission.
- 8.15. The Council's response to the Government's [Housing Delivery Test results](#) (reported to Cabinet in March) is subject to a separate report to this meeting.

***London Luton Airport***

- 8.16. Officer meetings regarding the proposed expansion for Luton Airport and the Luton Airport Regional Forum have been placed on hold during the Covid-19 pandemic, while LLAL evaluate the implications of the Covid 19 situation for the project and consider the impact of the Heathrow decision. LLAL are currently considering the responses to the Statutory consultation as well as sustainable aspects of running an airport, and as such have [stated on their website](#) that they will not be submitting their Development Consent Order application in June 2020, as originally outlined.

***Other transport, planning and infrastructure matters***

- 8.17. **Hertfordshire Rail Strategy** – an Officer response was submitted on 30<sup>th</sup> March to the Hertfordshire County Council Rail Strategy consultation, attached as Appendix D.
- 8.18. **North & Central Hertfordshire Growth Transport Plan** – a consultation response was submitted on 30<sup>th</sup> March and is attached as Appendix E.
- 8.19. **DfT Rural Mobility Fund** – The Council have submitted a joint application bid with East Hertfordshire District Council and Hertfordshire County Council to the Department for Transport (DfT) to fund a new 'Demand Responsive Transport' (DRT) bus service. The bid is to provide a service for the rural North East of Hertfordshire, centred on Buntingford. It will offer travel within this area and to six key towns that surround it, with a target rural population of 36,000. It is planned to operate the service as one sizable zone in the rural area centred around Buntingford. Users would board in this zone for travel either within the zone or to one of the six external nominated destination towns: Stevenage, Royston, Hitchin, Letchworth, Baldock or Bishops Stortford.
- 8.20. The DfT will announce over the summer those bids that have been shortlisted for Phase 2. Those that are shortlisted for Phase 2 will then work with the DfT to prepare more detailed business cases when the final decision on successful bids will take place in Autumn 2020, with a potential launch date in Spring 2021 should the service go-ahead. Further details of the bid can be obtained by contacting the Transport Policy Officer (see Section 17).



- 8.21. **COVID-19 Emergency Active Travel Fund** – DfT have published details of the emergency active travel grant for new cycling and walking lanes; the East of England region is to receive £30m of which Hertfordshire has been awarded £8,489,000. This is to be made available in two tranches: Trance 1: £1,698,000 – immediate work; Trance 2: £6,791,000 – permanent measures. NHDC is waiting to receive more details from Hertfordshire County Council as to how this funding will be allocated and what schemes are being considered for North Hertfordshire.
- 8.22. **Other matters** – The [Article 4 Direction covering certain employment areas](#) within the District comes into force on 20 June 2020. From this point, proposals to convert office or light industrial units to residential use will require a planning application to be made to the District Council.
- 8.23. The previous Cabinet report explained that Stevenage’s planning committee had resolved to grant outline planning permission for the ‘North of Stevenage’ site identified in their Local Plan. This adjoins land proposed for development within North Hertfordshire’s own new Local Plan, known as ‘NS1’. The Secretary of State subsequently issued a holding direction. This means an approval cannot be issued until he has determined whether to call in the application for his own consideration.
- 8.24. Luton Borough Council’s Judicial Review proceedings against Central Bedfordshire’s decision to grant planning permission for a new road linking the M1 to the A6 around the north of Luton have been dismissed.

## **9. LEGAL IMPLICATIONS**

- 9.1. Under the Terms of Reference for Cabinet, the Constitution states that it may exercise the Council’s functions as Local Planning Authority and receive reports on strategic planning matters, applications for, approval/designation, consultation/referendums revocations (or recommend revocation) of neighbourhood plans and orders, (except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory).
- 9.2. The preparation of statutory plans is guided by a range of acts and associated regulations including the Planning and Compulsory Purchase Act 2004 (as amended) and the Localism Act 2011. All local planning authorities are bound by a statutory Duty to Co-operate on cross-border planner matters.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. There are no new financial implications arising from this report. The costs of preparing the Local Plan and running the examination are reviewed on a regular basis, and are reported through the quarterly revenue monitoring reports to Cabinet.
- 10.2. The general costs of preparing Supplementary Planning Documents, responding to consultations on neighbouring authorities’ Plans, neighbourhood plans and Government consultations and the other activities identified in this report are met through existing revenue budgets or benefit from external funding or other arrangements to recover costs.

10.3. In previous financial years, funding has been available for local planning authorities (LPAs) in respect of neighbourhood planning. LPAs could claim £20,000 once a date has been set for a referendum following a successful examination. The [Government has announced](#) it will allow local planning authorities to submit claims for new burdens grants at an earlier point in the neighbourhood planning process in 2020/21. Claims will be able to be made when the Council announces its decision to send the plan to referendum.

10.4. The financial risks associated with planning were reviewed and updated as part of the budget-setting cycle for 2020/21. Risks are identified in relation to potential additional costs associated with progressing the Plan or any future challenge to it.

## **11. RISK IMPLICATIONS**

11.1. Sustainable Development of the District and the Local Plan are both Corporate Risks. The Sustainable Development of the District has a sub-risk that covers the risks arising from the duty to co-operate with neighbouring authorities.

## **12. EQUALITIES IMPLICATIONS**

12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.

12.2. There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

## **13. SOCIAL VALUE IMPLICATIONS**

13.1. The Social Value Act and “go local” requirements do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

14.1. There are no known Environmental impacts or requirements that apply to this report.

## **15. HUMAN RESOURCE IMPLICATIONS**

15.1. There are no new human resource implications arising from the contents of this report. Workload and vacancies are monitored on an on-going basis.

## **16. APPENDICES**

- 16.1. Appendix A – Response to Welwyn Hatfield Local Plan consultation
- 16.2. Appendix B – Letter to Secretary of State re. Local Plan Examination
- 16.3. Appendix C - Response to Baldock, Bygrave & Clothall Neighbourhood Plan consultation
- 16.4. Appendix D – Response to Hertfordshire Rail Strategy
- 16.5. Appendix E – Response to Hertfordshire CC North Central Growth & Transport Plan

## **17. CONTACT OFFICERS**

- 17.1 Ian Fullstone, Service Director - Regulatory  
01462 474480 [ian.fullstone@north-herts.gov.uk](mailto:ian.fullstone@north-herts.gov.uk)

### **Contributors**

- 17.2 Nigel Smith, Strategic Planning Manager  
01462 474847 [nigel.smith@north-herts.gov.uk](mailto:nigel.smith@north-herts.gov.uk)
- 17.3 Louise Symes, Strategic Projects & Infrastructure Manager  
01462 474359 [louise.symes@north-herts.gov.uk](mailto:louise.symes@north-herts.gov.uk)
- 17.4 Clare Skeels, Senior Planning Officer  
01462 474424 [clare.skeels@north-herts.gov.uk](mailto:clare.skeels@north-herts.gov.uk)
- 17.5 Daniel Washington, Transport Policy Officer  
01462 474368 [daniel.washington@north-herts.gov.uk](mailto:daniel.washington@north-herts.gov.uk)
- 17.6 Nurainatta Katevu, Property & Planning Lawyer  
01462 474364 [nurainatta.katevu@north-herts.gov.uk](mailto:nurainatta.katevu@north-herts.gov.uk)
- 17.7 Ian Couper, Service Director of Resources  
01462 474243 [ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk)
- 17.8 Kerry Shorrocks, Corporate Human Resources Manager  
01462 474224 [kerry.shorrocks@north-herts.gov.uk](mailto:kerry.shorrocks@north-herts.gov.uk)
- 17.9 Reuben Ayavoo, Policy and Community Engagement Manager  
01462 474212 [reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk)

## **18. BACKGROUND PAPERS**

- 18.1 None

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**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

*Correspondence address:*

North Hertfordshire District Council, PO Box 10613, Nottingham, NG6 6DW

Telephone: (01462) 474000

Text Phone: (01462) 474800

DX324201, Nottingham 59



27 March 2020

Mrs Sue Tiley  
Planning Policy  
Welwyn Hatfield Borough Council

Our Ref: LP/14DtC/WH  
Your Ref:

By email only

Contact Officer : Clare Skeels  
Direct Line : 01462 474424  
E-mail : [clare.skeels@north-herts.gov.uk](mailto:clare.skeels@north-herts.gov.uk)

Dear Mrs Tiley

**Welwyn Hatfield Local Plan – Proposed Changes to the Submitted Local Plan 2016 (Site Allocations) – February 2020**

Thank you for the opportunity to make comments on the Proposed Changes to the Submitted Local Plan 2016 consultation document.

North Hertfordshire District Council (NHDC) notes that following the examination hearing sessions, the Inspector has confirmed that the evidence presented justifies a full objectively assessed need for 800 dwellings per annum therefore the decision to consult on additional sites which will not meet the full objectively assessed need is questionable.

The consultation does not set out whether or how you intend to address the housing shortfall. I would reiterate the position set out in the agreement between our authorities (your reference DTC/2). This makes clear that no further growth could be sustainably accommodated in those parts of NHDC identified by your Council as forming part of a shared housing market area.

It is noted that Full Council will make a final decision on which changes to housing allocations it proposes to submit to the Inspector for examination.

NHDC has an interest in those sites which are close to the administrative boundary, particularly in Oaklands and Mardley Heath, Woolmer Green and Welwyn. As set out in our previous comments, we are concerned that there are insufficient infrastructure and mitigation measures to accommodate the additional development that is proposed. In particular, the Site Selection Background Paper 2019 (pg93) suggests that the construction of a new 2FE primary school at Knebworth might provide additional capacity in the primary school planning area. An allocation for a new primary school has been factored into the North Hertfordshire Local Plan in association with the levels of growth planned for Knebworth itself. The Infrastructure Delivery Plan for North Hertfordshire has been prepared in the context of the allocations in the Local Plan but does not take into account any additional development on the periphery of the adjoining authorities.

Our understanding is that Hertfordshire County Council's present strategy is to absorb additional demand from this part of Welwyn Hatfield through expansion of Welwyn primary North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF

David Scholes  
Chief Executive

[www.north-herts.gov.uk](http://www.north-herts.gov.uk)

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school. However, there will inevitably be some parental preference (from Woolmer Green in particular) for school places in Knebworth. This issue needs to be clearly understood and articulated so that development contributions can be appropriately collected and spent.

If these additional sites are included in the Local Plan to meet the objectively assessed need, NHDC would anticipate that additional work will be required to ensure that appropriate mitigation measures have been identified and that they are included in the allocation policies.

As outlined in our response to the “Promoted Sites Consultation 2019”, we would reiterate that you have regard to the aims of the emerging North Hertfordshire Transport Strategy and the detailed policy wording included in our Plan (as proposed to be modified) in relation to infrastructure and cumulative impacts. In particular, we would highlight the policy criteria attached to our own proposed sites in Codicote and Knebworth. At this stage, we request that any sites pursued by Welwyn Hatfield in close proximity to these settlements seek to incorporate similar requirements and / or do not frustrate the implementation of sites within North Hertfordshire.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Clark', written in a cursive style.

Councillor Paul Clark  
Executive Member for Planning and Transport



05 June 2020

The Rt. Hon Robert Jenrick MP

Secretary of State for Housing, Communities  
and Local Government

By email

Contact Officer: Ian Fullstone, Service  
Director - Regulatory  
01462 474480  
E-mail: [ian.fullstone@north-  
herts.gov.uk](mailto:ian.fullstone@north-herts.gov.uk)

Dear Mr Jenrick,

### **North Hertfordshire Local Plan Examination**

This month marks the third ‘anniversary’ since North Hertfordshire submitted its new Local Plan to the Secretary of State for Examination in June 2017.

We fully understand and accept the need for robust and transparent public examination of local authorities’ proposals. However prolonged examinations such as ours result in local communities living with years of uncertainty, undermining trust in the integrity of the system.

More than 80 plans have been submitted for examination and subsequently found sound since the start of 2016. The average length of these examinations is 15 months. Our examination is entering its 37<sup>th</sup> month.

As a tightly constrained authority, with Green Belt surrounding many of our main towns and villages, there are limits to which North Hertfordshire can increase the delivery of new jobs and homes – to the benefit of residents and the economy – in advance of the examination’s outcome.

In turn, this leaves North Hertfordshire open to unplanned development, contrary to the most basic principles of the planning system. We are presently unable to demonstrate a five-year housing land supply. Under the National Planning Policy Framework’s Housing Delivery Test we are currently shown as being one of the ten worst authorities in the country.

However, this apparent poor performance is significantly at odds with the reality of our new Local Plan. At the point of submission our Plan sought to meet North Hertfordshire’s objectively assessed development needs in full despite the significant challenges of doing so. It also proposes positive contributions, under the statutory Duty to Cooperate, towards unmet housing and employment needs from the constrained neighbouring authorities of Luton and Stevenage respectively.

Resumed hearings were due to be held in March 2020. These were rightly postponed by the Inspector, with the support and agreement of this Council, due to the impacts of Covid-19.

Following your recent announcement, urging the the use of digital technologies to drive the planning system forward, it is imperative that North Hertfordshire's Local Plan Examination is progressed to its conclusion as soon as is practicable so this authority can turn its focus to delivery to meet the needs of its residents and assisting in the post-Covid recovery.

We note that South Oxfordshire is being used as the pilot Authority for virtual Local Plan hearings and assume this priority status is linked to your Direction that their Plan must be examined and adopted by the end of the year.

Our latest Housing Delivery Test Action Plan is due to be reported to our Cabinet at the end of this month. It identifies the progression and adoption of our Local Plan as the single most important measure for increasing delivery in North Hertfordshire.

We would welcome your reassurance that you are aware of our own circumstances and see the progression and conclusion of our own Examination as an equally high priority.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul Clark', written in a cursive style.

Councillor Paul Clark  
Deputy Leader and Executive Member for Planning and Transport  
North Hertfordshire District Council

Cc

The Rt Hon Sir Oliver Heald QC MP for North East Hertfordshire  
Mr Bim Afolami MP for Hitchin and Harpenden  
Mr Stephen McPartland MP for Stevenage  
Councillor David Williams, Leader of Hertfordshire County Council and Chairman of Hertfordshire Growth Board





24 March 2020

Strategic Planning Team  
North Hertfordshire District Council

Our Ref:  
Your Ref:

By email only

Contact Officer : Clare Skeels  
Direct Line : 01462 474424

Cc : Bygrave Parish Council

E-mail : [clare.skeels@north-herts.gov.uk](mailto:clare.skeels@north-herts.gov.uk)

**Baldock, Bygrave and Clothall Neighbourhood Plan 2018 – 2031 : Submission Version  
Regulation 16 – Public consultation  
Comments made on behalf of North Hertfordshire District Council**

The District Council welcomes the publication of the Submission Version of the Baldock, Bygrave and Clothall Neighbourhood Plan and appreciates the significant amount of work undertaken by Baldock, Bygrave and Clothall Planning Group, Bygrave Parish Council and Clothall with Luffenhall Parish Meeting in reaching this stage in the preparation of the Neighbourhood Plan.

In reviewing the submitted Neighbourhood Plan documents, it is clear that a substantial amount of public consultation has taken place during the preparation of the neighbourhood plan and that this is reflected in the comprehensive Consultation Statement. The attached comments reflect that many of the issues raised previously by the District Council both in discussions and in the formal comments submitted have been addressed and that this is clearly set out in the accompanying Consultation Statement.

All neighbourhood plans must meet certain “basic conditions” before they can come into force. These are tested through the independent examination, before a plan can proceed to a referendum. The basic conditions for neighbourhood plans are to:

- have regard to national policy;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies in the development plan for the area; and
- be compatible with EU obligations.

In terms of compliance with existing planning policy, the Neighbourhood Plan Regulations are clear that the neighbourhood plan should be in “general” conformity with the current statutory Local Plan. The adopted local plan for North Hertfordshire is the District Local Plan No. 2 with Alterations, 1996.

Although a draft neighbourhood plan is not tested against the policies in an emerging local plan, Planning Practice Guidance does state that emerging evidence is likely to be relevant to the consideration of the basic conditions. The District Council acknowledges the significant amount of work that the Baldock, Bygrave and Clothall Planning Group has undertaken to ensure that

North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF

the neighbourhood plan has been prepared having regard to the emerging policies in the Local Plan, which is at a relatively advanced stage of preparation.

The District Council is satisfied that the Baldock, Bygrave and Clothall Neighbourhood Plan is in general conformity with the saved policies from the District Local Plan No. 2 with Alterations, 1996 and has regard to national planning policy.

In submitting these representations, it should be clear that the District Council supports Bygrave Parish Council's ambition to put into place a neighbourhood plan for the combined parishes of Bygrave and Clothall with Baldock. The District Council will continue to work with the Parish Council and the Baldock, Bygrave and Clothall Planning Group in the next stages of the neighbourhood plan.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Clark', written in a cursive style.

Councillor Paul Clark  
Executive Member for Planning and Transport

There are a number of detailed comments on the submitted version of the Baldock, Bygrave and Clothall Neighbourhood Plan which are set out below:

Policy G1 : Improving access and parking  
Page 9 – 1<sup>st</sup> and 2<sup>nd</sup> paragraphs

It is acknowledged that the evidence for the neighbourhood plan demonstrates that the community are in favour of providing more car parking for the railway station. However, there needs to be a balance between the provision of additional car parking for the railway station, managing on-street car parking and the need to encourage people to use sustainable modes of transport and indeed the supporting text for Policy G1 has been amended to reflect this. However, the District Council is concerned that the neighbourhood plan continues to suggest that the use of BE2: Royston Road might be considered suitable of the provision of additional car parking. As stated in the representations to the Regulation 14 version of the neighbourhood plan, the District Council could only support this if:

- i. there is evidence to demonstrate that the loss of employment land would not materially impact upon the strategic employment aims of the Local Plan;
- ii. an alternate site was identified where an equivalent amount of employment could be re-provided; and / or
- iii. that the impacts of providing car parking in this location both in terms of car movements and upon sustainable travel can be demonstrated.

Policy E5 : Development north of the railway  
Page 25

The policy in the Regulation 14 version of the neighbourhood plan stated that there should be a clear visual and physical gap (of at least 250m) between the expanded built edge of Baldock and Lower Bygrave. In its' representations, the District Council stated that to support the proposal for this "gap" there should be evidence to justify the distance and that there should be no conflict with the overall aims in the emerging Local Plan to deliver 2,800 homes and associated infrastructure. The amendment to the policy to remove the reference "*(of at least 250m)*" is welcome and it is acknowledged that the evidence commissioned by the Baldock, Bygrave and Clothall Planning Group addresses the physical and visual gap between the expanded built edge of Baldock and the existing settlement of Bygrave.

Policy V1 : Bygrave Village and Policy V2 : Clothall and Luffenhall  
Pages 32 and 33

Criterion (a) of both these policies should be amended to incorporate the phrase "except in very special circumstances" to ensure consistency with the approach to Green Belt in paragraph 143 of the National Planning Policy Framework.

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## **Nigel Smith**

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**From:** Daniel Washington  
**Sent:** 30 March 2020 12:03  
**To:** LTP@hertfordshire.gov.uk  
**Subject:** Hertfordshire County Council Rail Strategy Consultation

Dear Sir/Madam,

On behalf of NHDC (North Hertfordshire District Council), thank you for this opportunity to respond to HCC's (Hertfordshire County Council's) Rail Strategy Consultation. ***Please note that this an updated response from the previous one I submitted earlier and as such should replace it – thanks.***

NHDC supports both the role and purpose of the Rail Strategy, providing a means for HCC, both directly and on behalf of the ten Boroughs and Districts in Hertfordshire to engage Government, rail industry and stakeholders to promote rail services and future investment in Hertfordshire for the benefit of residents, visitors and the wider economic development across the county.

In response to the consultation, NHDC would like to highlight the following points for your consideration in the final version of the Rail Strategy:

### **Introduction**

#### **1.4 Hertfordshire County Council's Role:**

- NHDC both recognises and fully supports the list of activities that HCC currently undertakes to support rail growth in Hertfordshire, as such we would argue in the strongest terms that these continue to be maintained and where opportunities are available, seek to build on these further. As such, NHDC will always welcome opportunities to collaborate with HCC, the rail industry and stakeholders to this end.

### **Overall Aspirations**

#### **3.2 Service Levels:**

- NHDC fully supports HCC's wishes for future train service levels, both with regards to minimum frequencies and first/last trains, to/from London, especially from stations in North Hertfordshire.
- NHDC also strongly supports Stevenage continuing as an InterCity rail head, which benefits local residents in North Hertfordshire as for those travelling to/from destinations on the East Coast Mainline as this serves to avoid having to travel into and back out of Central London.

#### **3.4 Access to Stations:**

- NHDC fully supports the aspirations of HCC to encourage the use of sustainable transport modes for the 'last mile' journey to access stations, as part of station travel plans. As such NHDC would welcome opportunities to work with HCC, train and bus operators, local stakeholders and communities on projects and schemes to promote these opportunities at all five stations in North Hertfordshire, (Knebworth, Hitchin, Letchworth Garden City, Baldock and Royston). In addition, recognising that many residents in the District regularly

use Ashwell & Morden Station, which although is just within Cambridgeshire, NHDC would also welcome opportunities to incorporate a similar approach for this station, with the above partners and Cambridgeshire County Council.

### **3.8 Interchanges:**

- NHDC welcomes HCC's ongoing commitment to enhance interchange facilities at stations, to encourage the use of sustainable modes, including buses and/or public transport and taxis for first/last journeys to/from stations. Whilst recognising that there can be limitations for a variety of reasons, including accessibility, land ownership, etc. NHDC, working in partnership with relevant borough and district councils will welcome all opportunities to see interchange improvements at all five stations in the District, as well as Ashwell & Morden Station.

### **East Coast Main Line**

- NHDC supports most of the aspirations that HCC have listed for the East Coast Main Line, seeing each of them having benefits for residents, businesses and visitors to North Hertfordshire, with the following provisos:
  - We would like to see Hitchin Station Eastern Access prioritised. Currently access to/from the station is on the western side only exacerbates the bottleneck as pedestrians and vehicles on the eastern side of the railway have to funnel under the existing narrow bridge on the A505. With the planned new housing development, including the strategic site at Highover Farm, plus the existing North Hertfordshire College campus, there is an urgent need to identify ways to open up the eastern access to Hitchin Station to release some of this pressure, that is expected to become more severe in the future if not mitigated.
  - We would welcome more details on the proposal for a new rail link between Stevenage and Luton, especially as the route would presumably be across North Hertfordshire between the two towns. Whilst NHDC welcomes investment in existing and new rail services that will benefit the District, it is difficult to give a view, either in support or against a proposed scheme when so little information has been provided. There will be considerable planning constraints that would need to be addressed and carefully considered before such a proposal could proceed.
- NHDC supports all the detailed station improvements needed that have been identified by HCC, we would add the following additional aspirations:
  - Knebworth – disabled access.
  - Letchworth Garden City – the introduction of a new interchange at the station, similar to Hitchin and/or Hatfield Station's to improve integration between sustainable transport modes as has been mentioned above.
  - Royston – improved bus/rail integration; currently the nearest bus stops are located away from the station acting as a disincentive to encourage bus use to/from the station. As such, we would welcome the opportunity to work with HCC, the rail industry, bus operators and local stakeholders to understand and identify ways to improve this.
  - We would welcome reference to Ashwell & Morden Station, given its usage by residents in the District and its very close proximity to Hertfordshire. Accepting that this may be considered an unusual proposal, should HCC be willing to do this then NHDC would be happy to offer our support.
  - NHDC is aware of the recent Cambridge Corridor Study (2019) study published by Network Rail which considers future rail capacity in the Cambridge area and the public consultation on the proposal for a new Cambridge South Station (2019). Whilst welcoming future investment in the rail network in Cambridge and

new Station for the wider benefits these will bring for commuters and other rail users in North Hertfordshire, we would strongly encourage HCC to be fully engaged in all future meetings and consultations in regards to these developments, to ensure that these don't inadvertently lead to any detrimental outcomes to the existing Cambridge line service between Hitchin and Cambridge.

## **Strategic Projects**

### **5.2 East West Rail:**

- NHDC fully supports the East West Rail project recognising the benefits it is expected to generate when it fully opens, providing new travel opportunities and contributing to the wider economic development both locally and across the wider region, as part of the Government's wider vision for the Oxford-Milton Keynes-Cambridge arc. Whilst the route of the new line itself won't pass through Hertfordshire, NHDC would encourage HCC to lobby in the strongest terms to champion improvements to both existing and future transport links, between the stations along the route and towns in North Hertfordshire, where appropriate, to ensure that local residents, businesses and visitors can still benefit from the new line when it opens.

## **Other Projects**

### **8.1 Community Rail:**

- NHDC fully supports the concept of Community Rail Partnerships and welcomes the recognition and ongoing commitment HCC gives towards Community Rail in Hertfordshire. NHDC currently has aspirations to see a Community Rail Partnership established along the Cambridge line that serves the stations in the District, including Knebworth and Ashwell & Morden Station's. As such, looking to the future, NHDC would welcome support from HCC to assist with the creation of a new CRP to this end in the District as and when the opportunity becomes available.

We hope that these comments and suggestions are helpful, being taken into consideration for the final version of the updated Rail Strategy; our thanks again for inviting NHDC to be able to provide comments and feedback.

Kind regards,

Daniel Washington  
Transport Officer  
Direct Dial: 01462 474368  
North Hertfordshire District Council  
Council Offices, Gernon Road  
Letchworth Garden City  
Hertfordshire  
SG6 3JF

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Telephone: (01462) 474000  
Text Phone: (01462) 474800

30 March 2020

Attention: Anushia Vettivelu  
Hertfordshire County Council  
Highways - Environment and Infrastructure

Our Ref: LP/Tspt/LettNC GTP  
Your Ref:  
Contact Officer:  
Direct Line: (01462)  
E-mail:

By email

Dear Anushia

**North Hertfordshire District Council's response to the North Central Hertfordshire Growth and Transport Plan Stage 3 Interventions Paper - Consultation Draft: January 2020**

North Hertfordshire District Council (NHDC) welcomes the opportunity to comment on the January 2020 North Central Hertfordshire Growth Transport Plan (NC GTP) consultation draft. Our response follows the same broad format as the on-line consultation form and the section headings within the document.

**1. Introduction**

While reference is made to LTP4, it is not clear what the life span the NC GTP covers, how it aligns with the NHDC emerging Local Plan and the adopted Stevenage BC Local Plan and how this is likely to be monitored and reviewed in light of new growth and development in the area as well as keeping abreast with technological innovations. This is considered important when referencing the wider strategic interventions and their likely impact on the area. Nor is there any mention of how Appendix B setting out the indicative cost range and timescales for the interventions has been prepared and how these are linked to the deliverability of the plan.

**3. Visions and Objectives**

**The NC GTP Vision**

Whilst NHDC fully supports and shares the vision outlined in the draft NC GTP, including highlighting recent improvements that have been made to the sustainable transport offer in the GTP area, specifically bus and train services, we feel it is important not to overlook express coach services. The express coach network in Hertfordshire is included in LTP4, however no mention is made in the NC GTP. As such, we feel these should be included, as part of the wider sustainable transport network. It is also felt that reference should be made to how the HCC propose to engage and work in partnership with Government, EEH (England's Economic Heartland), the District and Borough councils, neighbouring local authorities, the rail and bus operators, developers, other transport bodies and organisations in delivering the vision.

## Objectives

Whilst NHDC fully supports the six objectives that underpin the vision for the NC GTP, we feel that the following aims for buses, cycling and walking should form part of the overall vision from the outset:

- Consideration should be given to adopting an approach, where minimal bus service levels are provided for all towns and villages, based on population, providing guaranteed and regular connections to the nearest main centres and/or rail station for onward journeys. Whilst this approach may seem radical for Hertfordshire, this would not seem out of place in many comparable European countries, ensuring that all communities, irrespective of size are regularly served by local buses. Surely, in order to realise the full benefits of the vision of the NC GTP and LTP4, a similar step change in provision is required in Hertfordshire, if modal shift, patronage growth, congestion reduction and improvements to air quality are to be achieved. Linked to this, we have some concerns over the absence of any (generic) measures for the rural areas of the District. This includes the areas between / to the south of Baldock and Royston and south-west of Hitchin
- In the same way, adopting an approach that will seek improved, good quality, safe cycle and walking routes provided, connecting all towns and villages to the nearest main centres, again as would be common practice in the Netherlands and Denmark. The work currently being undertaken by NHDC, in producing an LCWIP (Local Cycling Walking and Infrastructure Plan) would be able to feed into this by identifying suitable routes, which can then be prioritised for future investment, leading to a high quality, high specification network of cycleways and footpaths in the GTP area.

Concern is raised over the lack of reference to partnership working and deliverability in these objectives and how these are reflected in prioritising the various interactions, and how these are referenced to appendix B.

## 4. Method Overview and 5 Prioritising Interactions

As per our comment above, there is lack of reference to partnership working and deliverability in these sections.

## 6. Proposed Packages

NHDC welcomes the acknowledgement and interest that is demonstrated in the NC GTP, in seeking to understand the future changes in transport use and demand, including:

- *Bus service improvements and the bus priority measures*
- *Improved interchanges between modes*
- *Mobility as a Service, (MaaS)*
- *Demand Responsive Transport (DRT)*
- *Electric Vehicles (EV's)*
- *Connected and Autonomous Vehicles (CAV's)*
- *Car ownership and car clubs*
- *Bike hire schemes*

- *Improved wayfinding*
- *Integrated and smart ticketing*
- *Travel Plans*
- *Joined up approach to future planning and transport*

It is important to understand the potential opportunities and possible challenges each of these policy aspects will likely pose, ensuring a consistent and complementary approach. This will ensure that residents, businesses and visitors are able to enjoy the benefits of all these transport schemes.

It should also be noted that several emerging NHDC strategies, including the North Hertfordshire Transport Strategy, LCWIP and Electric Vehicle Charging Strategy, are consistent with these aspirations outlined in the NC GTP. As such we would welcome ongoing opportunities to work with HCC, Government, EEH, the District and Borough councils, neighbouring local authorities, the rail and bus operators, developers, other transport bodies and organisations to ensure a consistent approach, both in the policy development and scheme delivery. Further, NHDC will always welcome opportunities to work with HCC and other partners to see pilot schemes undertaken in the District, that will seek to understand the potential for the full range of sustainable transport measures.

### **Strategic Interventions**

While we welcome reference to the wider strategic projects that are likely to impact on the area, the section on '*Luton Airport Expansion*', requires updating in light of the recent proposals by LLAL to increase passenger numbers to 32m ppa by 2050. This relates back to the point made above regarding the life span of this plan. Likewise, the section on the '*A505 and Major Road Network*', it is suggested that reference is made to the Royston to Granta Park study. It is suggested that HCC may wish to review the interventions listed in this section along with figure 8 to ensure that the NC GTP reflects the current status of these projects at the time of publication.

### **Proposals**

#### **Sustainable Travel Towns**

We welcome the commitment given to the Sustainable Travel Town concept, where possible we will look to work with local communities and HCC to support all the main towns, in the GTP area in North Hertfordshire, adopting this approach, for the recognised benefits that can be derived. Already, NHDC is supporting proposals for Letchworth Garden City and Royston to become Sustainable Travel Towns with local partners.

#### **Area Wide Interventions**

Whilst fully supporting all the measures listed in the Area Wide Interventions, we would also like to propose that the concept of undertaking car free days, as part of international car free day initiative, that is championed by Living Streets in the UK, as a further way to promote and encourage sustainable transport in the towns in the GTP area.

### **Packages**

NHDC welcomes and generally supports all 15 packages listed in the NC GTP and wishes to make comments on the following:

## **Stevenage – key connections to other towns**

### **Package 6 - Stevenage to Letchworth**

We support proposals for changes to the highway layout on Knebworth High Street (B197 London Road), due to the delays caused to local bus services caused by car parking on both sides of the road in this area. We would also like to see more detail given in the supporting text to Scheme SM93 regarding improvements to pedestrian and cycle links under the railway bridge to the station and to the centre of the village from the new developments at KB1, KB2, KB3 and KB4.

We support proposals for the B197 corridor between Stevenage and Welwyn and consider these should be replicated to the north of Stevenage along this route to Baldock.

We also feel we should highlight the issue of the planned closers on the A1(M), due to the proposed upgrades by Highways England, to install all lanes running, (Smart Motorways). This will affect the A1(M) between junctions 6 and 7, in both directions, which will see traffic diverted via the B197 which will heavily impact on Knebworth. It is important that consideration and possible mitigation measures be identified now, to keep any disruption to a minimum. In order to fully realise the potential benefits outlined in this package, specifically bus services, it will be crucial for any complementary measures in Luton to be delivered concurrently as referenced in Package 5. We would encourage officers at HCC to work with colleagues at Luton Borough Council and the bus operators, to ensure that a consistent approach to bus priority measures are undertaken, to ensure the smooth operation of routes 100/101 (Luton – Hitchin – Stevenage) throughout the journey.

In taking forward detailed scheme design(s) for cycle routes from Stevenage to Little Wymondley and Hitchin, consideration should be given to using existing connections via Todds Green to avoid conflict at Junction 8 of the A1(M).

Equally with regards to cycling, we would like to see consideration given to improving the existing cycle route between Luton and Hitchin be included as well. Currently a sign posted route, using a combination of off-road and on-road, we would argue that there is the opportunity here to consider investigating the potential for a new bespoke high specification cycle route, to encourage inter-urban cycling between the two towns. As is increasingly being seen in London with the introduction of 'cycle superhighways' and is growing in popularity in comparable European countries, we feel strongly that such an approach should be considered here.

## **Hitchin**

### **Package 7 - Hitchin Centre Including Rail Station**

We especially welcome and strongly support HCC's commitment to work with partners to seek to deliver a new eastern entrance to Hitchin Station, including pedestrian connectivity through the Station. With the planned new housing developments in the east of the town, including HT1 (Highover Farm), where 700 homes are planned, plus other smaller development sites, there will be growing pressure on access to the station. Already, the A505 and footway under the railway bridge adjacent to the station are a bottleneck, due to the limited space available. This situation is only likely to be exasperated, and realistically it is unlikely that the road can be widened and/or an additional footway added, unless at substantial cost and disruption.

## **Package 8 – North Hitchin and Industrial estate**

Figure 16 needs to show indicative links/reference for cycle routes and bus routes to site HT1 (note: this is incorrectly labelled as site H1 in the document).

## **Package 9 – West Hitchin**

At PR5 – there is also the potential for a cycle link from site HT1 to Letchworth to link in with the Letchworth Greenway, this option could be referenced in the text.

## **Package 10 - Hitchin to Letchworth/Baldock**

We strongly support the proposals contained in this Package to enhance cycling infrastructure between Hitchin, Letchworth and Baldock; building upon our comments to Package 6, we would like see consideration given to the introduction of bespoke, high specification cycle route introduced connecting the three towns. As has been identified in the overarching aim of the Package, the potential for encouraging journeys to be made between the towns is encouraging, given the short distance and direct route, which should be considered a great opportunity.

Further we would welcome the introduction of a cycle hub being introduced at Hitchin Station, as a further measure to support and encourage the take up of cycling in the town and surrounding area. As comparable examples for consideration we would cite the current cycle hubs at Watford, Dacorum, Leavesden and Stevenage elsewhere in Hertfordshire. It would be a welcome development to see a similar hub established at Hitchin Station, as such NHDC would welcome the opportunity work with HCC, Network Rail, Govia Thameslink, local stakeholders and the cycle hub provider to realise this.

## **Letchworth**

### **Package 11 – Letchworth Centre and Industrial Estate**

NHDC would like to see consideration given to improving pedestrian and cycle access within the Letchworth Industrial estate, including crossing points, particularly given the recent Aldi development at Avenue One and how these link to the North Herts Leisure Centre on the B656 and to the retail park at Third Avenue.

## **Baldock**

### **Package 13 – Baldock connectivity, rail station and development.**

Scheme SM103 makes reference to Baldock multimodal link roads. In the table this makes reference to a new strategic link as apart of the proposed BA1 site, yet in the supporting text reference is also made to sites BA2, BA3 and BA4. Clarity is sought as to what is meant by the term 'roads' and should be referenced accordingly in figure 21. Please note that the Council has proposed amendments to the boundaries of sites BA3 and BA4 which should be reflected for consistency. The employment site BA10 should be referenced in relevant diagrams and discussion as this will generate additional trips to, from and within the town.

The Council notes the opportunity for Baldock to become a more integrated sustainable town and would wish to work with HCC in exploring these opportunities, including the potential for the section of the A507 between the B656/A507 crossroads and the A505 to become a predominantly residential street.

## **Royston Connections**

### **Package 15 - Royston**

We strongly support the proposals contained in this Package to enhance the range and encourage the take-up of sustainable transport options, for journeys both within Royston and for interurban journeys. In addition to those already included we would like to see consideration be given to the following proposals:

- Bringing into public use the existing private farm bridge over the A505, including the hardened farm tracks either side of the bridge, to provide a new shared footpath and cycleway between Royston and Bassingbourn. This route has previously been proposed by Sustrans in their Royston Area Feasibility Study, (2014). This link would also significantly improve connectivity between the Hertfordshire and Cambridgeshire Rights of Way networks and provide greater choice for leisure activities, helping to address concerns over recreational impacts on Therfield Heath.
- That consideration be given to understanding potential sustainable transport options for journeys to destinations to the east of Royston to neighbouring villages. Whilst the potential for encouraging cycling trips towards Cambridge and villages to the north of Royston in Cambridgeshire is included, currently no consideration or mention is given to equivalent destinations to the east of the town, either by bus or cycling.
- Improved bus/rail integration at Royston Train Station; currently the nearest bus stops are located away from the station acting as a disincentive to encourage bus use to/from the station. As such, we would welcome the opportunity to work with HCC, the rail industry, bus operators and local stakeholders to understand and identify ways to improve this.
- We welcome the proposal to improve Royston Bus Station; currently we feel that it is somewhat neglected asset and an unattractive location to wait for a bus and/or coach, (National Express coach services call at the Bus Station as well). Being located adjacent to the high street by the shopping arcade, market, library and community facilities, we envisage that a revitalised bus station, served by all bus routes, could act as a main transport hub and interchange, encouraging further economic development in the town centre. As such, we would welcome the opportunity to work with HCC, bus operators and local stakeholders to design and deliver this scheme.

## **7: Conclusion**

It is suggested that this section should comprise of subheadings to assist the reader, including a 'next steps' heading to make it clear on how the GTP should be taken forward. The plan needs to be clear on who how the GTP should be delivered including reference to Appendix B and setting out a pathway from the packages in this document to the identification of specific schemes to their design and implementation. More detail is required explaining Appendix B – as the list of Interactions are not clear, nor are the timescales, and what is meant by 'if delivered in isolation' as to who would be responsible for the delivery of these packages, how would these be funded. It is the Council's view that we would expect HCC as the Highway Authority to lead on these packages, working in partnership with Government, EEH, NHDC, SBC, neighbouring local authorities, various transport bodies and providers, developers and local organisations. By way of context, the latest infrastructure information submitted to our Local Plan examination identifies approximately £25m to be allocated to transport infrastructure measures. This broad figure has been tested through the examination hearings. The measures for North Hertfordshire in the emerging NC GTP amount to ~£30m - £75m and this 'funding gap' will need to be addressed for the NC GTP is to be effectively implemented

It is unclear whether there are certain trigger points at which individual measures become necessary – in terms of time, quanta of growth or specific development schemes. Some measures may be delivered on-site (such as the link roads at Baldock) or through site-specific s278 works. Other schemes are more likely to be delivered through pooled contributions from multiple sources. Greater clarity is required to enable effective negotiation of planning applications and Section 106 contributions and CIL.

We will need to regularly update our own Infrastructure Delivery Plan, Transport Strategy and associated documents over the lifetime of both the NC GTP and our own Local Plan. We would welcome an ongoing dialogue on these matters to ensure that documents and strategies produced by our respective organisations are consistently aligned. We hope that these comments and suggestions are helpful, and we would like to see these being taken into consideration for the final version of the NC GTP; our thanks again for inviting NHDC to be able to provide comments and feedback.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Clark', written in a cursive style.

Cllr Paul Clark  
Executive Member for Planning and Transport

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**CABINET  
24 MARCH 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: DISTRICT WIDE SURVEY 2019 – KEY FINDINGS**

REPORT OF: THE COMMUNICATIONS MANAGER

EXECUTIVE MEMBER: LEADER OF THE COUNCIL

CURRENT COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

NEW COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

**1. EXECUTIVE SUMMARY**

1.1 To advise Cabinet of the key findings and action points arising from the 2019 District Wide Survey.

**2. RECOMMENDATIONS**

2.1 That Cabinet comment on and note the key findings and observations from the District Wide Survey.

2.2 That Cabinet note that the results will be considered by Senior Management Team in conjunction with Executive Members, to inform the service planning process and future consultation activity.

**3. REASONS FOR RECOMMENDATIONS**

3.1 To ensure that Cabinet is aware of the results and any trends from previous surveys and how the results will be used to inform future service delivery.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 None

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

5.1. The biennial District Wide Survey is one of the Council's key mechanisms for seeking the views and opinions of North Hertfordshire residents on a range of services and issues. The Leader of the Council with responsibility for consultation and the Senior Management Team, have been briefed on the key findings from the report. The results will also be shared at a staff briefing.

## **6. FORWARD PLAN**

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on 1 November 2019.

## **7. BACKGROUND**

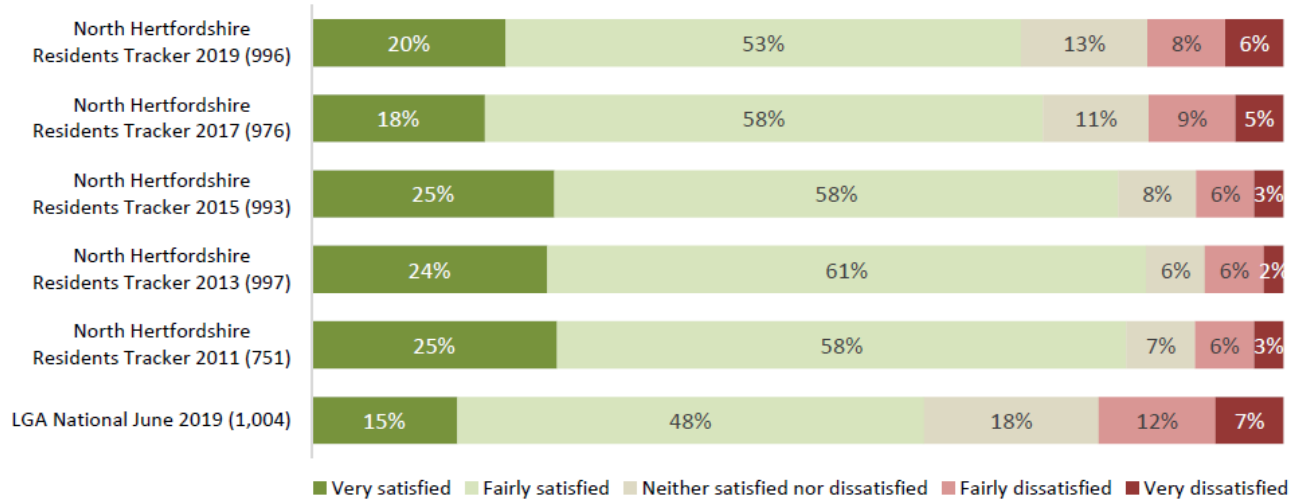
- 7.1 The 2019 District Wide Survey was carried out in line with the Council's agreed Consultation Strategy 2015-2020. The survey is carried out every two years in order to capture residents' views and perceptions of services and facilities provided by the Council.
- 7.2 Opinion Research Services, an independent research agency, were commissioned by the Council to carry out the research on our behalf. They conducted 1000 telephone interviews of North Hertfordshire residents between 7 October 2019 and 19 January 2020. Quota controls were used to ensure a representative sample. The returned sample was subsequently weighted by tenure, working status, ethnic group, age and gender to achieve results which are broadly representative of the North Hertfordshire population.
- 7.3 The question set remains largely consistent from one survey exercise to the next (with some minor variations) to allow benchmarking from year to year. Comparisons with previous results are made at appropriate points in the survey. Prior to 2011 the survey was carried out face to face rather than on the telephone and therefore those results are not directly comparable. Comparisons with national figures are, in the main taken from the Local Government Association national survey, which is carried out three times a year with around 1,000 British adults by telephone.
- 7.4 The results of the survey will be considered by the Senior Management Team in conjunction with Executive Members to help inform the Council's service delivery plan and service action plans and to plan potential future consultation activity.
- 7.5 The figures and tables in the report are extracted directly from the full research report prepared by Opinion Research Services. As only a selection of the figures and tables appear in this report, the numbering is not always in sequential order.

## **8. RELEVANT CONSIDERATIONS**

### **8.1 About your Local Area / Overall Satisfaction**

- 8.1.1 The vast majority of residents (92%) are satisfied with their local area as a place to live. This compares favourably to the latest LGA benchmark from June 2019, where satisfaction was 80%, 12 percentage points lower than in North Hertfordshire.
- 8.1.2 Overall satisfaction with the way the Council runs things has decreased from 76% in 2017 to 73% in 2019. However, satisfaction is still well above the LGA national benchmark from 2019, where satisfaction was 63%. See Figure 2 for comparisons since 2011.

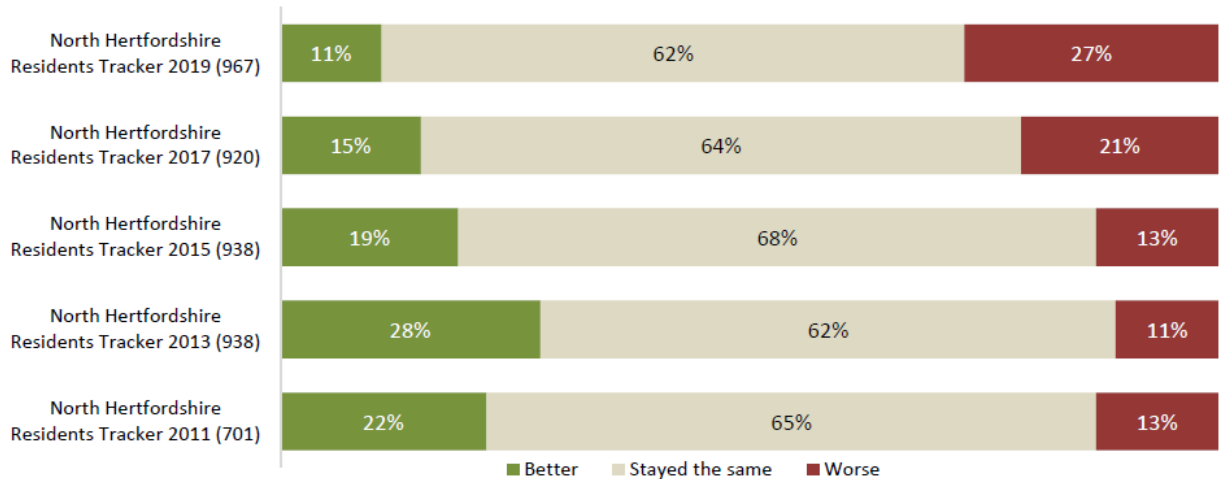
Figure 2: Overall, how satisfied or dissatisfied are you with the way North Hertfordshire District Council runs things?



Base: All Residents (Number of residents shown in brackets)

8.1.3 11% of residents think that the way NHDC runs things has got better over the last two years, a significant decrease since 2017 (15%). Figure six shows comparisons since 2011.

Figure 6: Thinking about the way North Hertfordshire District Council runs things, do you think it has got better, stayed the same or got worse over the last two years?



8.1.4 Those residents who expressed dissatisfaction with the way the Council runs things, were invited to comment on how they feel the Council could improve the running of North Hertfordshire. These comments are coded into themes. The top themes are that dissatisfied residents feel the Council should:

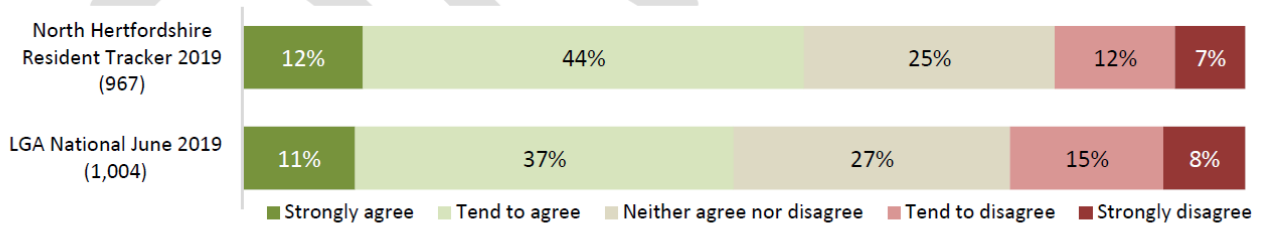
- Improve refuse / recycling collections (37%)
- Make improvements to the area / community (33%)
- Stop wasting money (25%)
- Listen / consult more (23%)

- Improve communication (19%)
- Improve the planning process (17%)

A further top theme was road / pavement maintenance e.g. potholes, cited by 19%, however this is not an NHDC function. It should be noted that only 175 residents answered the supplementary question about how the Council could improve the running of North Hertfordshire.

8.1.5 Figure 4 shows that over half (56%) of residents agree that the Council provides value for money, while 19% disagree. Overall agreement that the Council provides value for money is higher than the national LGA figure of 48%.

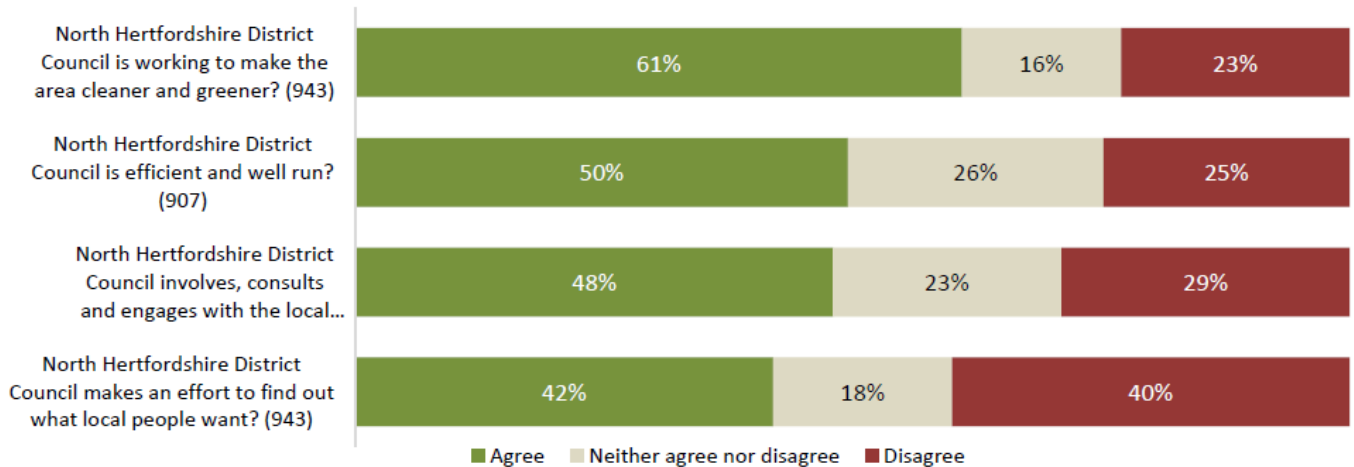
Figure 4: To what extent do you agree or disagree that North Hertfordshire District Council provides value for money?



Base: (Number of residents shown in brackets)

8.1.6 Residents were asked about a number of statements regarding the Council and their agreement levels with those statements recorded. 61% of residents agree that NHDC is working to make the area cleaner and greener, while just under one quarter (23%) disagree. Half of residents (50%) agree that NHDC is efficient and well run, while one quarter (25%) disagree. See figure 8.

Figure 8: Do you agree, disagree or neither agree nor disagree with the following...?



8.1.7 There has been a significant increase in the number of residents agreeing with the four statements since 2017 as can be seen in table 7.

Table 7: Do you agree, disagree or neither agree nor disagree with the following...North Hertfordshire District Council...?

Statements	Agreed % 2008	Agreed % 2011	Agreed % 2013	Agreed % 2015	Agreed % 2017	Agreed % 2019	% change 2017 to 2019
Involves, consults and engages with the local community (932)	n/a	55%	56%	53%	46%	48%	+2%
Makes an effort to find out what local people want (943)	n/a	49%	48%	48%	35%	42%	+7%*
Working to make the area cleaner and greener (943)	70%	69%	72%	67%	55%	61%	+6%*
Efficient and well run (907)	58%	52%	53%	51%	41%	50%	+9%*

Base: (Number of residents in 2019 is shown in brackets)

**8.1.8 Observations on Overall Satisfaction:** Overall satisfaction with North Hertfordshire as a place to live remains very high and well above the national LGA Benchmark. However, residents' satisfaction with the way the Council runs things has dropped by 3 percentage points and a significant increase in those who think things have got worse over the last 2 years, in terms of how the Council runs things. Issues with the Council's waste and recycling contract in 2018 and the knock on reputational impact are likely to have contributed to the drop in satisfaction, as well as on-going year on year budget savings having to be made. Despite this, satisfaction with the Council is 10 percentage points higher than the national average figure of 73%.

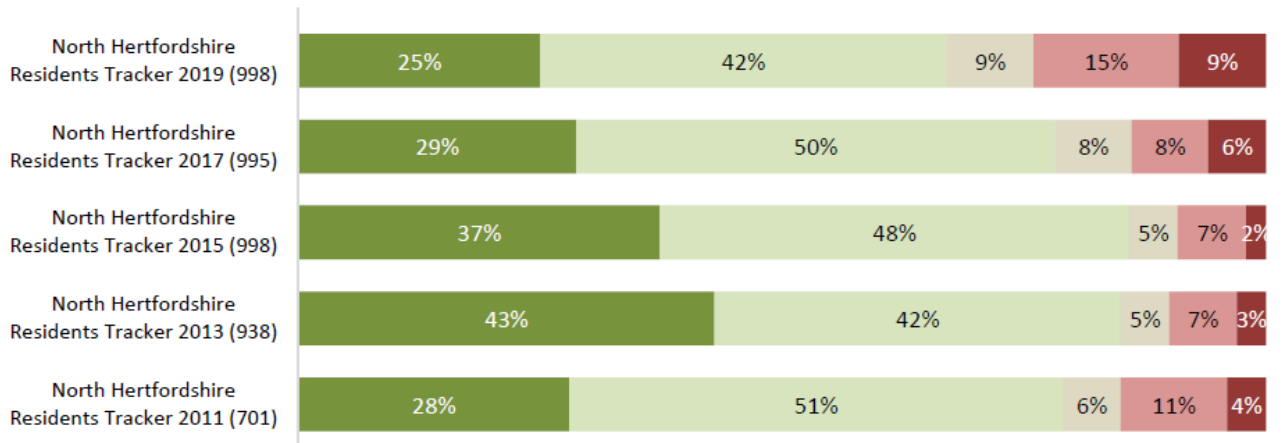
8.1.9 Table 7 shows that there has been an increase in agreement level in people who think NHDC makes an effort to find out what local people want and involves, consults and engages with the local community. This increase could be related to the joint administration's new objective of being a more welcoming and inclusive council. Table 7 also shows an increase in agreement that the Council is working to make the area cleaner and greener, in line with the joint administration's objective to respond to challenges to the environment.

## 8.2 Council Services

8.2.1 Over two-thirds (67%) of residents are satisfied with general waste and recycling collection, dropping from 79% in 2017, while around one quarter (24%) are dissatisfied. Satisfaction is below the national figure of 74%, although the LGA data is for waste collections (not recycling) only. Figure 12 shows satisfaction levels since 2011. Satisfaction peaked in 2013 at 85%. This was at a time when the Council introduced recycling of plastics at the kerbside, increasing residents' opportunity to recycle.

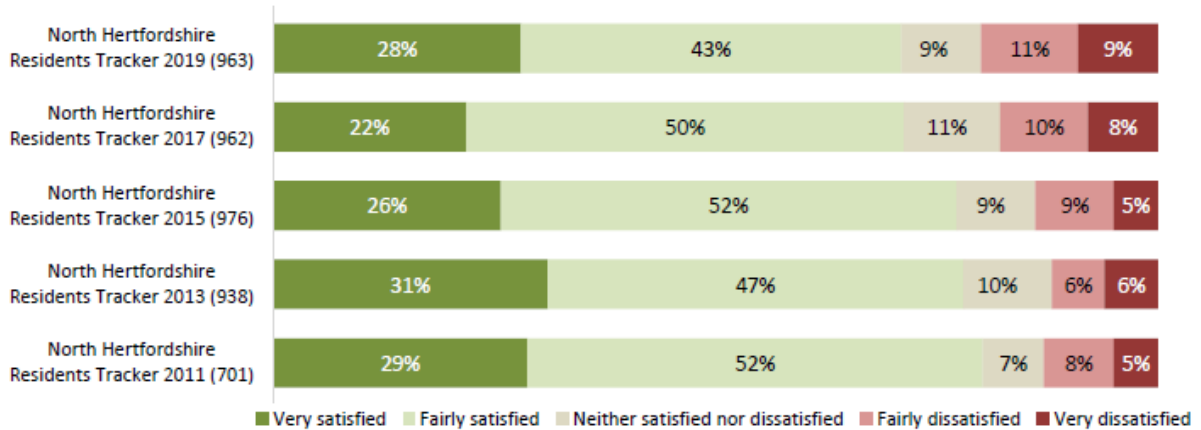
Figure 12: Are you satisfied or dissatisfied or neither satisfied nor dissatisfied with the following...?

### General waste and recycling collection



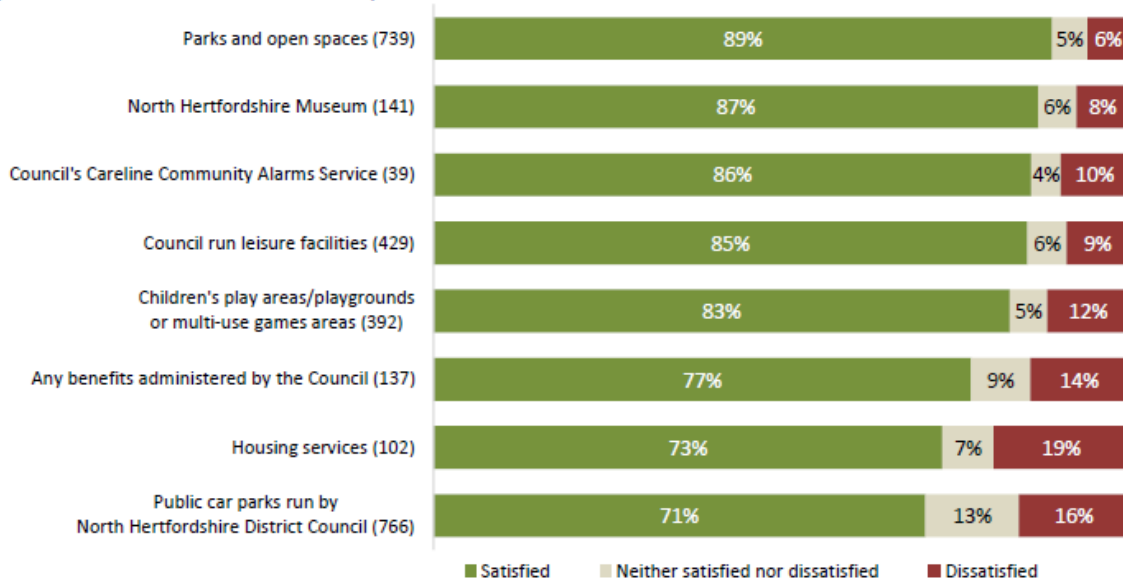
8.2.2 71% of residents are satisfied with the Council's street cleaning, which is in line with the national average of 70%, while one fifth (20%) are dissatisfied. Overall satisfaction with street cleaning has remained level since 2017, although it has seen a general decline since 2011. See figure 12 below:

### Street cleaning



- 8.2.3 Residents were asked if they had used a number of Council services in the last year. Figure 13 shows that 78% of residents have used public car parks run by NHDC in the last year, while 75% have used parks and open spaces. 44% had used council run leisure facilities, while 40% have used children’s play areas / playgrounds, multi-use games areas.
- 8.2.4 The proportion of residents who have used housing services run by NHDC in the last year, has risen significantly from 7% in 2017 to 11% in 2019.
- 8.2.5 Residents who had used council services were subsequently asked about their satisfaction with those services. Satisfaction levels can be seen in Figure 14 below.

Figure 14: Are you satisfied or dissatisfied or neither satisfied nor dissatisfied with the following:  
 Base: (Number of residents shown in brackets)



- 8.2.6 While satisfaction with services such as parks and open spaces (89%), North Hertfordshire Museum (87%), Careline (86%), leisure facilities (85%) remains high, there has been a significant decrease in levels of satisfaction for all areas, as show in table 11.

Table 11: Are you satisfied or dissatisfied or neither satisfied nor dissatisfied with the following:  
(satisfaction of services 2011 – 2019)

Service/facility	Satisfied % 2011	Satisfied % 2013	Satisfied % 2015	Satisfied % 2017	Satisfied % 2019	Percentage % Change 2017 to 2019
Parks and open spaces (739)	89%	93%	93%	92%	89%	-3%
Children's play areas / multi-use games areas (392)	87%	90%	90%	88%	83%	-5%
Council's Careline Community Alarms Service (39)	-	100%	100%	92%	86%	-6%
Council run leisure facilities (429)	92%	90%	91%	91%	85%	-6%
Public car parks run by North Hertfordshire District Council (766)	75%	76%	77%	77%	71%	-6%
Housing Services (102)	79%	76%	77%	79%	73%	-6%

Base: (Number of residents in 2019 is shown in brackets)

8.2.7 Waste and recycling collection was selected by 52% of residents as the most important service the Council provides, followed by housing services (19%) and parks and open spaces (10%). These were also the three services cited (in the same order of importance) in 2017, 2015 and 2013.

### Observations on Council Services

8.2.8 Due to issues at the start of the new waste contract in 2018 and also the introduction of a charge for garden waste collections, the decrease in satisfaction with waste and recycling collection was to a large extent to be anticipated. Given that performance levels are now at a business as usual level and that we are into the second year of charging for garden waste, it is hoped that satisfaction levels will improve when the survey is repeated in 2021. However, the reputational impact of previous performance issues may last longer than the actual issues themselves.

8.2.9 Although Table 11 shows a drop in satisfaction of six percentage points for Council run leisure facilities, the figure remains high and our own data shows excellent performance. Stevenage Leisure Ltd (SLL) undertake national quality schemes with the NBS and Quest and recent results show an increase in satisfaction at both Hitchin and Letchworth facilities. At Hitchin, the scores for overall customer satisfaction out of five with visit (4.82) and swimming experience (4.72) are well above the wet site averages (4.29 and 4.26 respectively). At North Herts Leisure Centre, the scores for overall customer satisfaction with visit (4.87) and swimming experience (4.53) are both above the mixed site averages (4.35 and 4.29 respectively). In February 2020, North Herts Leisure Centre also won the NBS Award for 'Overall High Score' and 'Customer Satisfaction'.

8.2.10 Table 11 shows satisfaction with Careline's Community Alarm's service has dropped from 92% in 2017 to 86% in 2019. However, the sample size is very small. Also Careline's own customer satisfaction data showed that 99.8% of customers would recommend Herts Careline to a friend or relative and 99.5% of customers say the help they receive from Herts Careline Control Room Operators is 'excellent' or 'good.'



8.2.11 Table 11 shows a decrease in satisfaction of five percentage points for children’s play areas / multi use play areas from 88% in 2017 to 83% in 2019. One possible reason for this drop in satisfaction could be due to the Council’s adopted Green Space Strategy (2018), where following consultation, the decision was made to rationalise the number of playgrounds which the Council maintains, opting to only maintain those which had higher use.

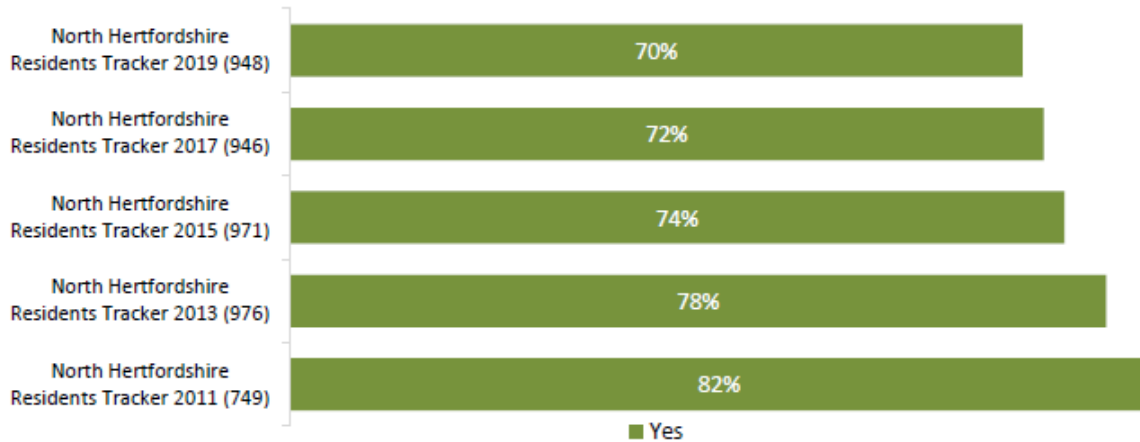
8.2.12 Paragraph 8.2.4 shows an increase in residents who had used the Council’s housing services in the last year from 7% in 2017 to 11% in 2019. This increase could potentially be in large part because of the introduction of the Homeless Reduction Act 2017, which came into force in April 2018 and which compels all local authorities to offer its housing service to everyone, not just those where an accommodation duty exists.

**8.3 Information and Communication**

8.3.1 Residents were asked where they normally obtain information about the Council. 74% of residents said the Council’s website, followed by 16% who said local newspapers, leaflets etc, 15% said contact with Council staff, 12% said Outlook magazine and 9% said social media.

8.3.2 70% of residents had seen or had a copy of the Council’s Outlook magazine in the last 12 months, this has decreased by 2% since 2017 and by 10 percentage points since 2011 (82%). See Figure 17.

**Figure 17: Have you seen, or had a copy of ‘Outlook’, North Hertfordshire District Council’s community news magazine to your door in the last 12 months? (Comparison with previous years)**



Base: All Residents (Number of residents shown in brackets)

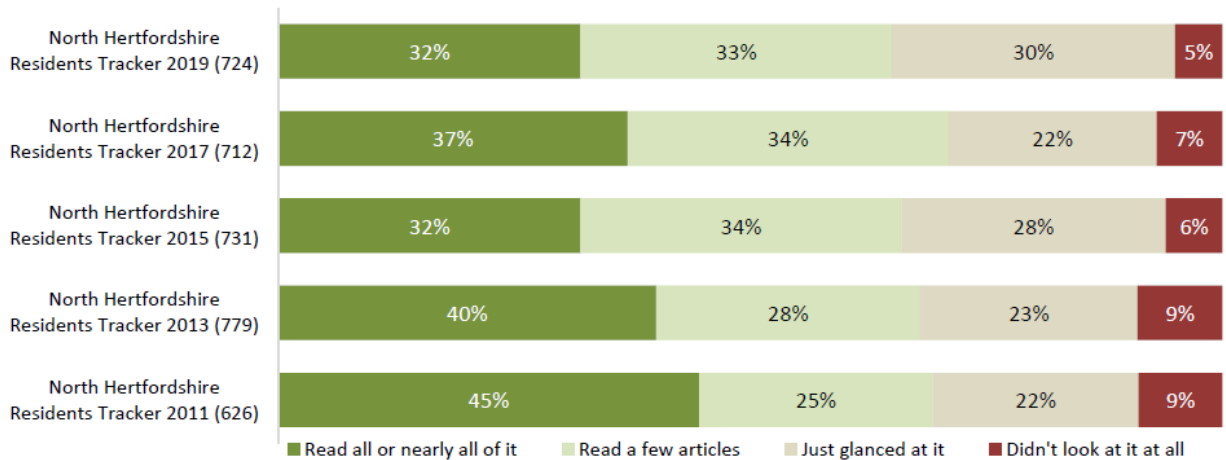
8.3.3 Table 13 shows that residents in Hitchin (78%) are significantly more likely to have seen or had a copy of Outlook magazine delivered to their door in the last 12 months, whereas Royston residents (58%) are significantly less likely to have seen or had a copy of Outlook.

Table 13: Residents who have seen, or had a copy of 'Outlook' by Ward area in the past 12 months:

	Total	Baldock and District	Hitchin	Southern Rural	Letchworth	Royston
Yes	70%	74%	78%	65%	71%	58%
Base	948	135	265	155	247	146

8.3.4 Figure 19 shows that the proportion of residents who have read all or nearly all of Outlook (32%) has decreased significantly since 2017 (37%).

Figure 19: Would you say you have...?



8.3.4 83% of residents like the way Outlook looks and is presented, 77% like the way it is written and 67% find Outlook interesting.

8.3.5 Since the last survey in 2017, we have introduced an email bulletin service @NorthHerts. 10% of residents said they were signed up to the e-bulletin service. Of those residents, 79% like the way the e-bulletins are written, and 81% find the information in them is useful to them. 74% agreed that the topics were of interest to them.

8.3.6 **Observations on Outlook magazine:** Although the proportion of residents who can recall seeing Outlook has declined, under the current Outlook distribution contract, the distributors all wear GPS trackers which show the roads which they have walked down, allowing the contractor to identify any gaps and rectify any missed delivery reports. We can therefore be confident that a much higher proportion of the district has been covered by distribution of Outlook than the results indicate. It also needs to be taken into account that it is industry best practice to check distribution recall within a couple of days of delivery, whereas some residents, depending on when they answered the survey will not have seen an issue of Outlook for several months. The Communications Manager is not aware of any specific issues related to Outlook delivery in Royston, however the contractor has been made aware of the results and copies of the trails for Royston will be requested.

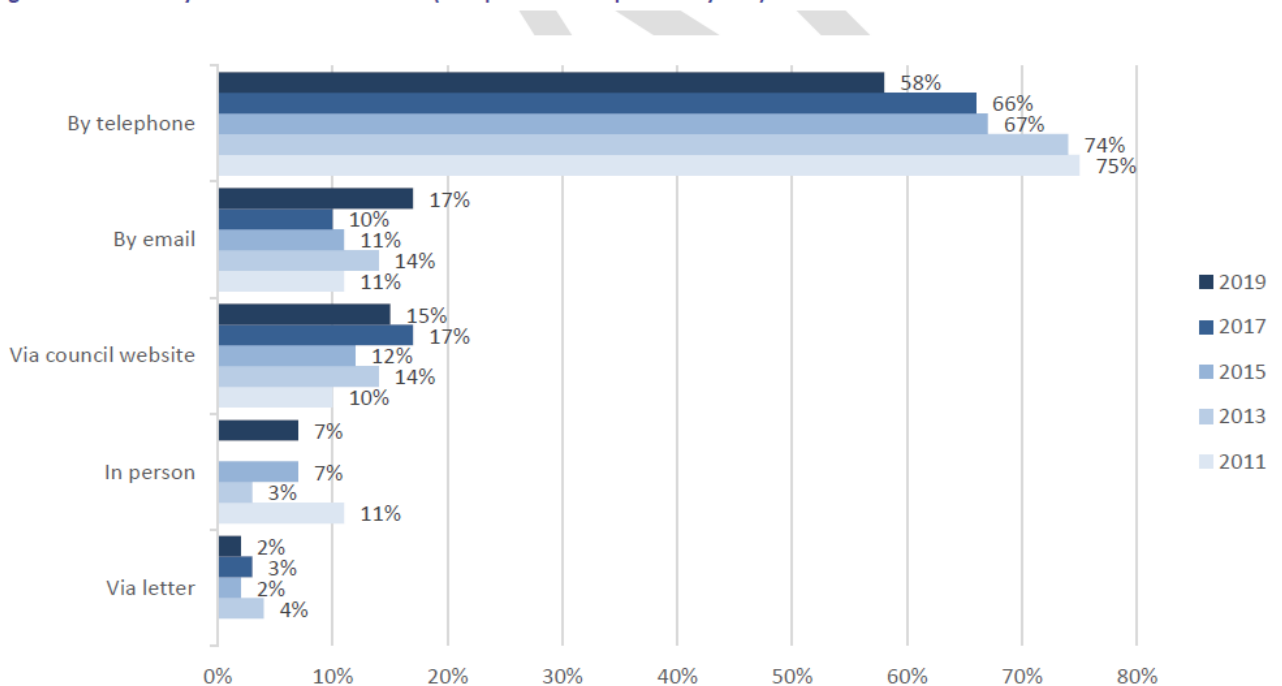
## 8.4 Contact with the Council

8.4.1 Over half of residents (52%) said they have contacted the Council in the last year. Of those, the main reasons for contact were:

- 34% to report an issue or problem
- 17% to ask for advice / information
- 13% to make a payment
- 12% to make a complaint
- 12% to apply to use a service

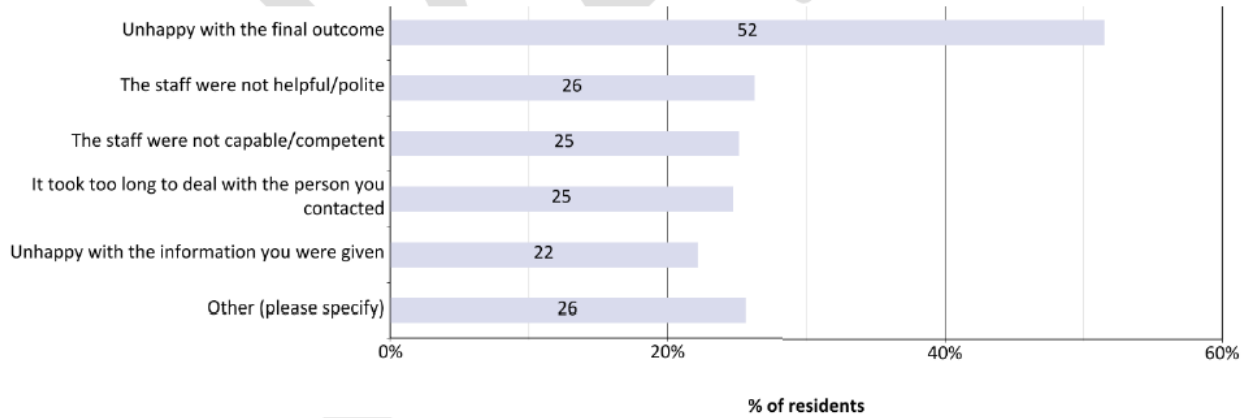
8.4.2 The most popular way to contact the Council was by telephone (58%), with email the second most popular method at 17% and 15% through the Council website. Figure 26 shows the changes in means of contact since 2011.

Figure 26: How did you contact the Council? (Comparison with previous years)



8.4.3 70% of residents said they were satisfied with the service they received last time they contacted the Council, with 38% saying they were very satisfied. 24% of residents were dissatisfied. Of the residents who were dissatisfied, more than half (52%) said they were unhappy with the final outcome. Figure 28 shows reasons for dissatisfaction.

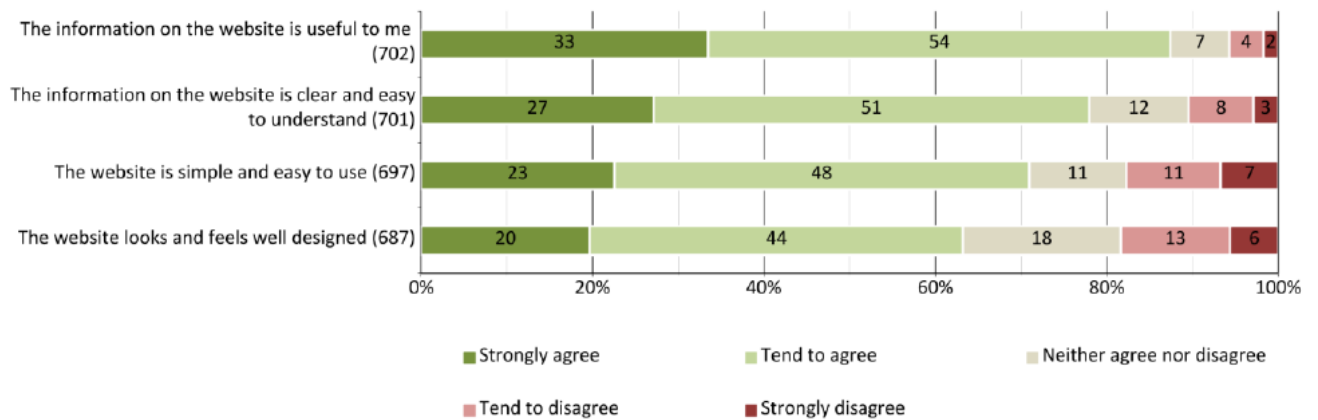
**Figure 28: Why were you dissatisfied with the service you received the last time you were in contact with the council?**



Base: All Residents who have contacted the council and were dissatisfied with the contact they received (133)

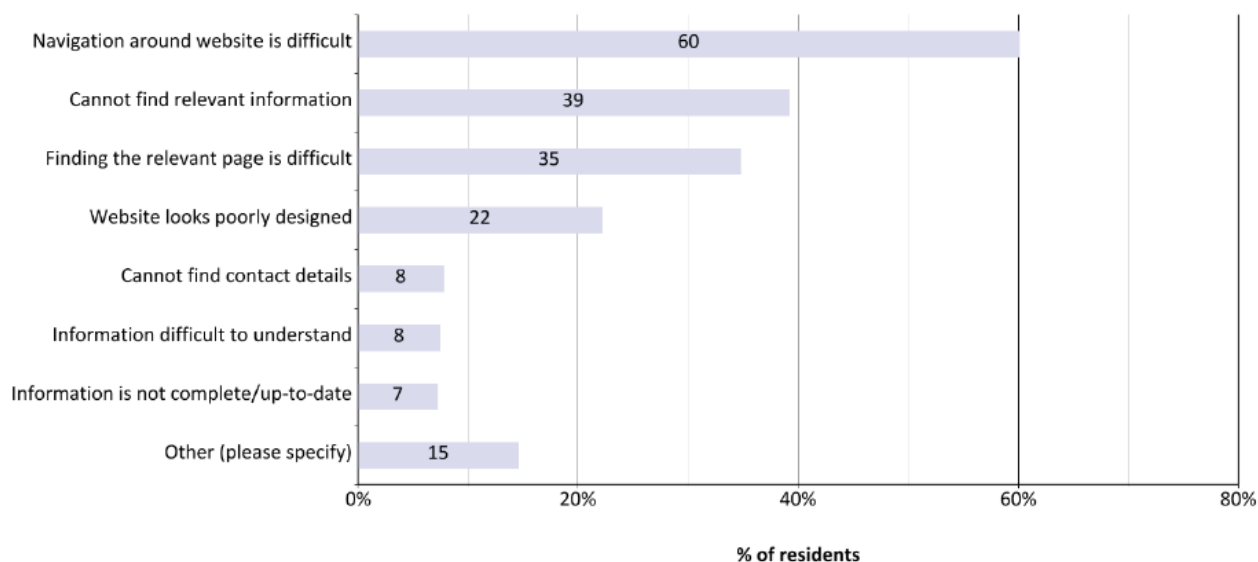
8.4.5 71% of residents said they had visited the Council’s website within the last year. When asked about the website, 87% of residents think that the information on the website is useful to them, 78% think the information on the website is clear and easy to understand, while 71% think the website is simple and easy to use. 63% of residents think that the website looks and feels well designed. Figure 32 shows agreement levels with statements about the Council’s website.

**Figure 32: Thinking about the council’s website, do you agree, disagree, or neither agree nor disagree with the following?**



8.4.6 Residents who disagreed with any of the statements in Figure 32, were subsequently asked if there were any specific issues which they had experienced with the website. The key issues were on navigating the site and finding the information they wanted. Figure 33 shows specific issues with the site.

**Figure 33: What specific issues did you have with the Council's website?**



**Base: All residents who have had issues with North Hertfordshire District Council's website (166)**

- 8.4.7 **Observations on Contact with the Council:** Paragraph 8.4.1 shows that of those residents who had contacted the Council in the last 12 months, 12% contacted us to make a complaint. However the number of complaints we received in 2018/19 only equates to 1% of the total contacts into the Customer Service Centre. The complaints figure includes complaints made directly to our contractors.
- 8.4.8 **Observations on Council website:** Overall opinions on the website are positive, however views on navigation and design will be taken into account during 2020/21 when a project to review the existing website, including design and content will be undertaken.

## 9. LEGAL IMPLICATIONS

- 9.1 The Cabinet has under 5.6.1 of its terms of reference, the function to prepare and agree to implement policies and strategies other than those reserved to Council.
- 9.2 The Cabinet under 5.6.15 of its terms of reference oversees the provision of all the Council's services other than those functions reserved to the Council, therefore can consider the outcome of the District Wide Service report.
- 9.3 There are no legal implications arising from this report. If any actions are identified as a result of the findings of the District Wide Survey 2019, the legal implications of those will be considered at the time.

## 10. FINANCIAL IMPLICATIONS

- 10.1 There are no direct financial implications from this report. The cost of the research undertaken was funded from the existing budget provision for corporate consultation.

## **11. RISK IMPLICATIONS**

- 11.1 Conducting the District Wide Survey is an important tool for shaping the Council's Objectives. If the results of the survey are not acted upon, there is a risk that public satisfaction with the Council will reduce, leading to a negative impact on the Council's reputation. In order to mitigate this risk, Service Directors and Corporate Managers use the results as part of the Service Planning process, enabling the Council to address any areas of concern.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. The report highlights areas where satisfaction levels could be improved. Broadly though, the services that NHDC provides to residents are well received as noted at 8.1.7. Any mitigating actions may be incorporated into the formulation of the relevant Service Plans to improve service provision, where appropriate. These will be proportionate and reflect the authority's duty under the public Sector Duty. Any identified service improvements may require an analysis of equality impact prior to implementation.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. As the recommendations in the report relate to a contract below £50,000 the "go local" policy has not been applied due to the specialist nature of the contract and no suitable local providers being able to undertake the work.

## **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 Where actions are agreed to be followed up, those will form part of the relevant department's service action plan and any employee resources and training will be considered as part of that planning.

## **15. APPENDICES**

- 15.1. None

## **16. CONTACT OFFICERS**

- 16.1. Sarah Kingsley, Communications Manager [sarah.kingsley@north-herts.gov.uk](mailto:sarah.kingsley@north-herts.gov.uk); Ext 4552
- 16.2. Rachel Cooper, Controls, Performance and Risk Manager [rachel.cooper@north-herts.gov.uk](mailto:rachel.cooper@north-herts.gov.uk) Ext 4606
- 16.3. Kerry Shorrocks, Corporate Human Resources Manager [Kerry.shorrocks@north-herts.gov.uk](mailto:Kerry.shorrocks@north-herts.gov.uk) Ext 4224
- 16.4. Reuben Ayavoo, Policy and Community Engagement Manager [reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk) Ext 4212

16.5. Yvette Roberts, Legal Officer [Yvette.roberts@north-herts.gov.uk](mailto:Yvette.roberts@north-herts.gov.uk) Ext 4310

16.6. Shah Mohammed, Group Accountant [shah.mohammed@north-herts.gov.uk](mailto:shah.mohammed@north-herts.gov.uk) Ext 4240

**17. BACKGROUND PAPERS**

17.1. The full research report from Opinion Research Services can be found at [www.north-herts.gov.uk/districtwidesurvey](http://www.north-herts.gov.uk/districtwidesurvey)

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**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: HITCHIN MARKET – NEW CONTRACT**

REPORT OF THE COMMERCIAL MANAGER AND SERVICE DIRECTOR - COMMERCIAL

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR ENTERPRISE AND COOPERATIVE DEVELOPMENT

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES / RESPOND TO CHALLENGES TO THE ENVIRONMENT / ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY

**1. EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to seek approval for the new management contract regarding Hitchin Market. This report sets out the new direction for Hitchin Market and demonstrates how the partnership between the Council and Hitchin Markets Limited will continue.

**2 RECOMMENDATIONS**

- 2.1 That Cabinet approves the entering into of a new contract with Hitchin Markets Limited, for the operation of Hitchin Market, for an initial period of one year with the option to extend on a year by year basis for a further two years [maximum three years].

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To seek approval of the new contract going forward and to update Cabinet Members on the potential transformation of the Market.
- 3.2. To ensure that Hitchin Market continues to operate.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. Conducting a tendering exercise regarding the management of Hitchin Market. However, due to the value of the contract the Council does not have to tender this contract. Officers are also confident that Hitchin Markets Ltd are best placed to operate this market at this point in time.

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

- 5.1. The Executive Member and Deputy Executive Member for Enterprise and Co-operative Development and the Executive Member for Finance and IT have been kept regularly updated on this matter and support the entering into a new contract with Hitchin Markets Ltd.

## **6. FORWARD PLAN**

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

## **7. BACKGROUND**

- 7.1. This report has been written since the current contract extension with Hitchin Markets Limited expires on 31 July 2020. The current contract was extended for two years from 1 August 2018 by the Deputy Chief Executive by Delegated Decision Notice dated 7 September 2018.
- 7.2. This report outlines the need for a new contract and explains why Hitchin Markets Limited are best placed to continue to operate this market.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The Council originally tendered the contract for Hitchin Market in 2008. Hitchin Markets Ltd (HML) were successful and have operated this contract since 1 August 2008. The contract has since been extended a number of times. It was agreed at the last contract extension of two years in 2018, that HML would pay the Council a management fee of £2,180 on a monthly basis. However, due to increasing financial difficulty, HML has only paid the Council six months of the management fee in this current financial year – which is equal to £13,082. They have not paid their management fee since October 2019.
- 8.2. It was agreed at the time that HML's situation would be reviewed with the Council in April 2020. The team at HML has explained to the Council in recent contract meetings that their financial situation is becoming increasingly worse due to a shift in shopping habits, a change in demand and a lack of new traders.
- 8.3. The Council has worked closely with the team at HML since October 2019 to overcome this difficult period. Hitchin Market is also now suffering financially due to the impact of Covid-19, which resulted in the market closing on 24 March 2020 following Government guidance.
- 8.4. The Council has considered conducting a tendering exercise regarding the future management of the Hitchin Market contract but does not think it is in the Council's best interest and would prefer to continue the partnership with HML. The reasons for this are the current uncertainty surrounding the Market's environment and increasing publicity regarding the general decline in trade of many Markets across the UK.

- 8.5. The proposed new contract is a concession contract at zero value. As a result, we do not have to procure this type of contract through a tender process as it falls beneath the procurement threshold. The Council also wishes to maintain a good working partnership with HML and to share a collective vision for the future of the Market, alongside other stakeholders such as the Hitchin BID and Hitchin Initiative. There will also be an opportunity in the future to consult with residents and existing traders about the future of the Market.
- 8.6. Hitchin Market will aim to be a key element of the recovery of the town and surrounding District post Covid-19. The Council is of the view that HML can support the changing dynamic of the Market and lead it into a brighter future for the community.
- 8.7. Due to the impact of Covid-19, HML is predicting an 80% total income of last year's figures. As mentioned above, the value of the proposed new contract going forward will be £0. The agreement between the Council and HML will be based on a cost neutral basis. As a result, the Council will no longer receive a management fee. Financial support from the Council during the term of the new contract may also need to be considered if the Market continues to decline.
- 8.8. Going forward, HML has proposed a new contract with the Council. Officers are happy that the proposal reflects the current climate that HML is operating in and feel this is an acceptable offer. The suggested contracting proposal allows the Council the opportunity to review the financial position of HML on a yearly basis. The flexibility of this contract also supports any future plans regarding the Churchgate premises and the everchanging Market environment.
- 8.9. This contract will be for an initial period of one year with the option to extend on a year by year basis for a further two years with a maximum of three years. It will be based on the same terms as the previous contract extension in 2018, with changes to the contract length, financial implications and updates in law. The Council will also continue to maintain an open book accounting approach with HML.
- 8.10. As the Council enters into the new contract on 1 August 2020, the role and the future of the Market is likely to change. The aim will be to provide additional new opportunities for those businesses who may have suffered as a result of Covid-19, and to transform the Market into an experience destination as well as shopping. This may include new or extended opening times, opening days and the attraction/ promotion of speciality markets. An Officer of the Council will also have a place on the newly formed Strategic Board alongside two Councillors, Hitchin Initiative, Hitchin BID and Hitchin Markets Limited itself. This will enable more control, better visibility of decisions and steer over the direction of the Market.
- 8.11. These changes will aim to enhance the financial position of the Market and bring the asset up to a high standard, that makes it more appealing to shoppers and traders. Other significant changes such as structural improvements on the Market will be explored and presented back to Cabinet at a later date.

## **9. LEGAL IMPLICATIONS**

- 9.1. Concession Contracts of this value do not need to be competitively tendered for under The Concession Contracts Regulations 2016.
- 9.2. Rule 3.11 of the Council's Contract Procurement Rules (CPRs) [Part B, Section 20 dated 16 January 2020] states that these rules do not apply to Concession Contracts.
- 9.3. Legal will prepare the new Contract and will arrange for it to be executed by the parties.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. In the previous contract, the arrangement was that HML pay the Council £25,327. The new contract would mean that no payment would be made to the Council as HML is expecting to breakeven with the possibility of a shortfall in income.
- 10.2. As a result, there will be a loss of future income of £25,327 to the Council. There could also be further costs to the Council if the forecasted income targets are not met and costs are higher than projected. The drive for changes to the Market could see additional financial resources required, this combined with projected forecasts not being achieved could see further costs being incurred.
- 10.3. Officers have worked closely with HML in recent months to review and understand their financial challenges. Executive Members have also been kept up to date regarding HML's financial difficulty.
- 10.4. A financial check has been carried out on HML as part of the Council's procedure and has reported the company as low risk.

## **11. RISK IMPLICATIONS**

- 11.1. The main risk associated with this report is regarding the financial impact of Covid-19 on HML. There is a risk of the Council will have to provide financial support to HML, however this is subject to HML income levels which are dependent on trader and shopper behaviour.
- 11.2. However, generally, this report is considered relatively low risk due to the fact the Council is currently receiving no income from the existing contract, is maintaining an established working relationship with HML and has the flexibility to change circumstances bearing in mind the duration of the new contract.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.

- 12.2. There are no direct equality implications arising from this report, however, further consideration may need to be made in future as efforts are made to transform the Market into an experience destination. If as per 8.10 this includes new opening times and days, and the attraction of speciality markets, such consideration may pay attention, for example, to issues of accessibility for all areas of the community. Furthermore, as outlined in 12.1, efforts should ensure that opportunities to foster good relations between community groups are maximised.

### **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. None identified.
- 13.2. As the recommendations in the report relate to a contract below £50,000 the “go local” policy has been applied. Hitchin Markets Limited is a locally based company that operates from Hitchin and is made up of local board members.

### **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. There are no known direct Environmental impacts or requirements that apply to this report. However, further consideration may be required in the future, such as around the disposal of waste as the Market is transformed into an experience destination.
- 14.2. Furthermore, as we approach the attraction of new traders and speciality markets, we should be mindful of how these businesses’ practices align with the Council’s ethos on Climate Change and plastic.

### **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 None identified.

### **16. APPENDICES**

- 16.1 None identified.

### **17. CONTACT OFFICERS**

- 17.1 Chloe Gray, Commercial Manager  
[chloe.gray@north-herts.gov.uk](mailto:chloe.gray@north-herts.gov.uk); ext 4223
- 17.2 Steve Crowley, Service Director – Commercial  
[steve.crowley@north-herts.gov.uk](mailto:steve.crowley@north-herts.gov.uk); ext 4211
- 17.3 Tim Everitt, Performance Improvement Officer  
[tim.everitt@north-herts.gov.uk](mailto:tim.everitt@north-herts.gov.uk); ext 4646
- 17.4 Georgina Chapman, Policy and Community Engagement  
[georgina.chapman@north-herts.gov.uk](mailto:georgina.chapman@north-herts.gov.uk); ext 4121

17.5 Shah Mohammed, Group Accountant  
[shah.mohammed@north-herts.gov.uk](mailto:shah.mohammed@north-herts.gov.uk); ext 4240

17.6 Greta O'Shea, Locum Senior Solicitor – Contracts and Procurement,  
[greta.oshea@north.herts.gov.uk](mailto:greta.oshea@north.herts.gov.uk); ext 4315

**18. BACKGROUND PAPERS**

18.1 None identified.

**CABINET  
23 JUNE 2020**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: CORPORATE PEER CHALLENGE ACTION PLAN**

REPORT OF: DEPUTY CHIEF EXECUTIVE

EXECUTIVE MEMBER: LEADER AND DEPUTY LEADER OF THE COUNCIL

COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

**1. EXECUTIVE SUMMARY**

- 1.1 Cabinet on 24 March 2020 and Full Council on 2 April 2020 (decisions taken under delegated decision following emailed consultation with Members) noted the final report from the Local Government Association Corporate Peer Challenge (CPC) and requested that an Action Plan be developed by the Leader, Deputy Leader, Chief Executive and Deputy Chief Executive to respond to the recommendations within the report. This report submits a draft Action Plan to Cabinet for approval.

**2. RECOMMENDATIONS**

- 2.1. That the draft Action Plan at Appendix A be approved.
- 2.2. That agreeing the timescales for the actions within the Action Plan be delegated to the Leader, Deputy Leader and Managing Director.
- 2.3. That Cabinet recommend to Full Council that the Special Reserve be used to fund a small transformation team for a period of 18 months from October 2020, with an estimated total cost of £150k (£50k in 2020/21 and £100k in 2021/22).
- 2.4. That agreeing the specification for, and intended outcomes of, the transformation programme be delegated to the Leader, Deputy Leader, Executive Member for Finance and IT, Managing Director and Service Director Resources.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To ensure that the Council responds to the matters identified within the CPC report, ensuring that the benefits of the CPC process are realised.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. The 'do nothing' option of not creating an action plan to follow up on the report has been discounted, as the Council committed to undertake the CPC and should therefore seek to gain benefit from that process.

- 4.2. There is no prescribed format for the Action Plan, so it could have been developed in a different format, however having looked at a number of different approaches from other Councils the proposed draft seemed to present the required information in an easily accessible way. Different actions could have been proposed to respond to the recommendations, however the draft has been developed in consultation with the Leadership Team and Executive Members.

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

- 5.1. All staff and councillors who took part in the CPC were invited to attend the feedback session on the final day. The feedback report was presented to Cabinet on 24 March and Full Council 2 April 2020. Executive Members and their deputies, in particular the Leader and Deputy Leader, have been consulted on the draft Action Plan.

## **6. FORWARD PLAN**

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 5 May 2020.

## **7. BACKGROUND**

- 7.1. The background to this report is set out in the report to Cabinet of 24 March 2020.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The Action Plan at Appendix A seeks to positively embrace the recommendations from the Peer Challenge and look for ways to implement improvements in the way we work. The recommendations listed include both those obviously marked as such in the CPC report (key, Planning, Overview and Scrutiny) and any recommendation contained within the text in the body of the report.
- 8.2. Members will note that much of the timescale column is currently blank. Due to the current pandemic and the impact of it on the Council's work it is very difficult to populate with accurate and meaningful dates. Therefore, it is proposed that the Leader, Deputy Leader and Managing Director agree these dates in due course.
- 8.3. It is important to adopt the Action Plan in a timely way so that the Council can commence work on the various actions set out, in particular developing an internal transformation programme reimagining the customer experience and progressing the already agreed Shaping our Future organisational development programme to ensure the Council is able to deliver on its programme.
- 8.4. The approach to the third main element of the Action Plan, developing an ambitious place narrative to shape our future agenda, is suggested to be based around sustainability as a central theme. This is recognised as an issue that effects all of our communities across the district, links to the Council declared climate emergency and is consistent with the Council priorities of communities, environment, economy and homes.



The key will be to develop a clear simple vision, that is both meaningful but does not stifle opportunities. It is proposed that initially workshops would be held with officers and members to develop proposals, followed by engagement with the community and partners to develop a vision which we can collectively work to deliver. The timing of this work is to be determined and needs to take into account the Local Plan process and the wider place narrative for the whole of Hertfordshire being developed through the Growth Board.

## **9. LEGAL IMPLICATIONS**

- 9.1. Cabinet's terms of reference include at paragraph 5.6.13 "To consider the reports of external review bodies on key aspects of overall service delivery".
- 9.2. The CPC is a voluntary process and therefore there is no legal obligation to either host a CPC or act upon the recommendations. However, it is best practice to undertake a CPC and having done so, to act upon the issues identified.
- 9.3. The CPC makes various recommendations relating to the Council's Constitution. These are matters for Full Council to determine in accordance with paragraph 4.4.1(p) of the Council's constitution and were the subject of a separate report to Annual Council.
- 9.4. The Financial Regulations provide at 10.2 that the 'creation and movements in reserves need to be formally approved by Full Council, which is incorporated into the Revenue Budget Outturn report'. The Council's terms of reference include at 4.4.1 (dd) 'to determine those financial matters reserved to Council by the Financial Regulations.', therefore recommendation 2.3 falls to Full Council for approval.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The recommended minimum level of reserves referred to in the CPC feedback report only applies to General Fund reserve. When the Council sets its budget each year, there is a requirement for the Chief Finance Officer to recommend a minimum level. This minimum level is set after considering other factors, including the level of specific revenue reserves. The Council's General Fund reserves are currently significantly above the minimum level, but this should not be seen as a target to get down to. Indeed the recent pandemic (and the cost implications arising from that) has shown that events can happen that are not fully reflected when setting the minimum level. It has been a policy of the Council to maintain reserves at a higher level to allow time to adjust to the expected reduction in funding in the medium term. However, having said that there is scope for a level of reserves that is lower than the current level, which is still prudent. This would then provide some limited funding for projects that positively benefit the Council. It could not be used for ongoing revenue costs.

- 10.2. It is proposed that the costs of the transformation team which are estimated to be £150k (£50k in 2020/21 and £100k in 2021/22) are met from the Special Reserve. This is based on a part-time (0.4WTE) Service Director Transformation and two supporting officers for a period of 18 months from October 2020. The balance of the Special Reserve as at 1<sup>st</sup> April 2020 was £1.175m. Whilst there are other known and expected calls against this reserve, it is not expected that (even with this additional spend) it will all be used. The biggest unknown is discretionary spend in relation to the response to Covid-19. However as this has not been committed to yet, if it came to it then this Covid-19 spend would have to be scaled back to be contained within the available funding.
- 10.3. The Peer Review, alongside many other services and support, is included within the Council's annual subscription to the Local Government Association. For 2019/20 this cost was £12,540.

## **11. RISK IMPLICATIONS**

- 11.1. The CPC recommendations identifies that staff, partners and citizens frequently describe the Council as risk averse. The revised Risk Management Framework referred to in the Action Plan is intended to assist in moving the Council to a position of being 'risk aware' and focused on significant risks. This is an important part of the ongoing push to develop commercial income generating projects, but to move away from being 'risk averse' there would also be a need for a general shift in the level of risk that the Council is prepared to take.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. There are no known equalities implications that apply to this report. Individual actions on the plan may require equalities impact assessments in due course as solutions are developed.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. There are no known Environmental impacts or requirements that apply to this report. Individual actions on the plan may require environmental impact assessments in due course as solutions are developed.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 The work set out in the Action Plan will be incorporated into the work programmes of the relevant service areas. The Shaping Our Future programme is a commitment to, and investment in, our staff to ensure that the organisation is able to deliver the programme envisaged. It has been identified that the transformation programme will need additional resource to be delivered and Human Resources will help support the development of (and recruitment to) the proposed new temporary part time Service Director Transformation post and other roles which may be suitable for secondment. Recruitment and secondment to the project will be from existing staff where possible.

## **16. APPENDICES**

- 16.1 Appendix A – Draft Corporate Peer Challenge Action Plan

## **17. CONTACT OFFICERS**

- 17.1 Anthony Roche, Deputy Chief Executive  
[anthony.roche@north-herts.gov.uk](mailto:anthony.roche@north-herts.gov.uk); ext 4588
- 17.2 Ian Couper, Service Director Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk); ext 4243
- 17.3 Jeanette Thompson, Service Director: Legal and Community  
[Jeanette.thompson@north-herts.gov.uk](mailto:Jeanette.thompson@north-herts.gov.uk) ; ext 4370
- 17.4 Reuben Ayavoo, Policy and Community Engagement Manager  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext 4212
- 17.5 Kerry Shorrocks, Corporate Human Resources Manager  
[kerry.shorrocks@north-herts.gov.uk](mailto:kerry.shorrocks@north-herts.gov.uk); ext 4224

## **18. BACKGROUND PAPERS**

- 18.1 Report to Cabinet, 24 March 2020 – Corporate Peer Challenge Report

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		Recommendation	Action	Led by	Timescale
1	Key 1	Broaden the council's focus to an ambitious place shaping agenda	<p>Agreed. This will be considered as part of the review of the Council Plan. The agenda needs to include political support for key projects and proposals (e.g. Local Plan post adoption, significant planning applications), recognising and promoting the benefits of development and the necessity for us to support this under current Govt policy.</p> <p>This work also needs to clearly identify the role(s) the Council wishes to take during and after the delivery of growth through a consistently applied narrative (see Key 3 below), ensuring there is a clear joint, Member and Officer, view and direction of travel.</p>	Executive Members Leadership Team	
2	Key 2	Align all your resources, policies, capacity to achieve your priorities	Agreed. This will be considered as part of the budget review and review of Council Plan	Executive Members Leadership Team	
3	Key 3	Develop a narrative for place	Agreed, it is proposed to develop a place narrative around sustainability as a key issue of importance to the whole district, given the Council declared a Climate Emergency in May 2019. The place narrative will also need to link to the wider Hertfordshire Growth Board work and the place narrative being developed for the whole county	Executive Members Leadership Team	
4	Key 4	Use reserves to fund internal and external transformation capacity	Agreed, to set a "target level" of reserves that provides greater flexibility to fund transformation that aligns to Council priorities. Subject to understanding the impact of the COVID-19 pandemic on our financial reserves and future reserve baseline	Executive Member Finance and IT SD Resources	

5	Key 5	Take a corporate approach to transformation – top down and programme managed	It is proposed to create a new Director of Transformation post (part-time, fixed term, funded from reserves) and identify appropriate staffing resource to support the director. This transformation team will take the lead on our transformation programme, ensuring a corporate approach	Leader Deputy Leader Managing Director	
6	Key 6	Use external partnerships to benefit North Hertfordshire	Agreed. The Council recognises that the impacts of austerity and the cuts to its budget mean that we need to be an outward looking and ambitious authority, working with partners to deliver our aspirations	Executive Members Leadership Team	
7	Key 7	Best practice needs to look beyond the Hertfordshire area	Agreed. The Council already looks to authorities throughout the country and beyond for inspiration, but this could and should be reinforced and better communicated to ensure we do more and learn from the best examples	Executive Members Leadership Team	
8	Key 8	Be brave	Agreed. Officers and Members should be prepared to question each other if we are failing to be brave in our aspirations, policy setting and decision making, however this needs to be a constructive challenge whilst ensuring that we remain risk aware. We believe the actions set out above show our willingness to be brave.  External speaker(s) to inspire innovation/ change of attitude?	Executive Members Leadership Team	
9	Place and Priority setting	Shift service delivery focus towards a more people and place-based approach.	Agreed, this will form a key part of the transformation programme	Executive Members Leadership Team	

10	Place and Priority setting	Realign Town Talk meetings to inform strategic direction, policy shaping and decision making and to proactively take council and place-based issues out to local communities.	We recognise the potential benefits of using Town Talks in this way and will consider how best to utilise them and how they interact with the new Community Engagement Panel	Executive Member Community Engagement SD Legal and Community	
11	Place and Priority setting	Use a strategic needs analysis to inform the council plan and policy shaping.	Agreed	Executive Members Leadership Team	
12	Place and Priority setting	NHDC would benefit from visiting other councils' that have achieved or are some way working towards the objectives and outcomes NHDC is seeking to deliver, such as place shaping, large scale housing development and commercial development.	<p>Agreed. The Council will seek out Councils who have faced and overcome similar challenges, including with areas where large scale housing development by developers has followed adoption of Local Plan. It is also worth noting that part of 'being brave' might mean doing things differently to other Councils.</p> <p>South Cambridgeshire and East Hertfordshire are two immediate neighbours with large-scale, strategic growth projects, recently adopted Plans and existing structures and mechanisms for dealing with delivery.</p> <p>The Council will also consider how best to enable Corporate level 'sounding boards' (or equivalent) for key schemes as it is crucial that there is clear and consistent messaging of the Council's asks and approaches, as well as a common understanding of where compromise on the strict application of all policy requirements (e.g. affordable housing vs open space vs social infrastructure) is required to ensure successful delivery and the best overall outcome.</p>	Executive Members Leadership Team	

13	Place and Priority setting	Place-shaping could be accelerated and supported by maximising the opportunity of working in closer partnership with the Hertfordshire Local Enterprise Partnership (LEP).	<p>Establish regular meetings with LEP.</p> <p>Partnership working should also extend to other key local partners such as Hertfordshire County Council, LGCHF, settle, First Garden Cities Homes, neighbouring authorities. England's Economic Heartland and national partners such as Homes England etc</p> <p>Clarity of a common narrative and agenda will enable discussions and engagement to be undertaken with confidence.</p>	<p>Leader Deputy Leader Managing Director</p> <p>Relevant Executive Members and Service Directors</p>	
14	Leadership of Place	A clear narrative for place is needed to support partners and staff in understanding how they can better contribute towards outcomes and assess strategically how resources can be deployed for maximum impact.	Agreed. The focus will be on an issue that unites the whole district, for example sustainability, emphasising co-operation between settlements rather than competition. The narrative needs to be carefully prepared in order to enable the Council to provide a focus for the District and not inhibit our ambitions.	Executive Members Leadership Team	
15	Leadership of Place	Councillors should be leading the way as brand ambassadors, 'selling' the district and promoting what is good about North Hertfordshire	Agreed	All Councillors Communications Manager	
16	Leadership of Place	Feedback regarding consultation from Citizen's Panel representatives regarding consultation specifically and the future of the district generally	<p>The consultation strategy is due to be reviewed in 2020 and the comments will be considered during that review</p> <p>The points regarding the future of the district to be explored further as we develop the clear place narrative</p>	Executive Member Community Engagement Communications Manager	



17	Leadership of Place	More can be done to actively inform citizens of the work NHDC has delivered and how their council tax is being invested.	Agreed. We will look to see what others do that we do not already provide	Leader Deputy Leader Communications Manager	
18	Leadership of Place	Ensure the differences in places, main settlements and villages are recognised in policy making	Agreed, provided those differences are used to build a stronger whole rather than being used to divide and create competition within the district	Executive Members Leadership Team	
19	Organisational Leadership and Governance	There needs to be clarity about the roles and responsibility of officers and members.	Agreed and has already been subject to a development session between the administration and the leadership team. Further consideration will be given to how to clarify the roles and responsibilities	Executive Members Leadership Team	
20	Organisational Leadership and Governance	There is an opportunity to involve staff more in the development of the new organisational development and people strategy.	Agreed, it was always the intention that the Shaping Our Future programme would include widespread consultation at all stages and this was agreed by Political Liaison Board prior to the Corporate Peer Challenge	Service Director Resources	
21	Organisational Leadership and Governance	Peers identified an opportunity to use the RPR process to gather information on career development (as done by other councils) and see career aspirations and personal development as an ongoing conversation as people's circumstances, positions and aspirations frequently change.	This is already a component of the RPR process, therefore no action required beyond reminding managers of approach to RPRs	Learning and Development Manager	Completed
22	Organisational Leadership and Governance	All learning and development should be aligned to the emerging organisational development plan and council plan delivery.	Agreed, to the extent that it does not prevent the individual development requirements of staff and members. This will be explored as part of the Shaping Our Future programme	Service Director Resources	

23	Organisational Leadership and Governance	It is recommended that the emerging organisational development strategy identifies the future skills and behaviour requirements and identifies how those skills and capabilities will be developed across the workforce, either in job design, specific learning interventions or other approaches to ensure skills acquisition keeps up with pace and change of organisational priorities.	Agreed, this was always the intention	Service Director Resources Member Training Champions	
24	Organisational Leadership and Governance	As an integral component of future organisational performance, it is recommended that there is an increased focus on management and political oversight of learning & development (for both officers and members) with regular reporting and assessment of impact and readiness e.g. being ready to cope with future increased planning applications post-Local Plan.	Agreed, the mechanism for oversight will be considered as part of setting up the Shaping Our Future programme and the monitoring of its impacts	Executive Members Leadership Team Learning and Development Manager	
25	Organisational Leadership and Governance	The peer team recommends that there is a focused period of time where all staff have the opportunity to understand the direction of the council and the council plan and ensure there is an increased outward-focus for the organisation to help staff to make the shift to understanding the place-shaping agenda and NHDC's role in facilitating curation of place.	Agreed, this was planned to be part of the development of the Shaping Our Future programme	Leader Deputy Leader Managing Director	

26	Organisational Leadership and Governance	Staff reflected that they would like to see more of the Chief Executive and leading more of the internal communication forums.	We have made improvements to the visibility of the leadership team and will continue to look for ways to further improve, in particular as the new Managing Director post develops	Managing Director Communications Manager	
27	Organisational Leadership and Governance	The peer team were surprised that only low / negative PI's were debated at O&S and those reports were shared publicly. Publishing positive performance alongside amber and red performance would provide the public with a rounded summary of performance, allowing NHDC to outwardly celebrate what is being delivered to agreed performance levels.	Agreed. Reports will reflect this going forwards	Chair and Vice Chair Overview and Scrutiny Committee Controls, Risk and Performance Manager	
28	Organisational Leadership and Governance	Peers understand that the full performance report is sent to councillors one month before O&S to provide the opportunity for requesting the appropriate lead executive member and officer to attend O&S to be accountable for questioning. This opportunity has never been requested and should be used in order to strengthen the debate and challenge at O&S.	Agreed. Chair of Overview and Scrutiny to remind committee members of this opportunity	Members of Overview and Scrutiny Committee Controls, Risk and Performance Manager	

29	Financial Planning and Viability	<p>There is a strong need to ensure there is an agreed risk framework shared between officers and members in order to maximise performance and outcomes and ensure the commercial team begins to deliver benefits.</p> <p>The peer team recommends that NHDC defines its approach to risk within the context of the council being more outward facing and ambitious for place, as well as being aligned to the council plan.</p>	<p>The Council updated its Risk Management Framework in March 2020</p> <p>Agreed that there needs to be a strategic approach to the Council's risk appetite, also noting the Peer team's recommendation to 'be brave'. A strategic discussion around risk will be facilitated at the Political Liaison Board, as this is felt to be more of an issue of attitude rather than policy. A review of some existing practices may be needed to achieve this, as it is arguable these have not facilitated the required culture to date.</p>	<p>Leader Deputy Leader SD Resources</p>	<p>Framework Complete</p> <p>31 December 2020</p>
30	Financial Planning and Viability	<p>Peers questioned if commercial plan business cases were taking into account non-cash benefits such as increased social value / outcomes, affordable homes, zero carbon homes and not just solely on financial returns.</p>	<p>Business plans do take into account non-cash benefits, although the financial situation of the Council means financial returns have to be prioritised. We will review our approach to ensure we are happy with the balance being taken.</p>	<p>Executive Member Enterprise and Co-Operative Development SD Commercial</p>	
31	Financial Planning and Viability	<p>The council should invest some reserve budget into funding the transition to the new council plan and making early investment in capacity to deliver place shaping and transformation, inside and outside the council.</p>	<p>Agreed, to set a "target level" of reserves that provides greater flexibility to fund transformation that aligns to Council priorities. Subject to understanding the impact of the COVID-19 pandemic on our financial reserves and future reserve baseline</p>	<p>Executive Member Finance and IT SD Resources</p>	

32	Financial Planning and Viability	Peers questioned whether a statutory / discretionary service and base-budget review is the priority for delivering transformation. The team recommend that starting with the customer and aligning the council plan objectives with the MTFS is a more appropriate point to initiate the design of and impact on services.	The Council will consider its approach to the reviewing the budget, which has been complicated by the COVID-19 pandemic and delays to the Comprehensive Spending Review and the delay to work on a medium-term funding settlement until 2021/22 (for years from 2022/23 onwards)	Executive Member Finance and IT SD Resources	
33	Capacity to Deliver	Although the introduction of new technologies was viewed as positive, the peer team recommend that the council ensure this approach fits within the strategic context and is sustainable after the IT graduate resources have left their placement.	Agreed. This will be a consideration for the transformation team to ensure work undertaken is sustainable	Executive Member Finance and IT SD Customers	
34	Capacity to Deliver	NHDC would benefit from an agreed target operating model (TOM) which would support an overall approach to how operational services are delivered. A TOM would support closing the gap between customer experience, ensuring that services have a common look and feel, supporting customers to navigate around services with more independence and decreasing more costly and avoidable demand.	The Council has been progressing work in this area for some time, particularly in relation to digital interaction with the Council. For example customer and member portals have been procured and will be implemented during 2020. This recommendation will be considered when setting the objectives for the transformation programme	Leader Deputy Leader Managing Director	

35	Capacity to Deliver	Project and programme management resourcing and planning could be improved as peers identified that resources and timescales were often underestimated, resulting in projects being delayed and staff having to manage the pressure of delivering day-to-day operational requirements whilst taking projects forward.	It is worth noting that whilst there may have been delays on some of the Councils most complex and high-profile projects, many progress without issue. The resourcing of projects is considered on a project by project basis and with the change to a single Managing Director post we recognise that this has resource implications for delivering projects. The Council has a pool of trained project managers with different skills and experience and we will look at that pool to see if there is a suitable project manager, whether they are within the commissioning department or not. This will also give the opportunity for staff to broaden their experience of different areas of the Council. This recommendation and the recommendations of the independent review of the District Wide Museum project will be considered as projects are established	Executive Members Leadership Team	
36	Capacity to Deliver	The peer team recommend that the organisational development plan addresses the future skills needs and supports staff, managers and leaders in building the required place-shaping capacity at a strategic level.	Agreed, this was always the intention for the Shaping Our Future programme	Service Director Resources Member training champions	
37	Capacity to Deliver	The peer team suggest that there could be a pooling of roles with generic, flexible skills that could move around the organisation where the work dictates. This pool could operate as a corporate transformation resource pool and be assigned to projects through a programme management approach.	A transformation team will be established to support a new Director of Transformation, initially to deliver the transformation programme on a time limited basis funded from reserves. Once the initial programme is concluded further consideration will be given to this recommendation, as it clearly has financial implications given the budgetary pressures on the Council.	Managing Director	

38	Planning Committee	Have planning training provided by an external trainer with broad experience, to aid understanding of the National Planning Policy Framework (NPPF) and what are material planning considerations.	<p>Agreed. An ongoing training programme will be developed for members and officers, to cover the planning basics plus new policies and specific areas of interest and relevance. Initial contact has already been made with Planning Advisory Service (PAS) for web-based training in light of social distancing restrictions.</p> <p>Training will also be considered for other groups such as Parish Councils.</p>	Planning and Conservation Manager Member training champions	Post Annual Council and appointment of new committee members, however timescales may not allow external training to be implemented prior to the first planning committee in the new civic year.
39	Planning Committee	Submit 'issues paper' to the planning committee early in the process so officers are aware of the concern's members want addressing. This will ultimately lead to less deferments.	Agreed for major and strategic applications and must go on website for public scrutiny. Members need to identify issues in advance of the Committee so they can be addressed in advance of the application being heard. This will allow engagement with the applicant to seek to limit deferments and any refusal to extend the statutory deadline.	Planning and Conservation Manager	

40	Planning Committee	Arrange specific training for the Chair and Vice Chair of planning committee as they have a key role, and this will support the development of a strongly led committee.	Agreed, see above comments regarding training generally for the Committee. Additionally training on chairing meetings has been identified for Chairs and Vice Chairs.	Planning and Conservation Manager	Post Annual Council and appointment of chair and vice chair, however timescales may not allow external training to be implemented prior to the first planning committee in the new civic year.
41	Planning Committee	Lessen the number of call-ins by tightening up criteria for a call-in. Give reasons related to material planning considerations only, not simply in the “public interest” which is too vague and raises objectors’ expectations for refusal.	Proposal to Full Council to tighten the criteria, to be supported by training for all councillors on appropriate use of the call-in procedure. Planning Advisory Service (PAS) training can include this item, important as current objections from a Parish Council require Ward Councillor support and the training should reinforce that public interest is not a planning ground for call in.	Group Leaders Monitoring Officer Planning and Conservation Manager	Annual Council (May/June 2020)
42	Planning Committee	Consider starting meetings earlier. Members and officers are not performing at their best at late night meetings after a full day’s work and there is an increased risk of challenge from applicants if it was perceived that an application had been rushed because of a long meeting.	Moving meeting times is not supported politically at the current time due to concerns it may dissuade people with caring responsibilities from standing to be Councillors.  Alternative of allowing officers to attend meetings virtually from home to be explored	Group Leaders Monitoring Officer	



			It is proposed that this is reviewed once the other recommendations have been implemented regarding call ins, issues paper, training and chairing of meetings to establish whether it remains an issue or has been resolved by other action.		
43	Planning Committee	Consider reducing the size of the planning committee.	Proposal to Full Council to reduce Committee size to 12	Group Leaders Monitoring Officer	Annual Council (May/June 2020)
44	Planning Committee	Produce supplementary report to table on evening of the planning committee that updates members on changes / updates since publication of report. Currently there is a verbal update at committee which is time that could be saved.	Agreed, noting may still need some verbal updates if any last minute changes after publication of supplementary report which would need to be published the day before the Committee to allow participants time to read it. Tabling a supplementary report at the Committee will simply replace time taken for verbal update with reading time.	Planning and Conservation Manager	
45	Planning Committee	Have specialists at planning committee for example, highways officers where there are highways issues.	Agreed and this already occurs where possible, subject to the availability of those specialists who may not be employed/contracted by the Council.  Alternative of allowing external specialists to attend meetings virtually to be explored.  Consideration will be given to including sessions with specialists as part of the training programme, so that their role and input is better understood	Planning and Conservation Manager	
46	Planning Committee	Strong and clear legal advice can help.	Agreed. A Planning Control Committee decision aide memoire has already been agreed with the Chair, Vice Chair, Group Leader and relevant officers to assist.	Service Director Legal and Community	

47	Planning Committee	Strong chairmanship of committee required, especially post Local Plan.	Agreed. Chair and Vice Chair will receive the planning training and charring training referred to above.	Chair and Vice Chair of Planning Control Committee	
48	Planning Committee	Committee reports - Highlight in bold the key material planning considerations.	Report template to be reviewed to ensure material planning considerations are clear to reader	Planning and Conservation Manager	Review prior to training
49	Planning Committee	Committee reports - Location plan to show wider context.	Agreed. Will be included in review of report template	Planning and Conservation Manager	Review prior to training
50	Planning Committee	Committee reports - Training will help understanding of the key points.	Agreed. Review of template to be undertaken prior to training so that it can be included. Training can be delivered by officers as part of the training programme.	Planning and Conservation Manager	
51	Planning Committee	Have up to date council plan and supplementary planning documents.	Council Plan is reviewed annually each summer SPDs will be reviewed post conclusion of Local Plan Examination	Executive Member Planning and Transport SD Regulatory	
52	Planning Committee	Cabinet member or Leader to speak in support of applications at planning committee that support the Council's priorities and where the specifics would amount to a material planning consideration.	Agreed, where it is appropriate	Leader and/or Executive Member	
53	Overview and Scrutiny Committee	Executive members should lead at O&S and be visibly accountable for decisions and performance.	Agreed as recommendation	Executive Members	Immediate

54	Overview and Scrutiny Committee	Future meetings would benefit from taking a longer-term view of the key issues for the district (not just focussing on the next immediate meeting), fewer, more targeted agenda items, and be focused on key areas informed by performance reports and a forward work plan. Fewer agenda items will support more allocated time for meaningful scrutiny and related debate.	Agreed. To be taken forward as part of the training for the committee members	Chair and vice chair of O+S Scrutiny support	
55	Overview and Scrutiny Committee	The current membership of O&S was considered to be too large and would benefit from reducing from 15 members to 11 or 9.	Proposal to Full Council to reduce Committee size to 12	Group Leaders Monitoring Officer	Annual Council (May/June 2020)
56	Overview and Scrutiny Committee	It is recommended that all O&S members undertake formal training to ensure a robust base of skills and expertise can be deployed in the O&S environment.	Formal scrutiny training has previously been provided to the Committee, but given changes to committee membership agree it makes sense to put in place further training and ensure that any new members receive training in the future	Chair and Vice Chair of O+S Scrutiny support Member training champions	
57	Overview and Scrutiny Committee	Use the task and finish programme to support early engagement and involvement with policy making.	Agreed. To be taken forward by the Leader (on behalf of Cabinet) and Chair and vice chair of Overview and Scrutiny, to discuss work programme	Leader Chair and Vice Chair of O+S Scrutiny support	

58	Overview and Scrutiny Committee	It is recommended that finish times should be agreed in the constitution and meetings end promptly at those times. There was a concern around individual personal effectiveness, accessibility, external public perception and health & safety / personal welfare of both members and officers from such excessively long and late meetings.	<p>Moving meeting times is not supported politically at the current time due to concerns it may dissuade people with caring responsibilities from standing to be Councillors.</p> <p>Alternative of allowing officers to attend meetings virtually from home to be explored</p> <p>A 'guillotine' provision on committee meetings is not supported politically at the current time due to concerns it might stifle debate. It is proposed that this is considered once the other recommendations have been implemented regarding work programme, training and chairing of meetings to establish whether it remains an issue or has been resolved by other action.</p> <p>Training is provided to Chairs and Vice Chairs, but this could be reviewed to ensure that Chairs and Vice Chairs are able to confidently manage meetings to ensure they proceed in a timely manner</p>	Service Director Legal and Community Member training champions	
59	Overview and Scrutiny Committee	Peers recommend clarification of the governance arrangements between O&S and cabinet panels.	Proposal to Full Council to clarify relationship	Group Leaders Monitoring Officer	Annual Council (May/June 2020)
60	Overview and Scrutiny Committee	Ensure the O&S forward work plan includes scrutiny of external partners and contractors as a contribution to the leadership of 'place'.	Agreed as recommendation	Chair and Vice Chair of O+S Scrutiny support	Immediate

**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: SHAPING OUR FUTURE – ORGANISATIONAL DEVELOPMENT PROGRAMME**

REPORT OF THE CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE

EXECUTIVE MEMBER: LEADER OF THE COUNCIL

COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

**1. EXECUTIVE SUMMARY**

- 1.1 The Council is currently undertaking a range of initiatives, both structured and organic, which contribute towards our organisational development. Examples include Leadership Development, work on equality, diversity and inclusion, commercial culture and digital transformation all under the umbrella of our Values and Behaviours. These initiatives are not linked by a clear overarching strategy, which means they might not be as effective as they could be if we adopted a clear overall approach with clear outcomes that each strand contributes to. These activities are also closely linked with the Corporate Peer Challenge Action Plan.
- 1.2 The purpose of this report is to set out and agree outcomes for the ‘Shaping Our Future’ Programme, which provides this strategy, and to consider and establish a working group. It is proposed that the working group be less formal than a Project Board but that Member and Officer involvement is crucial. To provide a framework for this the report sets out proposed terms of reference and membership.

**2. RECOMMENDATIONS**

- 2.1. That Cabinet endorse the outcomes set out at paragraph 8.2 of this report for the Shaping Our Future Programme, to be implemented by the Head of Paid Service.
- 2.2. That Cabinet endorse the terms of reference for a working group, attached at Appendix A, to be implemented by the Head of Paid Service.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. These recommendations are based on a need to create clarity about the purpose and need for Organisational Development and to clearly link this to the Councils Priorities and the Corporate Peer Challenge Action Plan.

- 3.2. The recommendations recognise that whilst much of the activity encompassed in the Shaping Our Future Programme is to do with the Management of the organisation and therefore focuses on officers it must be in line with the Councils Priorities. It is also important that values and behaviours are understood and demonstrated consistently by both officers and Members and that Members support and engage with the Shaping Our Future programme where it relates to them.
- 3.3. A working group will provide a focal point for 'Shaping our Future' and act to steer and facilitate actions that work towards the outcomes.

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

- 4.1. The only other option would be to continue with the various ad-hoc organisational development activities in an uncoordinated way. Whilst progress would be made we would lose the opportunities afforded by co-ordination and alignment with Council priorities and the Corporate Peer Challenge recommendations.

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

- 5.1. Consultation with Members is described at 7.1 below although members will already have been aware of the development of the Values and Behaviours.
- 5.2. Aspects of organisational development work already underway were shared during the Corporate Peer Challenge and feed through into the action plan.
- 5.3. The Staff Consultation Forum have been asked to comment on the proposals in this report. No responses were received.

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

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

#### **7. BACKGROUND**

- 7.1. The Shaping our Future strategy was initially raised with PLB in November last year and an information note was formally discussed by PLB on January 7<sup>th</sup> this year. It was agreed that the proposed outcomes and working group should be considered by Cabinet after the recommendations of the Corporate Peer Challenge were received. Following further discussion at PLB on 19 May this report is being brought forward to coincide with the report to Cabinet on the Corporate Peer Challenge action plan.

#### **8. RELEVANT CONSIDERATIONS**

- 8.1. Officers recognised that the term "organisational development" will not mean much to some and may be off putting to engagement. The programme has therefore been called 'Shaping Our Future' which truly reflects its importance in terms of how NHDC adapts and changes as an organisation. We try to avoid referencing organisational development when engaging people with the programme.

- 8.2 In work to date and initial discussions with PLB the outcomes that we would expect from the initial programme in the 2 years to May 2022 have been considered. These outcomes would help align the various activities already underway and new activities identified through the programme. The outcomes suggested are:-
- A high quality, diverse, inclusive and resilient workforce, meeting the needs of our community;
  - A healthy, creative and productive organisation;
  - A vibrant culture that embodies our values and behaviours.
- 8.3 Having looked at several organisational strategies whilst researching this proposal there are an infinite number of options for the proposed outcomes but these seem to effectively describe our ambitions. It is envisaged that if the programme is successful it will be extended beyond the initial two year period.
- 8.4 The lead officer for the working group will be the Service Director Resources although the Managing Director as the Head of Paid Service, will still be significantly involved as a member of the group. Other officer involvement would be:  
Service Director Commercial (and other staff from this directorate as required)  
Service Director Transformation (subject to approval and appointment to the post)  
The Learning and Employee Engagement Manager and other HR staff.  
A range of other staff across service areas and grades.  
It may be that sub-groups would be used to focus on specific aspects of the programme.
- 8.5 It is proposed that the Leader of the Council heads the Member involvement of the group supported by the other Group Leaders and the three Member Development Champions.
- 8.6 As the group is intended to operate informally it is proposed that the business of the group would be led by the Service Director Resources. This also reflects that most of the business will likely be concerned with staff management issues. The Leader would take the lead on aspects of the programme related to Member Development for example.
- 8.7 The intention is that the working group would function in a steering and coordinating capacity rather than making decisions on every disparate activity that makes up The Shaping Our Future programme.
- 8.8 The organisational development process is, in broad terms, a simple one. You establish a clear vision of where you want the organisation to be, assess where you currently are, then establish how to bridge the gap between the two, whilst engaging the whole organisation at every stage.

Proposed process:-

1. Using the outcomes set by Cabinet, create a clear vision of the organisation of the future by developing the diagram below 'Where we want to be'



2. Analysis of current organisation against the vision 'Where are we now?' – with consultation and feedback exercises, engaging individuals/ managers/ teams/ councillors
3. Consider how current approaches and existing interventions can be aligned with the vision
4. Develop plan for further interventions and how they can be supported - with consultation and feedback exercises, engaging individuals/ managers/ teams/ councillors
5. Monitor progress against objectives



## **9. LEGAL IMPLICATIONS**

- 9.1 The Local Government and Housing Act 1989 details that the Head of Paid Service will determine how the functions of the Authority will be delivered and the organisation of the Authority's staff. This is also reflected in the general delegation within the Constitution, section 14.6.4 (a) (i). The current Head of Paid Service (Chief Executive) and future Head of Paid Service (currently Deputy Chief Executive, to be Managing Director from July) have been involved in drafting the planned outcomes of the "Shaping our Future" Programme and the Terms of Reference for the working group.
- 9.2 For this programme to be successful it requires political support for the planned outcomes over the medium-term and also for Members to also engage in the development programme. Therefore, Cabinet are being asked to endorse the planned outcomes of the programme in recommendation 2.1. Given that the terms of reference determine Member involvement in the working group, Cabinet are also being asked to endorse those as well. As this is not a policy or strategy that is reserved to Council, then it is a Cabinet decision (section 5.6.1 of the Constitution).
- 9.3 Under section 5.6.6 of the Constitution, Cabinet may "consider and respond to recommendations and reports from the statutory officers".

## **10. FINANCIAL IMPLICATIONS**

- 10.1. There are no additional Financial requirements at present as the programme will be resourced using existing staffing and budget arrangements.
- 10.2. There are no specific revenue implications.
- 10.3 There are no specific capital implications.

## **11. RISK IMPLICATIONS**

- 11.1. The Shaping our Future programme will help to ensure that actions are aligned to the Council's objectives and how it wants to go about achieving those objectives. This therefore reduces organisational risk.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. A stated outcome of the programme is :

A high quality, diverse, inclusive and resilient workforce, meeting the needs of our community

It is therefore likely that the programme will have significant positive impact in respect of 12.1 above by seeking to create a culture in which equality issues are to the fore.

### **13. SOCIAL VALUE IMPLICATIONS**

13.1. The Social Value Act and “go local” requirements do not apply to this report.

### **14. ENVIRONMENTAL IMPLICATIONS**

14.1. There are no known Environmental impacts or requirements that apply to this report.

### **15. HUMAN RESOURCE IMPLICATIONS**

15.1 Many aspects of ‘Shaping our Future’ are to do with the way we organise, manage and support our workforce in order to achieve the priorities of the Council.

### **16. APPENDICES**

16.1 Appendix A – Draft Terms of Reference ‘Shaping our Future’ Working Group

### **17. CONTACT OFFICERS**

17.1 Ian Couper, Service Director – Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk) ext. 4243

Anthony Roche, Deputy Chief Executive  
[Anthony.roche@north-herts.gov.uk](mailto:Anthony.roche@north-herts.gov.uk) , ext. 4588

David Scholes, Chief Executive  
[David.scholes@north-herts.gov.uk](mailto:David.scholes@north-herts.gov.uk), ext: 4300

Keith Crampton, Learning and Employee Engagement Manager  
[keith.crampton@north-herts.gov.uk](mailto:keith.crampton@north-herts.gov.uk) , ext. 4435

Jeanette Thompson, Service Director: Legal and Community  
[Jeanette.thompson@north-herts.gov.uk](mailto:Jeanette.thompson@north-herts.gov.uk) ; ext 4370

Reuben Ayavoo, Policy and Community Engagement Manager  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext 4212

### **18. BACKGROUND PAPERS**

18.1 There are no additional background papers.

North Hertfordshire District Council (NHDC) faces significant challenges and therefore a need to continually develop and adapt. To focus the way the organisation addresses this a programme called 'Shaping our Future' was introduced in 2020 to co-ordinate the many elements.

### **Working Group Purpose**

To steer and support Shaping our Future' activities and provide co-ordination between the development of activities related to Elected Members and those related to Officers and the Management of the organisation. These elements should be complimentary and result in achieving the stated outcomes of:

- A high quality, diverse, inclusive and resilient workforce, meeting the needs of our community;
- A healthy, creative and productive organisation;
- A vibrant culture that embodies our values and behaviours.

### **Terms of Reference**

- Assist and advise in the development, implementation and review of activities and projects that support the achievement of the stated outcomes
- Ensure co-ordination of programme strands to ensure maximum benefit is achieved
- Ensure an alignment with the Values and Behaviours of the organisation in all strands, elements and activities related to organisational Development.
- Ensure an alignment in all parts of the organisation relating to both Political and Officer structures, culture, values and behaviours.
- Be innovative in coming up with new ideas to support the achievement of the outcomes
- To collectively scrutinise organisational development activity related to both Members and Staff
- Provide a conduit for communication relating to these matters for both Members and staff
- Monitor and assess results of the programme against the outcomes

### **Membership**

The group shall comprise of:

- Programme Leads, Service Director – Resources
- Specialist Advisor and Equalities Lead, Learning and Employee Engagement Manager
- Key Management Representation, Managing Director, Service Director – Commercial and Service Director Transformation (subject to approval of this role)
- Employee Champions and Specialists, as required on main group or in subgroups
- Member Representation:
  - Group Leader of all parties
  - Member Development Champions
- Administrative support will be identified by the officer programme lead and will be responsible for arranging the venue, agenda and action notes. The group may co-opt, in a consultative capacity, representatives of a particular area or section affected by an item under discussion or those officers whose expertise in a particular subject area is deemed necessary.

The group will provide regular updates to, and consult with, the Staff Consultation Forum. This will be through the Service Director: Resources.



## **Constitution**

- The group has been put together to drive organisational development towards the stated outcomes and in line with Organisational Values and Behaviours.  
The values are:

We are together

We are continually improving

We are forward thinking

We are Customer focused

We are listening

We are performance focused

- In view of this the group will operate informally with a collaborative approach that reflects these values
- The programme outcomes and the activities needed to achieve them are intended to allow for longevity of organisational development regardless of specific political direction. The culture and operation of the group will reflect that
- Generally, meetings will take place monthly or as agreed by the Programme Leads
- Meetings shall be held during normal office working hours unless agreed by the group
- The group can convene subgroups as required

**CABINET  
23 JUNE 2020**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: HOUSING DELIVERY TEST ACTION PLAN 2020**

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**

- 1.1. The Housing Delivery Test (HDT) is a Government measure of new homes. The results of this test are produced annually for all local authorities. The second round of HDT results were published in 2020. Because of these results, North Hertfordshire must publish an Action Plan by August 2020 setting out what actions it will take to increase the delivery of new homes within the District. This report seeks approval of that Action Plan.

**2. RECOMMENDATIONS**

- 2.1. That the HDT Action Plan, attached as Appendix 1, be approved for publication and implementation.
- 2.2. That the key messages and actions contained in the HDT Action Plan are incorporated as appropriate in actions and measures arising from implementation of the Corporate Peer Challenge Action Plan.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To meet the requirements of national planning policy.
- 3.2. To ensure that measures are developed and implemented consistently and in an integrated fashion across the organisation.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. To not produce an Action Plan. National policy states that an Action Plan, when required, should be produced within six months of the HDT results being published. However, there is presently no indication as to any sanctions or penalties that might apply if this requirement is not met. Notwithstanding this point, this is not considered an appropriate course of action and has not been pursued.

- 4.2. To produce an Action Plan in an alternate format and / or with different (or more, or fewer) actions identified. Similar to the above, there has been no suggestion to date that authorities will be judged on the quality or content of their Action Plans. Planning Practice Guidance suggests a range of factors which might be taken into account or addressed through Action Plans. The current Action Plan is not exhaustive in this regard. However, it is focussed upon those actions that, in officers' professional judgement, provide the best opportunity for deliverable outcomes and upon which the Council can exert an influence.

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

- 5.1. The Strategic Planning Matters report to Cabinet of March 2020 identified the need to produce an Action Plan following publication of the HDT results and that this would be reported to a future meeting. The Executive Member for Planning and Transport and deputy have been briefed on the matters set out above and reviewed the proposed Action Plan prior to publication of the Cabinet agenda.

## **6. FORWARD PLAN**

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on 13 March 2020.

## **7. BACKGROUND**

- 7.1. The Government is committed to increasing rates of house building. It has set a target to deliver 300,000 new homes a year across the country by the mid-2020s. A range of measures have been identified to help achieve this.
- 7.2. The most recent version of the Government's National Planning Policy Framework (NPPF) was published in 2019. All Councils are required to identify a five-year supply of housing land. Where they were unable to do this, a 'presumption in favour of sustainable development' applies. In broad terms, this requires Councils to take a more liberal approach to determining planning applications for new homes. North Hertfordshire has not been able to demonstrate a five-year housing land supply for a number of years.
- 7.3. The Housing Delivery Test (HDT) was introduced in 2018. This is an annual measurement of housing delivery in the area of relevant plan-making authorities. North Hertfordshire is a relevant plan-making authority for the purposes of the HDT.
- 7.4. HDT results are published for each annual cycle by the Ministry for Housing, Communities and Local Government (MHCLG). Each result takes account of the number of new homes built over the preceding three years. The first HDT results were published by MHCLG in February 2019. The second HDT results were published by MHCLG in February 2020.

## 8. RELEVANT CONSIDERATIONS

- 8.1. The latest HDT results were published by MHCLG on 13 February 2020. North Hertfordshire's result was 44% meaning less than half the number of homes that the HDT considers are required were delivered over the last three years. North Hertfordshire's result places it amongst the ten worst-performing authorities in the country when measured by the HDT. The way in which this result was calculated is set out in the proposed Action Plan, attached as Appendix A to this report.
- 8.2. National policy sets out a range of actions that relevant plan-making authorities must take depending on their HDT result. These actions and the thresholds at which they must be implemented are explained in the Action Plan.
- 8.3. As a consequence of the latest results, the District Council must produce an Action Plan within six months. This Plan should detail what steps are being taken to improve performance. The Council must also use the maximum buffer when working out land supply and apply the 'presumption in favour of development' to relevant schemes for residential development. The Council has already been doing this for a number of years.
- 8.4. The Government's Planning Practice Guidance sets out a range of factors which might be considered in an Action Plan (see link in Background Papers for further information). This identifies a wide range of potential issues. The proposed Action Plan focuses on three key themes:
  - Theme One: Local Plan
  - Theme Two: Ensuring corporate readiness to successfully deliver major Local Plan schemes
  - Theme Three: To facilitate development and economic recovering following Covid-19
- 8.5. These themes are discussed in detail in the Action Plan. They are presently considered to be those areas where the Council can most effectively take action to the benefit of future HDT results. The themes and actions build upon those contained in the first Housing Delivery Test Action Plan approved by Cabinet in June 2019. They have also been developed having regard to the findings of the Corporate Peer Challenge carried out in January 2020 and the recommendations contained in the Corporate Peer Challenge Action Plan (subject to a separate report to this meeting).
- 8.6. As set out in the Strategic Planning Matters report, the Executive Member for Planning and Transport has written to the Secretary of State for Housing, Communities and Local Government seeking reassurances that the progression of our Local Plan examination, which has now been ongoing for three years, is seen as a priority.
- 8.7. Since the publication of the latest HDT results, the COVID-19 pandemic has had a profound impact upon development activity, the economy and society. This action plan has been produced in the context of that pandemic, whilst also recognising the Council's role as a facilitator of future economic and social recovery.

## **9. LEGAL IMPLICATIONS**

- 9.1. Cabinet exercises 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).
- 9.2. The Strategic Planning Matters report to Cabinet of March 2020 identified the need to produce an Action Plan following publication of the HDT results and that this would be reported to a future meeting.
- 9.3. The HDT, and the actions arising from it, form national Government policy on planning as set out in the National Planning Policy Framework.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The preparation of this Action Plan, and the implementation of the actions arising from it, is funded from within approved revenue budgets for the planning service. The costs of planning appeals (e.g. for non-determination of planning applications within statutory time periods) need to be met from within these budgets.
- 10.2. (Planning for) the delivery of new homes within the District influences future funding for the Council through the revenue base derived from Council Tax as well as application fee income and performance-related Government funding (e.g. any replacement for the New Homes Bonus).

## **11. RISK IMPLICATIONS**

- 11.1. There are no direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Corporate Risks. The HDT Action Plan includes proactive measures to help address these.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.



## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1 This report will have indirect environmental implications as it seeks to facilitate, and where appropriate accelerate, delivery of housing sites across the district including those identified in the Council's new Local Plan. The Council's environmental assessment template has not been completed for this report as the Local Plan and relevant planning applications will be subject to their own statutory assessments.
- 14.2 The Local Plan is accompanied by a Sustainability Appraisal (SA) which comprehensively considers the likely social, economic and environmental impacts of the Plan and each of its individual policies and allocations. Mitigation measures recommended by the SA are incorporated into the policies of the Local Plan as necessary. The robustness of the SA is considered by the Inspector currently conducting the statutory examination of the Local Plan. This forms part of his consideration of the legal compliance of the plan. Any further work or mitigations will be identified through that process.
- 14.3 Relevant planning applications will be screened to determine whether a statutory Environmental Impact Assessment is required. Where necessary, an Environmental Statement will be submitted for consideration by the case officer, in consultation with relevant technical experts, and will inform any recommendation to the Planning Committee or any other decision-making body.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 A number of appointments have been made within the planning service since the implementation of the directorate restructure in 2018. Workload and vacancies are monitored on an on-going basis against operational and financial requirements. There are currently two vacancies within the Strategic Planning & Enterprise team and one vacancy within the Development Management team.

## **16. APPENDICES**

- 16.1 Appendix A – Housing Delivery Test Action Plan 2020

## **17. CONTACT OFFICERS**

- 17.1 Ian Fullstone, Service Director of Regulatory  
01462 474480 [ian.fullstone@north-herts.gov.uk](mailto:ian.fullstone@north-herts.gov.uk)

### **Contributors**

- 17.2 Nigel Smith, Strategic Planning Manager  
01462 474847 [nigel.smith@north-herts.gov.uk](mailto:nigel.smith@north-herts.gov.uk)
- 17.3 Simon Ellis, Development & Conservation Manager  
01462 474264 [simon.ellis@north-herts.gov.uk](mailto:simon.ellis@north-herts.gov.uk)
- 17.4 Tom Allington, Principal Strategic Sites Officer  
01462 474508 [tom.allington@north-herts.gov.uk](mailto:tom.allington@north-herts.gov.uk)

- 17.5 Nurainatta Katevu, Property & Planning Lawyer  
01462 474364      [nurainatta.katevu@north-herts.gov.uk](mailto:nurainatta.katevu@north-herts.gov.uk)
- 17.6 Ian Couper, Service Director of Resources  
01462 474243      [ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk)
- 17.7 Kerry Shorrocks, Corporate Human Resources Manager  
01462 474224      [kerry.shorrocks@north-herts.gov.uk](mailto:kerry.shorrocks@north-herts.gov.uk)
- 17.8 Reuben Ayavoo, Policy and Community Engagement Manager  
01462 474212      [reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk)

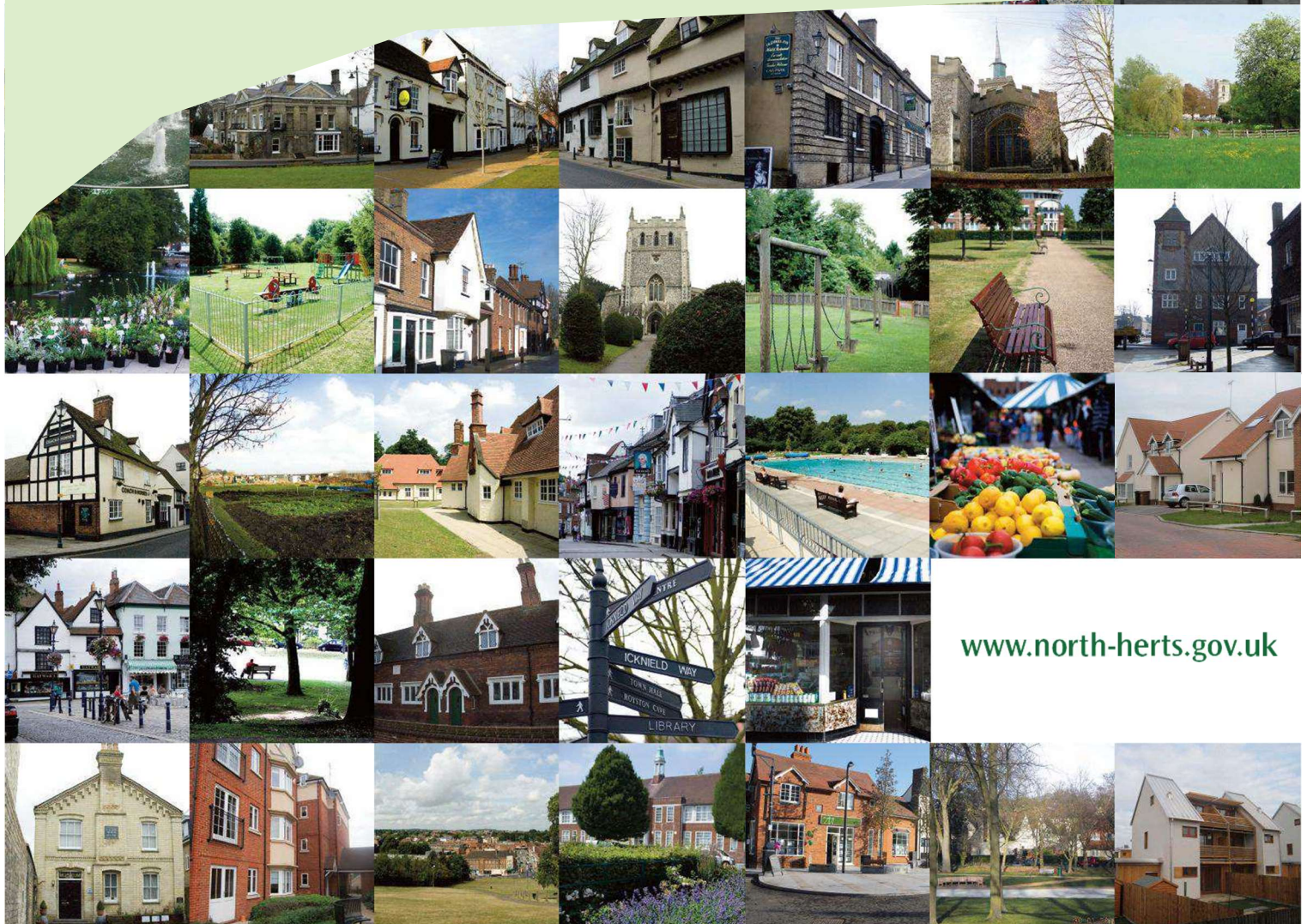
**18. BACKGROUND PAPERS**

- 18.1 [National Planning Policy Framework](#)
- 18.2 [Planning Practice Guidance – Housing Delivery Test](#)

# Housing Delivery Test Action Plan February 2020 – February 2021

June 2020

Strategic Planning and Enterprise



[www.north-herts.gov.uk](http://www.north-herts.gov.uk)



## **Background**

1. This is the second Housing Delivery Test (HDT) Action Plan for North Hertfordshire.
2. The Government is committed to increasing rates of house building. It has set a target to deliver 300,000 new homes a year across the country by the mid-2020s. A range of measures have been identified to help achieve this.
3. The revised National Planning Policy Framework (NPPF), first published in 2018, introduced the Housing Delivery Test (HDT). This is an annual measurement of housing delivery in the area of relevant plan-making authorities; North Hertfordshire is a relevant plan-making authority for the purposes of the HDT.
4. HDT results are published annually by the Ministry for Housing, Communities and Local Government (MHCLG). The first HDT results were published by MHCLG in February 2019 (the 2018 results). The second set of HDT results were published in February 2020 (the 2019 results). Each set of results considers performance over a three-year period. The 2019 results cover the period from 2016 to 2019.
5. The NPPF sets out the consequences of not meeting the requirements of the HDT. The table below summarises the actions to be taken.

<b>Action</b>	<b>Threshold for action (where HDT results for the year are less than...)</b>		
	<b>2018</b>	<b>2019</b>	<b>2020</b>
Produce an Action Plan <sup>1</sup>	95%		
Apply maximum buffer in five-year land supply calculations <sup>2</sup>	85%		
Apply the 'presumption in favour of sustainable development' in planning decisions <sup>3</sup>	25%	45%	75%

6. The thresholds for producing an action plan and applying the maximum buffer have been in place since publication of the first 2018 results. The application of the presumption in favour of development is subject to transitional arrangements. The threshold increases over the first three years' results.
7. Since the publication of the 2019 results, the COVID-19 pandemic has had a profound impact upon development activity, the economy and society. This action plan has been produced in the context of that pandemic, whilst also recognising the Council's role as a facilitator of future economic and social recovery.

<sup>1</sup> Paragraph 75 of the NPPF

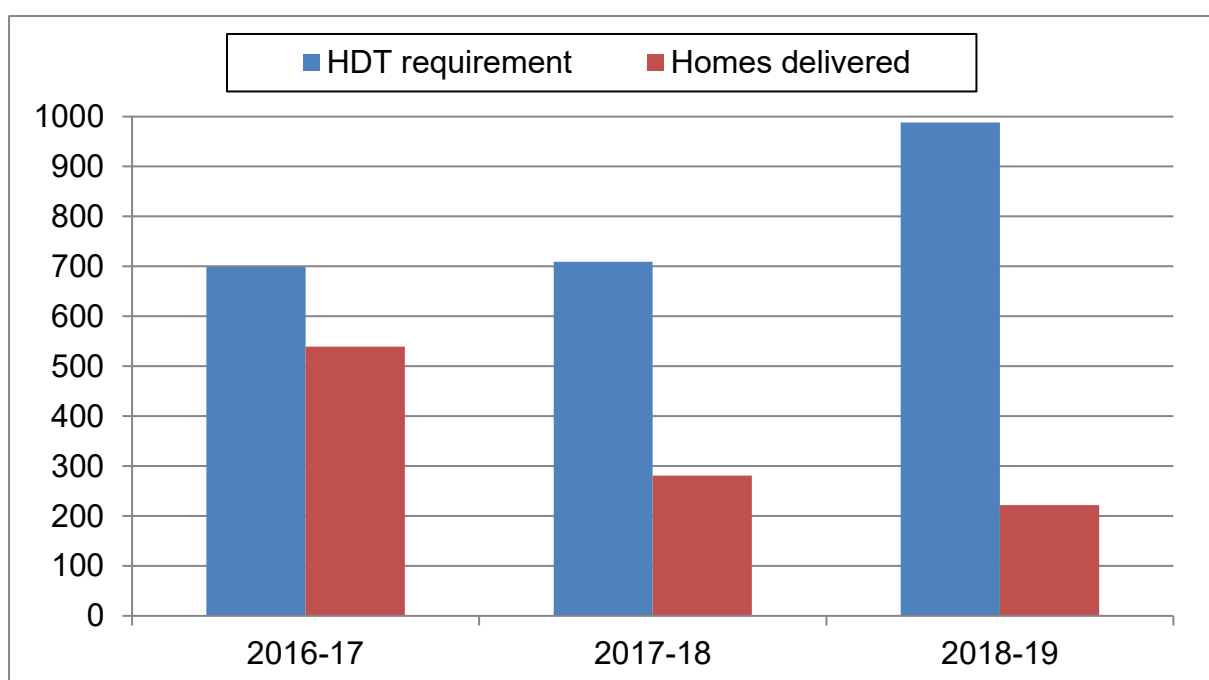
<sup>2</sup> Paragraph 73 of the NPPF

<sup>3</sup> Paragraph 11 of the NPPF, including footnote 7; Paragraph 215 contains transitional arrangements.

### HDT result for North Hertfordshire

8. The 2019 HDT results were published by MHCLG on 13 February 2020<sup>4</sup>.
9. The Council does not presently have an up-to-date Local Plan. This means the number of homes required under the HDT is calculated using a combination of the Government's household projections and local housing need calculation. The number of homes required by the HDT in North Hertfordshire for the three-year period 2016-2019 was **2,395**.
10. In the same three-year period 2016-2019, **1,042** homes were delivered in the District. North Hertfordshire therefore delivered **44%** of the homes required (1,042 / 2,395). The results are summarised in the table and graph below.

	2016-17	2017-18	2018-19	Total
Homes required under HDT	699	709	988	2,395
New homes delivered	539	281	222	1,042
<b>2019 HDT result:</b>				<b>44%</b>



11. North Hertfordshire's HDT result is lower than in 2018. This is because the HDT requirement for 2018-19 was significantly higher than in previous years while the number of homes built was lower. Our performance over the two HDT periods to date is shown in the table below.

	2018	2019
Homes required under HDT	2,111	2,395
New homes delivered	1,161	1,042
HDT result	<b>55%</b>	<b>44%</b>

<sup>4</sup> <https://www.gov.uk/government/collections/housing-delivery-test>

12. Because of these results, North Hertfordshire must produce this Action Plan detailing what steps are being taken to improve performance. The Council must also apply the most generous 20% buffer to its calculations when working out land supply. The 2019 HDT result additionally means the presumption in favour of sustainable development must be applied when considering relevant planning applications.
13. The Council has already been using a 20% buffer in its land calculations for several years. The assessment of land supply for the current Local Plan Examination has been carried out in this way. Similarly, the presumption in favour of sustainable development is applied to relevant decisions in North Hertfordshire as the Council cannot demonstrate a five-year land supply.
14. The latest HDT results for North Hertfordshire places it amongst the ten lowest performing authorities in England, out of a total of more than 300. It is therefore essential that we critically review the reasons for this and establish actions that will drive increased delivery of new homes in future years. This includes evaluating the findings of a recent peer review which recommends that we realign corporate activity towards placemaking and recognise the potential benefits of growth.

## **Review of first HDT Action Plan and present situation**

16. The Council's first Action Plan was published in June 2019. This identified some of the key issues which had impacted upon the Council's 2018 HDT results. This analysis informed the measures set out in the first Action Plan, which should be referred to for further information<sup>5</sup>.
17. Our first Action Plan focused upon three key themes. These were considered the most significant constraints to accelerating housing delivery in the District as well as the areas where the Council could most effectively act to the benefit of future HDT results:
- Reviewing existing policy constraints, notably tightly drawn Green Belt boundaries around many of the main settlements in and adjoining the District. This was primarily to be addressed through progressing the Council's new Local Plan;
  - Providing greater clarity to developers and stakeholders, particularly in relation to the negotiating and securing of planning contributions; and
  - Addressing process constraints within the Council's Development Management function.

### **Progress in meeting 2018 HDT Actions**

18. The first Action Plan reflected that the release of the first HDT results had been delayed. Although it was adopted in June 2019, the plan set measures intended for implementation in the period November 2018 to October 2019. This was to tie in with the HDT results cycle and on an assumption this would synchronise with future releases.
19. However, the 2019 results were similarly delayed in their publication and were released in February 2020. It is now considered more effective to set measures for the 12-month period from the date the results were released.
20. In order to ensure continuous coverage between the two Plans, the extent to which measures from the 2018 Action Plan had been met by February 2020 are set out on the following pages with a 'RAG' (red, amber or green) rating and a brief commentary.
21. It can be seen that, notwithstanding the deterioration in the Council's HDT result, a number of measures have been successfully completed. This is to be welcomed. However, it does not necessarily mean there is no need to include them in future plans; many actions will be recurring or require ongoing monitoring.
22. Similarly, several actions have, upon review, only been implemented in part or led to limited success. It is therefore necessary to consider whether these measures should be retained and / or amended in this Plan.

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<sup>5</sup> <https://www.north-herts.gov.uk/home/planning/planning-policy/monitoring>



**Review of measures in 2018 Housing Delivery Test Action Plan over period November 2018 to February 2020**

<b>Theme</b>	<b>Action</b>	<b>Assessment</b>	<b>Commentary</b>
1: Local Plan	Ensure the administrative capacity to process Main Modifications consultation responses	Successful	This action had been completed at the time of the Action Plan's publication in June 2019.
	Seek to appoint to vacant posts within the Strategic Planning function	Partially successful	Two attempts at recruitment yielded no viable applicants; one post partially filled (0.5FTE) through secondment of staff from Development Management.
	Maintain dialogue with Local Plan Inspector	Successful	The Council successfully maintained ongoing communication with the Inspector via the appointed Programme Officer
	Respond promptly to Local Plan Inspector queries	Partially successful	The Inspector issued additional questions in July and August 2019. These resulted in significant further work which was substantively submitted in November 2019.
	Maintain political liaison with Local MPs	Partially successful	Ad-hoc email contact with individual MPs on an issues basis.
	Provide regular political briefings	Successful	Regular briefings have been held. The change of political administration in May 2019 meant extra steps were taken to ensure Members with new responsibilities were appropriately briefed and able to make informed decisions.
	Maintain Brownfield Register	Successful	This action had been completed at the time of the Action Plan's publication in June 2019.
2: Developer contributions	Prepare new Developer Contributions SPD	Partially successful	Consultation on draft SPD commenced January 2020.
	Ensure long-term Corporate Planning acknowledges impacts of planned growth	Partially successful	Corporate Peer Challenge conducted in January 2020 with a specific focus on planning leading to a series of recommendations. Action Plan currently being developed.
	Provide pre-application service	Successful	A range of pre-application enquiries have been received leading to the provision of written advice and / or ongoing dialogue in anticipation of future applications. Bespoke solutions have also been developed outside of the formal pre-application process.

Theme	Action	Assessment	Commentary
	Introduce s106 pro-forma	Partially successful	Pro-forma had been introduced at the time of the Action Plan's publication in June 2019 though take-up and quality of responses have been mixed.
	Provide regular training / briefing on s106 matters	Partially successful	Training has been held. However, this should move to a rolling programme rather than an annual, one-off event.
	Seek to appoint to new Planning & Litigation Lawyer post	Successful	Post had been filled at time of the Action Plan's publications in June 2019
	Hold regular liaison meetings with infrastructure providers	Partially successful	Regular meetings held with the County Council. However, contact with the NHS remains inconsistent due to their lack of dedicated resource.
	Participate in county-wide processes to develop understanding of developer contributions	Successful	HCC and PAS-led process completed. Cabinet requested a review of the pros and cons of introducing a Community Infrastructure Levy for North Hertfordshire in January 2020.
	Seek to appoint to new Planning Obligation and Compliance Officer post	Successful	Post had been filled at the time of the Action Plan's publication in June 2019.
3: Development Management	Provide pre-application service	Successful	See earlier entry
	Liaison with third-party providers of pre-application advice	Partially successful	Recognition of need to ensure consistent and holistic responses on significant schemes has improved.
	Appoint to new Strategic Sites Officer Post	Successful	Post had been filled at time of the Action Plan's publication in June 2019.
	Update Supplementary Planning Documents	Partially successful	See Developer Contributions SPD above. Design SPD in development.
	Provide regular training / briefing on decision-making	Successful	Training had been held at the time of the Action Plan's publication in June 2019
	Engage with Homes England on delivery of proposed major sites	Successful	Dialogue with Homes England had been established at the time of the Action Plan's publication in June 2019 and remains ongoing.
	Re-invest increased fee income within planning service	Successful	New posts in Development Management, Compliance and Legal teams funded from reinvested income.
	Establish informal officer Major Applications group	Partially successful	This had been established at the time of the Action Plan's publication in June 2019. Ongoing monitoring and review of processes have led to the conclusion a wider corporate approach is required (see Action Plan)

## Theme 1: Local Plan

23. As set out in the previous Action Plan, the lack of an up-to-date Local Plan for the District is probably the single biggest factor inhibiting delivery. That Action Plan set out our hope that we would be able to progress this Plan to adoption but also recognised the risk that any requirement for further evidence or hearing sessions could delay this.
24. In July and August 2019, the Inspector wrote to the Council outlining a series of issues, reservations and questions relating to the Plan. This necessitated significant additional work including the commissioning of new evidence. Responses to most of these queries were supplied to the Inspector in November 2019. A response to the one remaining issue was submitted in December 2019 with the Council then proactively supplying additional information on housing delivery in January 2020.
25. As at February 2020, dates for further hearings had been set and were due to take place in March. These were subsequently postponed due to COVID-19. At the time of writing, it has not been possible to identify alternate dates when the hearings may resume. Recently published Planning Inspectorate guidance encourages the use of technology to facilitate a resumption of hearings<sup>6</sup>. It is understood that hearings proposed for South Oxfordshire in July 2020 will act as a pilot for other authorities.
26. The Council has maintained a positive dialogue with the Inspector through the Programme Officer and is committed to resuming the hearings and completing the examination at the earliest opportunity once circumstances allow.
27. The Council submitted updated information on housing delivery and five-year supply to the examination in January 2020. This showed that the amount of development now considered deliverable by 2031 had reduced compared to the figures contained in the Plan submitted for examination in June 2017. The shutdown of the construction industry and housing market due to COVID-19 may further impact upon the Council's ability to deliver new homes over the Plan period. However, liaison with key developers to date suggests they retain a positive, pro-development outlook.
28. Planning applications have been submitted on a number of proposed Local Plan allocations. Officers are engaged in early stage discussions on other sites in anticipation of future planning applications. However, these negotiations require clear and consistent messaging from the Council on its aims and aspirations for future development., as identified by the Peer Review.
29. The delay in progressing the Local Plan has had a significant impact on Government measures of housing delivery. As well as the deterioration in HDT results set out in this Plan, the Council's monitoring report demonstrated a deliverable land supply of just 1.3 years as at 1 April 2019. This is particularly acute position when compared against the requirement in national policy to maintain five years' supply<sup>7</sup>.

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<sup>6</sup> <https://www.gov.uk/guidance/coronavirus-covid-19-planning-inspectorate-guidance>, accessed May 2020

<sup>7</sup> Paragraph 73 of the NPPF

30. Substantial improvement in HDT and five-year supply performance cannot occur without progressing the Plan to adoption or granting planning permission for appropriate schemes on proposed Local Plan sites in advance of the examination's conclusion (see Theme 3 of the Action Plan).
31. Alongside the new Local Plan, the Council has produced and annually updated its Brownfield Register<sup>8</sup>. As an area of high housing demand, and with a limited (former) industrial base, there is very little brownfield land in the District that has remained vacant and undeveloped. The brownfield register therefore largely reflects known planning activity as there is relatively little in the way of 'hard-to-develop' sites requiring pro-active Council intervention within the District.
32. The Strategic Planning function has been temporarily bolstered by an internal secondment, given that two periods of recruitment failed to attract suitable candidates for qualified, professional posts. This is presently due to end in June 2020. The Council budget for 2020/21, agreed in February 2020, includes a new, permanently funded Principal Strategic Planning Officer post funded through ring-fenced fee income.

#### Theme 2: Developer contributions

33. Alongside the progression of the Local Plan, the first Action Plan identified several measures that could be implemented to aid the effectiveness of the Development Management service.
34. The production of new or updated Supplementary Planning Documents (SPDs) experienced some delays, linked in part to the progression of the new Plan. However, consultation upon an updated Developer Contributions SPD began in January 2020.
35. Linked to this, a new pro-forma for Parish Councils and other stakeholders has been introduced for s106 contributions. This is intended to ensure that requests meet regulatory requirements and reduce the need for clarifications and / or extensive negotiations. Uptake to date has been patchy, in part due to a lack of resources or specific expertise to identify and cost projects.
36. Some parish councils in the District have suggested they would support the introduction of a Community Infrastructure Levy (CIL) as this gives them greater certainty over receipts without the same requirements for the up-front identification and costing of projects. There are arguments both for and against the potential introduction of a CIL for North Hertfordshire. In January 2020, the Council's Cabinet requested that a further review be conducted to explore this issue. This work is ongoing and is due to report a recommendation in the second half of the calendar year.
37. Officers have been appointed within the strategic sites team to progress significant applications though progress on a number of these has been slow. This can partly be attributed to delays associated with the Local Plan as these sites are presently within the

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<sup>8</sup> <https://www.north-herts.gov.uk/home/planning/planning-policy/brownfield-land-register>, accessed May 2020

Green Belt. However, it has also become clear that these schemes are presently being negotiated on an individual, ad-hoc basis led by the planning case officer.

38. The uncertainty around the corporate approach to major planning applications has led to the identification of new risk on the Council register in relation to open space. There is presently an absence of (semi-)formal environments for corporate and political issues to be raised and considered in a balanced way as applications are progressed. This includes setting a holistic vision of the Council's role during and after scheme delivery.
39. This approach leads to inconsistencies in how applications are treated, the 'ask' in terms of on- and off-site developer contributions and a lack of clarity for prospective developers when generating their schemes. These issues are broadly reflected in the findings and recommendations of the Corporate Peer Challenge which provides a platform to implement change going forward (see Action Plan)
40. For those sites where permission has been granted, the new Planning Obligations & Compliance Officer (funded through ringfenced fee income) has quickly established effective relationships with the developers of major sites in the District. Regular site visits are conducted to ensure schemes are progressing in accordance with agreed conditions and triggers.

### Theme 3: Development Management

41. Significant permissions for housing development in the District were granted permission on proposed Local Plan sites in the period between November 2018 and February 2020. These included:
- Outline planning permission for up to 325 homes on land at Newmarket Road, Royston. This is site RY10 in the emerging Local Plan (planning application reference [17/00110/OP](#));
  - Reserved matters for 279 homes at Baldock Road, Royston. This is site RY1 in the emerging Local Plan ([19/00386/RM](#)); and
  - Full planning permission for 144 homes on land at Lower Stondon, site LS1 in the emerging Local Plan ([19/01758/FP](#)).
42. However, this also means that many of largest sites in urban areas and in the rural area beyond the Green Belt anticipated over the Plan period to 2031 now have permission. Most anticipated future development is upon sites that remain within the Green Belt pending the outcomes of the Local Plan examination. Planning applications have been received on a number of these sites and, in some instances, negotiations are well advanced.
43. Legal capacity and liaison with key internal and external partners have been enhanced. This has led to a greater shared understanding of key issues, though some concerns remain and there are challenges around recruitment and retention to professional posts (see below). In particular, the provision of separate pre-application services by a number of parties involved in the planning process – the District Council, the County Council as

the Highway Authority, the County Council as Lead Local Flood Authority and the Environment Agency – risks fragmented responses that do not lead to the best overall scheme in planning terms. Similarly, there remains a lack of co-ordination, clarity and / or consistency to internal responses within the Council.

44. Training on planning issues was offered to all Councillors and Parish Councils in 2019. This provided the opportunity to provide an update on key matters and discuss planning issues in an informal setting. However, Members and Officers recognise there would be greater benefits if training moved to a more responsive, rolling programme of events covering a variety of topics.
45. At the time of writing, physical planning committee meetings have been suspended due to COVID-19 restrictions. This position will be kept under review as Government guidance on public gatherings evolves.

#### Other relevant processes and factors

46. Recruitment remains a key issue across planning and associated services in terms of both personnel and finance. Following a senior management reorganisation in 2018, the planning service was restructured in anticipation of the significant schemes arising from the new local plan. Three new graduate planning officers were appointed in August 2019 and are being supported through accredited planning courses.
47. However, the ongoing nature of the local plan examination has impacted upon work programmes, the submission of (pre-)applications and associated fee income. The full impacts of COVID-19 on planning activity remain to be seen. Consequently, decisions around recruitment now also need careful consideration to ensure the service is financially and operationally sustainable. As such to date, vacancies in the strategic planning function have been partially filled through a temporary secondment from the Development Management team rather than permanent recruitment. However, it is recognised that this approach is not sustainable going forward as the plan progresses and with any future growth agenda locally or nationally.
48. There are many local planning authorities close to North Hertfordshire and there is a recognised shortage of qualified staff to fill permanent professional positions in the public sector. This leads to significant competition for employees from a relatively limited pool. For North Hertfordshire this is potentially compounded by the (perception of) better and more exciting opportunities for career progression being available in nearby authorities, particularly where Local Plans have been adopted and/ or less restrictive policies or attitudes to growth exist.
49. A Corporate Peer Challenge (CPC) was carried out by the Council in January 2020. The CPC is designed by the Local Government Association to provide a robust and effective improvement tool. Peers are at the heart of the challenge process and consist of councillors and senior officers from other District/Borough Councils who provide a 'practitioner perspective' and 'critical friend' challenge. Although the CPC looked across

the whole organisation, it also specifically reviewed approaches to planning decision-making. Key issues identified by Peer Review team included:

- A clear perception that the Council is risk averse;
- A lack of clarity around future ambitions or direction for the District; and
- The need for a corporate and strategic approach to transformation;

50. Recommendations include:

- Broadening the council's focus to an ambitious place shaping agenda;
- Aligning resources, policies and capacity to achieve priorities;
- Developing a narrative for place; and
- Taking a corporate approach to transformation – top down and programme managed.

51. Planning projects, including the Local Plan and the associated major development schemes, are a good 'fit' to the Peer Review recommendations. A corporate action plan is currently being developed. There are measures contained in this Plan relevant to that process and vice versa.

52. Since 2018, North Hertfordshire has worked collaboratively with the other nine district local planning authorities in Hertfordshire, the County Council and the Local Enterprise Partnership through the Hertfordshire Growth Board. The main purpose of the Growth Board is to respond to key challenges facing the county over the coming years. It provides leadership and governance, while also being the single point-of-contact for central government over funding opportunities in the future.

53. In early conversations with Government officials it became clear that a more formal working arrangement needed to be documented to demonstrate the authorities' commitment to work together in formulating and delivering a growth deal for Hertfordshire. In November 2019, the Council agreed to sign a Memorandum of Understanding outlining a shared understanding of key growth challenges and ambitions and a commitment to their delivery.

54. More recently, the impacts of COVID-19 on the economy and development have been profound. The future pathway out of the pandemic will be defined over coming months. There are likely to be structural changes in the ways we work, spend our leisure time and interact with the built and natural environment. However, it seems likely that Councils and their local planning authorities will have a vital role to play in this recovery by facilitating proposals for suitable and sustainable growth in a timely fashion.

## **Housing Delivery Test Action Plan 2020 – 2021.**

55. This section sets out the actions the Council will take to improve performance under the Housing Delivery Test. Following a review of the measures implemented to date and updated consideration of the factors affecting performance, the three key themes identified in the first Action Plan have been revised and updated to reflect current circumstances and priorities:
- Theme One: Local Plan
  - Theme Two: Ensuring corporate readiness to successfully deliver major Local Plan schemes
  - Theme Three: To facilitate development and economic recovering following Covid-19
56. As with the previous Action Plan, these are the themes which are considered a priority and the areas where the Council is most able and likely to deliver beneficial impacts in the short-term. Further detail on each theme is set out on the following pages. Appendix 1 contains the actions identified in this section along with responsibilities, timescales and monitoring arrangements.
57. As set out in previous sections, the actions identified are for the period February 2020 to February 2021. This makes for a more effective plan as it requires a greater number of actions to be implemented following approval, rather than reported in retrospect. Updates on progress with these actions will be provided through regular planning reports to Cabinet.
58. Given current global and local circumstances, it is highly likely that the Council will be required to produce a further Action Plan following the publication of the third set of HDT results. The Actions set out in this plan will be further reviewed and updated as required at that time.



## **Theme 1: Local Plan**

### **Priorities**

- To continue to progress the new Local Plan to adoption;
- To provide an up-to-date policy framework for the District;
- To foster more positive and progressive attitudes towards the proposed development strategy in the Plan; and
- To maximise opportunities for policy-compliant ‘windfall’ development to supplement planned supply

### **Anticipated outcomes**

59. Progressing the proposed new Local Plan to adoption would result in the relaxation of the current, restrictive policy boundaries around the towns and villages in and adjoining the District. It would result in the release of new land for development and allow for the positive consideration of existing and anticipated applications
60. Once any new Plan is adopted, its targets would also be applied to the HDT results. The emerging Plan recognises that a large proportion of future development is reliant on strategic and / or Green Belt sites. It therefore proposes a stepped approach to delivery. Should this proceed to adoption, the Council’s HDT results would improve; albeit in the first instance this would be as a result of a change in the way in which the results are calculated rather than through the provision of additional homes. The Council’s proposed approach to this matter will be examined when the hearings resume.
61. Increased capacity within the Strategic Planning function will help ensure timely progress on the new Local Plan, discharge Duty to Co-operate obligations with surrounding authorities commencing reviews of their own plans and initiate preliminary work that could inform the proposed early review of the new Local Plan.
62. Regularly updating the Brownfield Register provides the opportunity for additional windfall housing sites within the District to be identified, potentially reinforcing the five-year land supply and boosting housing delivery. Subject to successful recruitment to currently vacant posts, we will consider using ‘additional burden’ funding from Government to drive forward a small number of schemes where more proactive intervention may be required to deliver regeneration in the medium term.

### **Potential barriers**

63. The following potential barriers to successful outcomes are identified under this theme:
- Technological and / or social barriers to the resumption of Local Plan hearings;
  - New information (e.g. 2018-based household projections) may ‘overtake’, or lead to challenges of, evidence currently submitted to the examination;
  - Issues raised at resumed hearing sessions require further additional work;
  - Capacity within the Strategic Planning & Enterprise team, particularly where any emerging proposals for future joint working leads to competition for resources;

- Reduced capacity of housebuilding industry following COVID-19;
- Inconsistent corporate messaging of the Plan's proposals inhibits officer ability to pro-actively and openly negotiate with developers, agents, Government agencies etc.;
- Intervention(s) by Secretary of State on the Local Plan;

### Actions

64. To ensure successful outcomes under this theme, the Council will:

- Maintain an ongoing dialogue with the Inspector (via the Programme Officer) on the potential timing and scope of future hearings. This includes early identification of any further work or support (e.g. IT infrastructure) that may be required to support them;
- Provide prompt responses any further queries arising from the Local Plan Inspector and proactively seek additional expert assistance on key topics;
- Subject to the extent to which Government social distancing measures (or equivalent) remain in place, ensure PINS / MHCLG are aware of the impact that continued postponement has on relevant measures of housing delivery;
- Seek to appoint to the remaining vacant posts within the Strategic Planning function to provide additional, permanent staff capacity;
- Secure greater internal 'buy-in' to Local Plan strategy by linking to Corporate Peer Challenge outcomes and post-CV19 economic recovery strategies;
- Ensure ongoing, cross-party political support allowing a more open pursuit and negotiation of key schemes;
- Provide regular briefings to the Leader, Executive Member and other relevant internal groups;
- Seek to maintain political liaison with local Members of Parliament where required; and
- Maintain and enhance where possible (processes informing) the Brownfield Register

## **Theme 2: Ensure corporate readiness to deliver major Local Plan schemes**

### Priorities

65. The following priorities have been identified under this theme:

- To identify key sites and schemes from the proposed Local Plan as priority, corporate delivery projects and adapt or create internal structures and policies necessary to facilitate these;
- To provide greater clarity to developers and decision makers, allowing issues to be identified and dealt with up-front wherever possible. This includes ensuring that s106 requests are clearly communicated and meet the relevant regulations from the outset to reduce protracted negotiations and manage expectations;
- To increase capacity to progress and deliver high-quality, major schemes within the District Council.

### Anticipated outcomes

66. Once new Local Plan is in place, it is critical that the Council can rapidly drive forward key schemes to realise delivery if it is to secure and maintain improvement in its HDT results. Some, predominantly smaller, schemes will achieve this through normal planning processes and with minimal additional interventions. The larger, strategic sites will still take time to come to fruition and will require a concerted effort, and consistent support, from across the authority.
67. Finalising and adopting clearer guidance in relation to s106 requirements should lead to the speedier determination of applications. Delays in the production and agreement of s106 were recognised as a significant barrier to the delivery of housing in the District and work on a new Supplementary Planning Document is well progressed. We will continue to build on our generally positive working relationships with the County Council and other key stakeholders.
68. Concluding the ongoing CIL review will provide clarity for all parties on the Council's approach for the foreseeable future. Providing clearly evidenced justification and a balanced consideration of the alternatives will ensure the rationale behind any decision is transparent and publicly available for all to see.
69. The planning enforcement team will build on the strong start and good relations developed to date in relation to condition and s106 monitoring allowing any issues to be quickly and amicably resolved without unnecessary disruption to delivery.
70. As well as reviewing planning processes and guidance, it is also necessary to take a more fundamental look at the ways in which the authority approaches and views proposals for growth. The recommendations of the Corporate Peer Challenge ask the Council to critically review its attitudes to risk and the proposed approach of creating a place narrative around sustainability could provide that clarity.

71. Viewing major schemes as more than ‘just’ the determination of relevant planning applications will be central to this. Positioning growth and placemaking as drivers of corporate activity is likely to require new internal structures and regular liaison with key partners. This should allow for more open debates, particularly where competing demands (e.g. provision of affordable housing vs. management of open space vs. other social infrastructure provision vs. viable scheme delivery) need to be balanced. Embedding design review as a key requirement for significant residential applications will drive high-quality placemaking. In turn this will lead to a more holistic and consistent approach and empower planning case officers to negotiate schemes and reach clear recommendations.

### Potential barriers

72. The following potential barriers were identified under this theme:

- Delays in the examination and / or adoption of the new Local Plan impact upon the Council’s ability to progress major schemes (see Theme 1);
- Ad-hoc or inconsistent approaches continue to be applied by individual Council departments or third-party providers;
- Recommendations of CIL review create uncertainty;
- Peer Review Action Plan fails to translate recommendations into sufficiently challenging or required measures;
- Reluctance to embrace, or difficulties in implementing, recommended cultural change needed to successfully deliver on objectives;
- Failure to grasp corporate implications of growth;
- Requirements relating to reporting and monitoring exceed capacity.

### Actions

73. To ensure successful outcomes under this theme, the Council will:

- Present the Developer Contributions SPD for adoption;
- Provide a clear recommendation(s) on Community Infrastructure Levy by the end of 2020 providing clarity for all parties;
- Keep condition and s106 monitoring capacity under review;
- Ensure the Peer Review Action Plan recognises the significant planning and delivery challenges facing the Council and reinforces the actions suggested by this Plan;
- Progress the new Design SPD to support the new Local Plan, including establishing requirements for design review on larger schemes;
- Establish corporate consultation group, ‘sounding boards’ (or equivalent) to allow consideration of (emerging) schemes for strategic sites and provide guidance to case officers on key issues. To include training as required on key planning issues (see Theme 3)

### **Theme 3: To facilitate development and economic recovery following COVID-19**

#### Priorities

74. The following priorities have been identified under this theme:

- To enable the early identification of key issues on schemes and pro-active identification of solutions;
- To speed up decision-making on major applications;
- To ensure sound and robust decisions;
- To make decisions on key schemes in a timely fashion to address our housing supply shortfall and facilitate economic recovery following COVID-19;
- To seek and secure external assistance where this will facilitate or accelerate the delivery of key sites and schemes identified in the new Local Plan.

#### Anticipated outcomes

75. A number of actions have been rolled forward from the previous action plan and will make use of existing services and processes.

76. The Council's paid pre-application service aims to ensure there will be less outstanding or unknown issues when planning applications are submitted. We have sought to increase co-ordination with third parties that offer their own pre-application advice service and will continue to do so. This includes Hertfordshire County Council as Highway and Lead Local Flood Authority respectively. Separate pre-app processes can lead to fragmented responses. We continue to explore ways in which a more holistic approach can be secured, particularly where there are potentially competing demands. In addition to the paid pre-application process the Council is now exploring the use of Planning Performance Agreements for evolving schemes in order to explore issues at an even earlier stage on major and complex schemes.

77. Where issues are identified (and preferably resolved) prior to the submission of a planning application, all parties can have reasonable expectations that a faster decision, that is still robust, can be made.

78. A number of sites in urban areas and the rural area beyond the Green Belt included in the new Local Plan have been granted planning permission in advance of the new Local Plan being adopted. Planning applications are under consideration for a number of proposed allocations presently in the Green Belt.

79. As set out in the previous Action Plan, proposed housing sites currently within the Green Belt generally remain subject to the *very special circumstances* tests set out in National Policy and potential ministerial call-in. It may now be appropriate, subject to an open and balanced consideration of all relevant factors, to determine some planning applications on these sites in advance of the Plan examination being concluded. This position has been reached having regard to the various factors outlined in this Action Plan, the potential for early delivery of key infrastructure and the acute shortfall of housing provision against Government measures.

80. Continuing to grant permission for suitable schemes in advance of the new Plan's adoption will ensure an ongoing supply of new homes until such time as the largest, strategic sites come on stream. Taking greater ownership of the Council's growth agenda and proposals would allow for more proactive negotiation of (prospective) schemes to ensure they can proceed through the planning system without unnecessary delay.
81. Actively engaging with both Homes England and the Hertfordshire Growth Board (and, through them, MHCLG) will maximise opportunities for the Council to seek external funding, assistance and / or planning freedoms to bring forward the larger sites in the Plan. Taken together, the identified priorities should deliver development that provides high-quality placemaking, in accordance with Government policy, whilst also contributing to the recovery of the local and national economies following the current pandemic.

### Potential barriers

82. The following potential barriers were identified under this theme:
- Delays in the examination and / or adoption of the new Local Plan impacts upon the Council's ability to determine schemes (see Theme 1);
  - Continued public opposition to development maintains pressure on decision-makers;
  - Multi-agency involvement in planning applications limits the effectiveness of measures that might assist faster decision making, such as Planning Performance Agreements;
  - Wider economic conditions arising from the COVID-19 pandemic affect developer confidence, fee income and / or departmental budgets;
  - Public sector or institutional landowners – who hold a number of key sites in the Council's proposed future development strategy – are not as experienced in the formulation and delivery of strategic schemes as commercial counterparts;
  - The Council's lack of prior experience at dealing with the largest sites both individually and simultaneously.

### Actions

83. To ensure successful outcomes under this theme, the Council will continue to:
- Provide a pro-active pre-application service and seek to enhance co-ordination of advice with other parties;
  - Monitor progress on key applications to ensure they are presenting for determination in an appropriate and timely fashion;
  - Offer training for Members and Parish Councils on planning decision-making through a rolling programme of more focussed / topic-based events;
  - Engage the advice and assistance of Homes England, the Government's housing delivery agency, on key sites in partnership with site owners and promoters;
  - Participate in shared planning initiatives across Hertfordshire to ensure the county can fulfil targets set through local plans and approach Government (and other relevant agencies) for funding and support with a shared voice.

## Appendix 1 – Housing Delivery Test Action Plan

Note: In April 2020, the Council approved the creation of a new Managing Director post that will replace the existing posts of Chief Executive and Deputy Chief Executive. This structure will take effect from July 2020. This table refers to the new structure.

Theme	Action	Lead Officer(s)	Key Partners	Target date(s)	Performance measure(s) / frequency / notes
1: Local Plan	Maintain dialogue with Local Plan Inspector and / or Planning Inspectorate	Strategic Planning Manager	Local Plan Programme Officer	None – ongoing	None – ongoing
	Respond promptly to Local Plan Inspector queries	Strategic Planning Manager	Local Plan Programme Officer	None – ongoing	None – ongoing
	Proceed to a prompt decision on the Local Plan following receipt of any Inspector's report	Director of Regulatory Services;	Leader of the Council; Democratic Services Manager	Tbc – dependent on Inspector	Meeting held within 28 days of receipt of report
	Seek to appoint to vacant posts within the Strategic Planning function	Strategic Planning Manager; Strategic Projects & Infrastructure Manager	-	September 2020	Number of vacant posts within team  Target: 0
	Embed actions relevant to Local Plan within Corporate Peer Challenge Action Plan	Managing Director; Director of Regulatory Services	All Members	July 2020	Approval of Action Plan containing relevant measures (see Theme 2)
	Provide regular political briefings	Managing Director; Director of Regulatory Services; Strategic Planning Manager	All Members	None – ongoing	To provide at least: <ul style="list-style-type: none"> <li>• Monthly briefing opportunities for the Leader and Executive Member for Planning;</li> <li>• Three briefing opportunities per year for shadow portfolio holders; and</li> <li>• One briefing opportunity per year for all Members</li> </ul>

Theme	Action	Lead Officer(s)	Key Partners	Target date(s)	Performance measure(s) / frequency / notes
	Maintain political liaison with Local MPs	Managing Director; Director of Regulatory Services	Council Leader; Executive Member for Planning and deputy; MPs	None – to be arranged as required	None – to be arranged as required
	Maintain and enhance Brownfield Register	Graduate Planning Officer	-	December 2020	To update the brownfield register following a 'call for sites' exercise
2: Ensure corporate readiness to deliver growth	Present Developer Contributions SPD for adoption	Senior Planning Officer	Internal departments; HCC; NHS	July 2020	Approval of SPD in line with target date
	Present recommendations of CIL review	Senior Planning Officer	Internal departments; HCC; NHS	December 2020	Presentation of report to Cabinet in line with target date
	Provide regular training / briefing on s106 matters	Development & Conservation Manager; Strategic Planning Manager; Planning Lawyer	Councillors; Parish Councils	September 2020 and ongoing	To provide at least four formal briefing or training opportunities per year for all Members and Officers and at least twice per year for Parish Councils
	Update Supplementary Planning Documents	Strategic Planning Manager	Principal Landscape & Urban Design Officer	July 2020 and ongoing	Target for presentation of draft Design SPD to Cabinet See also Developer Contributions SPD above; other SPDs to follow
	Ensure review(s) arising from Corporate Peer Challenge acknowledge impacts and challenges of planned growth	Managing Director; Director of Regulatory Services	Senior Management Team; Executive Member for Planning and deputy	July 2020	Approval of Corporate Peer Challenge Action Plan incorporating appropriate measures
	Establish internal structures / groups to consider strategic sites and other major schemes	Director of Regulatory Services; Principal Strategic Sites Officer	Senior Management Team; Executive Member for Planning and deputy	September 2020	Agree membership of group(s) and Terms of Reference in line with target date



Theme	Action	Lead Officer(s)	Key Partners	Target date(s)	Performance measure(s) / frequency / notes
3: To facilitate development and economic recovery following COVID-	Provide pre-application service	Development & Conservation Manager	Internal departments; HCC	None – ongoing	Pre-applications vary significantly in scale and complexity, so a standard measure is not considered appropriate. To be monitored on a case-by-case basis
	Prepare DM team for delivering major housing applications by reviewing team structure.	Development & Conservation Manager		From April 2021 by April 2022	Combine with succession planning
	Hold regular liaison meetings with infrastructure providers / third-party providers of pre-application advice	Development & Conservation manager; Strategic Planning Manager; Principal Strategic Sites Officer	HCC; NHS	None – ongoing September 2020	To continue to hold at least Quarterly strategic liaison meetings with HCC; Establish strategic liaison meeting with NHS representative(s)
	Monitor progress of key (Green Belt) applications against statutory determination and expiry dates and progress of Local Plan	Development & Conservation Manager; Principal Strategic Sites Officer	Director of Regulatory Services; Executive Member for Planning and deputy; Chair of Planning Committee	None – ongoing	Appeals for non-determination on major applications;  Target: 0
	Provide regular training / briefing on planning decision-making	Development & Conservation Manager; Strategic Planning Manager; Planning Lawyer	Councillors; Parish Councils	September 2020 and ongoing	To provide at least four formal briefing or training opportunities per year for all Members and Officers and at least twice per year for Parish Councils

<b>Theme</b>	<b>Action</b>	<b>Lead Officer(s)</b>	<b>Key Partners</b>	<b>Target date(s)</b>	<b>Performance measure(s) / frequency / notes</b>
	Continue to engage with Homes England on delivery of proposed major sites	Principal Strategic Sites Officer; Strategic Planning Manager	Homes England	None – ongoing	Maintain regular programme of meetings
	Engage with MHCLG via Hertfordshire Growth Board on potential funding to accelerate or ensure delivery of key schemes	Managing Director; Director of Regulatory Services	Leader of the Council; Executive Member for Planning and deputy	None – ongoing	Maintain regular programme of meetings

**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: REGULATION OF INVESTIGATORY POWERS ACT ('RIPA') UPDATE AND ANNUAL REVIEW**

REPORT OF THE SERVICE DIRECTOR - LEGAL AND COMMUNITY & MONITORING OFFICER

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR MARTIN STEARS-HANDSCOMB

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES

**1. EXECUTIVE SUMMARY**

1.1 This report provides an annual update and proposed amendments to the Council's current RIPA Policies following an inspection and report.

**2. RECOMMENDATIONS**

*That Cabinet*

2.1. notes the content of this and the Investigatory Powers Commissioner's Office Inspection report (Appendix A)<sup>1</sup>; and

2.2. approves the RIPA Policy and Social Media in Investigations Policy as amended (Appendices B-C).

**3. REASONS FOR RECOMMENDATIONS**

3.1 To comply with the Inspector's recommendations and best practice.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 None.

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

5.1 The Chair of Overview & Scrutiny and Executive Members (Leader and Deputy in their relevant roles) have been kept informed of the situation relating to the annual review, Inspection and the fact that amendments will be required to relevant policy documents.

**6. FORWARD PLAN**

6.1 It is not a key decision; however, it has been referred to in the Forward Plan on 5 May 2020.

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<sup>1</sup> The IPCO has confirmed it can be disclosed, subject to the Inspector's name being redacted.

## 7. BACKGROUND

- 7.1 The Council is required to have a Policy and the current one was last approved by Cabinet in January 2019. The RIPA Policy must be reviewed annually and was due to be reviewed in January 2020, but delayed, firstly, as training was arranged for relevant officers (and amendments could be identified) through an external training body; secondly, following notification of the Investigatory Powers Commissioner's Office's ('IPCO') inspection for April, and subsequent delay of meetings due to the coronavirus.
- 7.2 Members should note the Council has not used surveillance powers or accessed communications data for some time, lastly noted in **2011**. The Shared Anti-Fraud Service ('SAFs') does, however, utilise such powers and these are regulated through Herts County Council's processes. The Council was last Inspected by the IPCO predecessor - the Office of Surveillance Commissioners in June 2016.

## 8. RELEVANT CONSIDERATIONS

### Annual Review of RIPA, IPCO Inspection and RIPA Policy

- 8.1 The last full review of the Policy was undertaken in 2018/19 as indicated.

#### Inspection April 2020

- 8.2 Since the last full review in 2016, the Council has been inspected. Whilst this was a telephone/ document review on 16 April 2020 (due to the coronavirus lockdown), the Inspector was satisfied with the arrangements in place. In particular:

- 8.2.1 that the Policy was largely accurate, succinct and easy to digest;
- 8.2.2 the Council's approach to monitoring social media and the Policy was comprehensive and a valuable reference tool (respectively);
- 8.2.3 oversight arrangements in terms of quarterly audits and reporting these through to Members via MIS and an annual report, met the Home Office Covert Surveillance and Property Interference Code of Practice requirements<sup>2</sup>;
- 8.2.4 the IPCO was pleased that training had been arranged for relevant officers as recently as January.

Essentially two recommendation were put forward:

- 8.2.5 Revision of the Policy in terms of communications data to reflect the legislative changes arising from the implementation of the Investigatory Powers Act 2016 (this is covered under the proposed changes to section 5 'Acquisition and disclosure of Communications Data in Appendix B);
- 8.2.6 To review the Council's Data Retention Policy yearly (*note that this is something the Council already does*).
- 8.3 Other than those changes relating to the above, the most notable amendments to the RIPA Policy are management structure or cosmetic in nature (e.g. to reflect the change in authorisation from the Chief Executive to the 'Head of Paid Service' to cover the change in Tier 1 and Tier 2 effective after 17 July 2020 and gender neutral terms).

#### Social Media Policy in investigations Policy

- 8.4 Whilst the Inspector did not recommend any changes, the version attached with tracked changes at Appendix C was the one viewed by the Inspector. This has proposed amendments following the training received in January 2020 from ACT Now, which included reference to overt Facebook reviews and accounts which may be used as set out under paragraphs 4.1-4.2 and 5.6 of the Policy.

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<sup>2</sup> Paragraph 4.47

### **Council's Use of RIPA**

8.5 None since the last report (see 7.2). No ongoing authorisations.

## **9. LEGAL IMPLICATIONS**

9.1 The Overview and Scrutiny Committee's Terms of Reference and Council's Constitution at paragraph 6.2.7(r) states that it shall be entitled to consider reports relating to the authority's use of the Regulation of Investigatory Powers Act (2000) (RIPA).

9.2 The Overview and Scrutiny Committee are asked to consider this report and make a recommendation to Cabinet in line with its Terms of Reference. It is Cabinet's responsibility to adopt the RIPA Policy.

9.3 Paragraph 5.6.1 of the Council's Constitution states that Cabinet may, by resolution, prepare and agree to implement policies and strategies other than those reserved to Council.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no financial implications arising from this Report. Training by Act Now was at a cost of £1650.00 and offered/ provided to all those authorising and potentially applying for authorisations.

## **11. RISK IMPLICATIONS**

11.1 It is important that the Council continues to operate in accordance with RIPA to ensure that it is able to effectively manage its reputational risk whilst also exercising its legitimate evidence gathering powers in connection with enforcement activity.

## **12. EQUALITIES IMPLICATIONS**

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.

12.2 The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

## **13. SOCIAL VALUE IMPLICATIONS**

13.1 The Social Value Act and "go local" policy do not apply to this report.

## **14. HUMAN RESOURCE IMPLICATIONS**

14.1 The officer involvement required to comply with these statutory obligations are factored into service plans and work plans. Further training is in the process of being arranged relating to the use of communications data in investigations and application process by SAFs with relevant officers.

## **15. ENVIRONMENTAL IMPLICATIONS**

15.1 There are no known Environmental impacts or requirements that apply to the amended Policy/this report.

## **16. APPENDICES**

- 16.1 Appendix A – IPCO inspection report.
- 16.2 Appendix B – RIPA Policy amended draft showing tracked changes.
- 16.3 Appendix C – RIPA Social Media Policy amended showing tracked changes.

## **17. CONTACT OFFICERS**

### Author

- 17.1 Jeanette Thompson, Service Director Legal and Community.  
[jeanette.thompson@north-herts.gov.uk](mailto:jeanette.thompson@north-herts.gov.uk); ext. 4370

### Contributors

- 17.2 Ian Couper, Service Director Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk); ext. 4243
- 17.3 Reuben Ayavoo, Policy and Community Engagement Manager  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext. 4212

## **18. BACKGROUND PAPERS**

- 18.1 None other than the documents referred to above.



Investigatory Powers  
Commissioner's Office

PO Box 29105, London  
SW1V 1ZU

David Scholes  
Chief Executive  
North Hertfordshire District Council  
Council Offices  
Gernon Road  
Letchworth Garden City  
Hertfordshire  
SG6 3JF

17 April 2020

Dear Chief Executive,

### Inspection of North Hertfordshire District Council

On 16 April, your Council was the subject of a telephone-based inspection by one of my Inspectors, ●●●●. This has been facilitated through your Senior Responsible Officer (SRO), Service Director Legal and Community Monitoring Officer, Jeanette Thompson, who was interviewed over the phone and provided the supporting documentation requested by the Inspector.

The information provided has demonstrated a level of compliance that removes, for the present, the requirement for a physical inspection.

My Inspector has reviewed your Council's RIPA Policy. It is largely accurate, succinct and easy to digest. In addition to a number of minor amendments which were accepted by the SRO, the Inspector recommended a major revision to the chapter covering the acquisition of communications data to reflect legislative changes arising from the implementation of the Investigatory Powers Act 2016 (IPA). I would be grateful if you could ensure this matter is addressed at the earliest opportunity.

The SRO outlined her oversight activity, including a description of the processes used to ensure that no unauthorised surveillance or CHIS management activity takes place. The SRO provides regular updates to the authorising officers, and the Corporate Enforcement Forum facilitates the exchange of views and sharing of best practice.

Although your Council has not exercised its powers since 2011, the SRO was reminded of the importance of ensuring that the designated authorising officers maintain their level of training. It was therefore pleasing to hear that training had been delivered in January 2020 with additional training for environment officers planned for later this year (dependent on the coronavirus).

The Inspector discussed with the SRO your organisation's approach to the monitoring of social media. The SRO confirmed:

- that guidance was provided to staff within the relevant social media policy (a copy of the guidance was emailed to the Inspector and it is a comprehensive and valuable reference tool); and
- that staff were not permitted to use covert profiles or pseudonymous accounts to conduct internet or social media enquiries.

In accordance with paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice, the SRO has confirmed that you provide Elected Members with an annual report sufficient to enable them to determine that the Council's policy remains fit for purpose, together with regular reports on RIPA activity (or inactivity).

The IPCO Inspectorate is currently undertaking a programme of work in relation to compliance with the safeguarding measures regarding material acquired under RIPA and the IPA; essentially how this is retained, reviewed and ultimately destroyed. Accordingly, the Inspector was provided with a copy of the Council's Data Retention Policy. Although no amendments are recommended, the Inspector has suggested that it would be helpful to review this policy annually to ensure that it remains current.

In conclusion, it must be emphasised that although your Council has not exercised its RIPA powers since 2011, it is important that the relevant staff remain appropriately trained should the need to authorise covert activity arise. The SRO has assured the Inspector that the integrity of your Council's processes and governance procedures will be maintained.

I hope that this telephone-based inspection has proved to be a worthwhile exercise. My Office is available to you should you have any queries following the recent inspection, or at any point in the future. Contact details are provided at the foot of this letter.

Particular thanks should be passed to Jeanette Thompson who provided comprehensive background reading material, completed the IPCO questionnaire, and made herself available for interview at a time of unprecedented challenges faced by all public authorities.

I shall be grateful if you would acknowledge receipt of this letter within two months.

Yours sincerely,



**The Rt. Hon. Sir Brian Leveson**  
The Investigatory Powers Commissioner



**NORTH HERTFORDSHIRE DISTRICT COUNCIL**  
**REGULATION OF INVESTIGATORY POWERS ACT**  
**2000 (RIPA)**  
**POLICY & PROCEDURES**



# REGULATION OF INVESTIGATORY POWERS ACT 2000

## POLICY AND PROCEDURES

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## 1 INTRODUCTION & BACKGROUND

1.1 This Policy is the framework on which the Council applies the provisions of The Regulation of Investigatory Powers Act 2000 (RIPA) as it relates to covert surveillance. It must be read in conjunction with the statutory codes of practice issued by the Secretary of State and any additional guidance provided by Investigatory Powers Commissioner's Office (IPCO) (~~formerly the Office of Surveillance Commissioners – OSC~~) and individual Directorates to deal with the specific issues of their service.

1.2 For the avoidance of doubt, all references to the Home Office Codes of Practice relate to the latest versions which were issued ~~in August 2018~~ in relation to covert surveillance and covert human intelligence sources; and ~~2016~~ in relation to the acquisition and disclosure of Communications Data. References to the Code of Practice OSC Procedures and other relevant Guidance document relate to the latest version which was issued<sup>1</sup> ~~in July 2016~~.

1.3 The Human Rights Act 2000 requires the Council to have respect for the private and family life of citizens. However, in rare cases, it may be lawful, necessary and proportionate for the Council to act covertly in ways that may interfere with an individual's rights.

1.4 The rights conferred by Article 8 of the Human Rights Act are qualified, so it is still possible for a public authority to infringe those rights providing the following criteria are satisfied;

### 1.4.1 It is done in accordance with the law

1.4.2 **It is necessary:** Necessity means that in the particular circumstances of each enquiry there is no reasonably available overt method of obtaining the information that is being sought. This test will have to be applied to each case on its own merits but if there is a reasonable alternative to covert surveillance then the necessity test will probably not be satisfied.

1.4.3 **It is proportionate:** Judging proportionality will probably involve three considerations.

- Is the proposed method of surveillance excessive in relation to the seriousness of the matter that is being investigated? Is it proportional to the mischief under investigation?
- Is there a reasonable available alternative method of investigation that would be less intrusive of privacy rights? i.e. It is the only option, other overt means having been considered and discounted.
- Can collateral intrusion be avoided, and is the surveillance proportional to the degree of anticipated intrusion on the target and others? In addition to the subject there may be a possibility that the privacy rights of a third party may be infringed during surveillance.

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<sup>1</sup> Home Office – Communications Data Code of Practice 2018  
Draft review 2020

- 1.5 It is possible that unauthorised surveillance will be a breach of a person's right to privacy under Article 8. Even if surveillance without due authorisation in a particular instance is not illegal, if authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords.
- 1.6 If the correct procedures are not followed:
- The authorisation will not take effect as it will not be approved by the Magistrates Court if there are not reasonable grounds
  - Court proceedings that rely upon the information obtained by surveillance may be undermined
  - A complaint of maladministration may be made to the Ombudsman
  - The Council could be the subject of an adverse report by the Investigatory Powers Commissioner's Office
  - A claim could be made leading to the payment of compensation by the Council
- 1.7 Through the application of authorisation procedures and Magistrates Court approval RIPA ensures that a balance is maintained between the public interest and the human rights of individuals.
- 1.8 RIPA does not;
- Make unlawful anything that is otherwise lawful
  - Impose any new statutory duties (N.B. but see paragraphs 1.5 –1.7 on the possible consequences of non compliance)
  - Prejudice or disapply any existing powers available to the Council to obtain information by any means not involving conduct that is governed by RIPA. (For example, it does not affect the Council's current powers to obtain information from the DVLA or the Land Registry).
- 1.9 If the RIPA procedures are followed correctly the conduct of an investigation will be deemed lawful for all purposes (section 27 RIPA). This protection extends to criminal and civil proceedings, and a complaint to either the Local Government Ombudsman or the Investigatory Powers Tribunal. It therefore provides protection both for the Council and any officer who may have been involved in an investigation.
- 1.10 It is important to note that the legislation does not only affect directly employed Council staff. Where external agencies are working for North Hertfordshire District Council, carrying out the Authority's statutory functions, the Authority remains liable for compliance with its duties. It is essential that all external agencies comply with the regulations, as they are contractually obliged to do so. Therefore, work carried out by agencies on the Council's behalf should be properly authorised by one of the Council's designated Authorising Officers and requires Magistrates Court approval for applications and renewals. Authorisation for surveillance should not be sought on behalf of another statutory or other organisation or agency. The advice of the Senior Responsible –Monitoring–Officer ('SRO') should be sought in the event of uncertainty.
- 1.11 Applications to the Magistrates' Court for approval of an authorisation must be made in accordance with the requirements of the Court.

- 1.12 The use of the powers conferred by RIPA is subject to scrutiny by the Investigatory Powers Commissioner's Office, which carries out periodic inspections of the Council's practices and procedures. Furthermore, RIPA also provides for the establishment of a Tribunal to determine complaints about the use of RIPA powers. It is therefore essential that surveillance is always carried out in compliance with RIPA, the policies and codes of practice referred to in this document and any advice or guidance that may be issued from time to time by the Service Director: Legal and Community.
- 1.13 RIPA provides a means of authorising certain acts of covert surveillance for a variety of purposes. To fully understand the effects of RIPA, it is essential to understand the various types of activity that are covered, and those that are not permitted, and the purposes that will justify surveillance.
- 1.14 The provisions of RIPA that apply to Local Authorities provide a regulatory framework that permits;
- **The use of Directed Surveillance (Part 3)**
  - **The Use of Covert Human Intelligence Sources (Part 4)**
  - **The Acquisition and Disclosure of Communications Data (Part 5)**

## **2. SURVEILLANCE**

- 2.1 Local Authorities and the Police are permitted under RIPA to carry out covert directed surveillance and to use covert human intelligence sources the definitions for each being as follows;
- 2.2 **"Surveillance"** includes:
- Monitoring, observing, listening to persons, watching or following their movements, listening to their conversations or their other activities or communications;
  - Recording anything monitored, observed or listened to in the course of surveillance; and
  - Surveillance by, or with, the assistance of a surveillance device, which will include cameras, video, and listening or recording devices.

Surveillance can be either **overt** or **covert**.

### **2.3 Overt Surveillance**

- 2.3.1 Most of the surveillance undertaken by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases officers will be going about Council business openly (e.g. a routine inspection by an Environmental Health Officer) or will have notified the subject of the investigation that they are likely to be under surveillance. In the latter case officers need to be particularly alert to the possibility that the proposed surveillance may entail collateral intrusion into the lives and activities of persons other than the subject of the investigation (e.g. a visitor to premises). If there is the slightest possibility of collateral intrusion a RIPA authorisation should be obtained before any surveillance is carried out.

- 2.3.2 Surveillance will be overt if the subject has been told it will happen. This will be the case where a noisemaker is warned that recordings will be made if the noise continues; or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or without identifying themselves to the owner/proprietor to check that the conditions are being met. Such warnings should be given to the person concerned in writing.
- 2.3.3 Overt surveillance does not require any authorisation under RIPA. Neither does low-level surveillance consisting of general observations in the course of law enforcement (for example, an officer visiting a site to check whether a criminal offence had been committed). Repeated visits may amount to systematic surveillance however, and require authorisation: if in doubt, advice should be sought from the RIPA Monitoring Officer or the Senior Responsible Officer
- 2.3.4 Home Office guidance also suggests that the use of equipment such as binoculars or cameras, to reinforce normal sensory perception by enforcement officers as part of general observation does not need to be regulated by RIPA, ~~as long as~~ as if the systematic surveillance of an individual is not involved. However, if binoculars or cameras are used in relation to anything taking place on any residential premises, or in any private vehicle, the surveillance can be intrusive even if the use is only fleeting. Any such surveillance will be intrusive “if it consistently provides information of the same quality as might be expected to be obtained from a device actually present on the premises or in the vehicle”. The quality of the image obtained rather than the duration of the observation is what is determinative. It should be remembered that the council is not permitted to undertake intrusive surveillance.
- 2.3.5 Use of body worn cameras should be overt. Badges should be worn by officers stating body cameras are in use and it should be announced that recording is taking place. In addition, cameras should only be switched on when recording is necessary – for example, when issuing parking tickets.

## 2.4 Covert Surveillance

Covert surveillance is covert where it is ‘carried out in a manner **calculated** to ensure that the person or persons subject to the surveillance are unaware that it is or may be taking place’.

RIPA requires the authorisation of two types of covert surveillance (directed surveillance and intrusive surveillance) plus the use of covert human intelligence sources (CHIS) or acquisition of Communications Data.

## 2.5 Covert Human Intelligence Source (CHIS)

- 2.5.1 A person is a covert human intelligence source if that person~~he~~ ‘establishes or maintains a personal or other relationship with a person for the covert purpose of obtaining information or providing access to any information to another person, or they covertly disclose information obtained by the use of such a relationship’. Covert in this context means that it is calculated that the subject should be unaware of the purpose of the relationship.

A member of the public who volunteers information to the Council is not a covert human intelligence source.

## 2.5.2 The conduct or use of CHIS must be authorised in accordance with RIPA.

**Conduct** of a CHIS. This is establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining or passing on information.

**Use** of a CHIS. This includes inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of such a source.

The use of a juvenile CHIS may only be authorised for ~~one~~four months at a time.

## 2.5.3 Members of the public who report allegations of anti social behaviour and are asked to keep a note of incidents will not normally be CHIS as they are not usually required to establish or maintain a covert relationship.

## 2.5.4 Noise

Persons who complain about excessive noise, and are asked to keep a noise diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information (if non-verbal noise such as music, machinery or an alarm), and therefore does not require authorisation. Recording sound with a DAT recorder or similar, could constitute ~~covert intrusive~~ surveillance, although if it can be heard from the street outside, may (as per the Code of Practice<sup>2</sup>) be regarded as having forfeited any claim to privacy. The easiest option is for this to be under taken ; ~~unless it is done~~ overtly – for example it will be possible to record sound if the noisemaker is warned that this will occur if the level of noise continues.

~~However, if the Council serves notice on the owner/occupier of the premises and the source of the noise is a third party, authorisation under RIPA may be required. The investigation may (i) be covert in relation to that third party and (ii) may reveal private information about~~

## 2.5.5 Test Purchases

Carrying out test purchases will not normally require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information, and therefore the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter). By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product e.g. illegally imported wild meat, or using covert recording equipment is likely to require authorisation as a CHIS. Similarly, using hidden recording devices to record what is going on in the shop (e.g. a hidden CCTV Camera) may require authorisation as directed surveillance. A combined authorisation can be provided if a CHIS is carrying out directed surveillance.

## 2.5.6 **Note 251 of the OSC's 2016 Procedures & Guidance document states:**

*251. A local authority may prefer to seek the assistance of the police or another public authority to manage its CHIS. In such a case a written protocol between the parties should be produced in order to ensure that an identified CHIS is properly managed (see CHIS Code of Practice 6.12). In the absence*

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<sup>2</sup> 3.40  
Draft review 2020

*of such an agreement the local authority must be capable of fulfilling its statutory responsibilities.*

## 2.6 Directed surveillance

Directed Surveillance is surveillance that is:

- covert but not intrusive surveillance; (see paragraph 3.2)
- undertaken for the purpose of a specific investigation or operation carried out in such a manner as is likely to result in the obtaining of private information about a person (~~whether or not~~whether one specifically identified for the purposes of the investigation or operation) and
- not carried out as an immediate response to events which would otherwise make seeking authorisation under RIPA unreasonable (e.g. spotting something suspicious and continuing to observe it).

2.7 Surveillance by way of an immediate response to events or circumstances where it would not be 'reasonably practicable' for an authorisation to be sought is not included within the provisions of RIPA.

## 2.8 Private Information

This phrase is defined in RIPA section 26(10) as including any information relating to a person's private or family life. The European Court of Human Rights has considered this definition and has found that private life is a broad term not susceptible to exhaustive definition. Aspects such as gender identification, name, sexual orientation and sexual life are important elements of the personal sphere protected by Article 8. The Article also protects a right to identity and personal development and the right to establish and develop relationships with other human beings and the outside world and it may include activities of a professional or business nature. There is therefore a zone of interaction of a person with others even in a public context, which may fall within the scope of "private life".

The fact that covert surveillance occurs in a public place or on business premises does not necessarily mean that it cannot result in the acquisition of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about ~~them~~him/her and others that ~~they~~he / she comes into contact with or with whom they associate. Similarly, although the overt use of CCTV cameras does not normally require authorisation, if the camera is used for a particular purpose that involves the prolonged surveillance of a particular person, a RIPA authorisation will be required.

## 3 EXCLUSIONS

3.1 There are some instances where surveillance is not permissible in any circumstances:

### 3.2 Intrusive Surveillance

RIPA provides that the Council **cannot** authorise intrusive surveillance. This is covert surveillance carried out in relation to anything taking place on residential premises or in any private vehicle, whether by way of a person or device.



It will also be intrusive surveillance where a device placed outside consistently provides information of the same or equivalent quality and detail, as might be expected if it were in the premises or vehicle

Residential premises are any part of premises occupied for residential purposes or living accommodation, including hotel rooms or prison cells. However, it does not include common areas in blocks of flats and similar premises.

Private vehicle is a vehicle used primarily for private purposes by the owner or person entitled to use it.

Only the police or other law enforcement agencies are permitted to employ intrusive surveillance. Likewise, the council has no statutory powers to interfere with private property.

### **3.3 Use of Children to gather information about parent/ guardian**

Authorisation may not be granted for the conduct or use of a source under the age of sixteen where it is intended that the purpose is to obtain information about ~~their~~ ~~his~~ parent or any person who has parental responsibility for ~~him~~~~them~~.

### **3.4 Vulnerable Individuals**

A vulnerable individual is a person who is, or may be, in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of themselves, or unable to protect themselves against significant harm or exploitation. Where it is known or suspected that an individual may be A-vulnerable ~~individual~~~~they~~ will only be authorised as a CHIS in the most exceptional of circumstances.

## **4 GROUNDS FOR SURVEILLANCE**

4.1 Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 ("the 2010 Order") mean that a local authority can now only grant an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract a custodial sentence of a maximum term of at least 6 months' imprisonment, or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

4.2 Even if the person granting the authorisation believes that the authorisation is necessary, ~~they~~~~he~~ must also be satisfied that the authorised activity is proportionate to what is sought to be achieved by it. This requires the Authorising Officer to balance the need for surveillance with the level of intrusion into any person's privacy.

4.3 ~~Particular consideration~~Consideration should be given to collateral intrusion, which is interference with the privacy of persons other than the subject(s) of the surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.

#### 4.4 Confidential information

Careful consideration is also needed when there is a risk of obtaining confidential information. ~~This consists of matters subject to~~

~~legal privilege, which is communication between a lawyer and client; confidential personal information relating to physical or mental health; or to spiritual counselling or other assistance given or to be given, and which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office where there is an undertaking to hold it in confidence; or confidential journalistic material.~~

The Covert Surveillance and Property Interference<sup>3</sup> defines this as:

“information held in confidence concerning an individual (whether living or dead) who can be identified from it, and the material in question relates to his or her physical or mental health or to spiritual counselling. Such information can include both oral and written communications. Such information as described above is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or any legal obligation of confidentiality. For example, confidential personal information might include consultations between a health professional and a patient, or information from a patient’s medical records”.

In cases where it is likely that confidential information will be acquired the authorisation must be granted by the ~~Chief Executive as~~ Head of the Paid<sup>4</sup> Service (or in ~~their~~his absence by an authorised Chief Officer).

- 4.5 An application for an authorisation must include a full assessment of the risk of any collateral intrusion or interference so that the Authorising Officer can consider this.
- 4.6 Authorising Officers must always consider the need for surveillance or CHIS and balance this against an individual’s right to privacy under the Human Rights Act 1998. An officer seeking an authorisation should always be able to justify why it is necessary and why other, less intrusive, forms of investigation are unsuitable or have previously been tried without success and thus the matter has escalated to the requirement for covert surveillance.

## 5 ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

5.1. The Investigatory Powers Act 2016 (‘IPA’) provided an updated framework for lawful acquisition of Communications Data, include the who, where, what, when and how a Local Authority can obtain communications and Communications Data. The IPA sets out the three powers, under sections 60A, 61 and 61A, which can be used to authorise the acquisition of Communications Data (CD), dependent on the statutory purpose and urgency. Only section 60A is relevant to local authorities, although a number of new offences would also apply in terms of unlawful acquisition and disclosure of Communications Data<sup>5</sup>. The powers contained in Part 1 of Chapter 2 of RIPA permit Local Authorities to obtain information relating to

<sup>3</sup> 2018 @ para 9.29.

<sup>4</sup> Where any relevant legislation and or codes of practice refers to the Chief Executive, for interpretation purposes this is deemed to be the person who holds the role of Head of Paid Service or their Deputy.

<sup>5</sup> Sections 11 & 82 IPA 2016

~~the use of a postal service or telecommunications system. It does not permit access to the content of the communication.~~

~~Public Authorities can only apply if this is for 'the applicable crime purpose'. This means the data has to be wholly or partly Events data, the purpose of preventing or detecting serious crime; or in any other case, the purpose of preventing or detecting crime or of preventing disorder. has brought all the statutory purposes together which are as follows:~~

## 5.2.

- ~~• In the interests of national security;~~
  - ~~• For the applicable crime;~~
  - ~~• In the interests of the economic wellbeing of the United Kingdom so far as these interests are also relevant to the interests of national security;~~
  - ~~• In the interests of public safety;~~
  - ~~• For the purpose of preventing death or injury or any damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health;~~
  - ~~• To assist investigations into alleged miscarriage of justice; and~~
- ~~Where a person ("P") has died or is unable to identify themselves because of a physical or mental condition to assist in identifying P, or to obtain information about P's next of kin or other persons connected with P or about the reason for P's death or condition.~~

5.2.5.3. ~~Definition of~~ The types of Communications Data that Local Authorities' can access are Entity and Events Data, which are defined as:~~An authorisation, with Magistrates Court approval, permits the Local Authority to obtain the data itself. A notice would be given to the postal or telecommunications operator which is then obliged to provide the Authority with the information stipulated in the notice.~~

- **Entity Data:** means any data which is about —
  - (i) an entity, (ii) an association between a telecommunications service and an entity, or (iii) an association between any part of a telecommunication system and an entity,
  - (b) consists of, or includes, data which identifies or describes the entity (whether or not by reference to the entity's location) and is not events data.
- **Events Data:** any data which identifies or describes an event (whether or not by reference to its location) on, in or by means of a telecommunication system where the event consists of one or more entities engaging in a specific activity at a specific time. Where the purpose of the acquisition is to prevent or detect crime, and the data required is events data, the offence or conduct of the offence being investigated must meet at least one of the definitions of serious crime<sup>6</sup>.

5.4. The IPA has also removed the necessity for local authorities to seek Magistrates or Justice of the Peace approval to acquire Communications Data. All such applications must now be processed through the National Anti-Fraud Network (NAFN), who will consider the application prior to submitting this for approval to the Office for Communications Data Authorisations

<sup>6</sup> Section 86(2A) of the Act this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy

(‘OCDA’). All applications must be approved before Communications Data is acquired. The Investigatory Powers Commissioner oversees the use of the powers (who with Judicial Commissioners have a role to approve authorisations to identify or confirm the identity of a journalist’s source). The application process has otherwise been made more efficient through the ability to submit these electronically<sup>7</sup>.

## 6. PROCEDURE TO OBTAIN A RIPA AUTHORISATION

- 6.1 Directed surveillance, the use of CHIS must be lawfully carried out in strict accordance with the terms of the relevant authorisation and Magistrates Court approval.
- 6.2 The Council will only very occasionally make use of CHIS so the applicant officer should consult the Senior Responsible Officer~~Monitoring Officer~~ before making an application for a CHIS authorisation in order to ensure that the current statutory requirements and best practice are being observed.
- 6.3 Applications for Communications Data is as indicated above via NAFN.
- 6.4 All applications for authorisation must be sought and granted *before* any surveillance activity takes place. The decision whether or not to authorise an application must not be taken with the benefit of hindsight. This should be borne in mind when submitting an application to the Magistrates’ Court under Paragraph 7 below.

### 6.5 Making the Application

Before making an application for an authorisation the requesting officer must;

- read this policy document
- determine whether the activity that they are proposing to conduct involves directed surveillance or the use of a CHIS
- assess whether the activity will be in accordance with the law – is it governed by RIPA
- assess whether the activity is necessary and why
- assess whether the activity is proportionate.

**If the activity could be conducted overtly or if a less intrusive option is available and practical use that option in preference to a RIPA authorisation.**

- 6.6 The application form once completed by the applicant officer, must be submitted to an Authorising Officer, together with a health and safety risk assessment that should cover any potential risks to Council officers, or third parties, including members of the public.
- 6.7 The persons entitled to grant authorisations are designated in the Schedule of Authorising Officers, which is kept by the ~~Monitoring Officer~~Senior Responsible Officer and is accessible on the Council’s Intranet

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<sup>7</sup> See local authority procedures set out in paragraphs 8.1 to 8.7 of the Communications Data Code of Practice.  
Draft review 2020

- 6.8 The Authorising Officer should note:
- the date and time of grant or refusal;
  - the reasons for that decision;
  - the exact date on which the authorisation will be reviewed.
- 6.9 An application must describe:
- any conduct to be authorised;
  - the purpose of the investigation and how long the situation has existed;
  - why it is necessary;
  - why it is proportionate;
  - the intended subjects, if known;
  - the intended product that the surveillance will provide;
  - any potential collateral intrusion and the justification for this;
  - details of any confidential information that may be obtained;

## 6.10 The Application Forms

- 6.10.1 The Home Office has published standard forms for the use by local authorities. These have been adopted by the Council and can be accessed through the Intranet under *Corporate – Forms - RIPA*. Every box in the application form must be completed or marked n/a where it is not appropriate.
- 6.10.2 Each operation/ investigation must be allocated a unique reference number (URN). This will be the next number in sequence taken from the Central RIPA Log, as identified by the Authorising Officer and should be entered on the form.

## 7. MAGISTRATES' COURT APPROVAL

- 7.1 All RIPA authorisations (other than Communications Data) will require Magistrates' Court approval in the form of an order to take effect. The court must be satisfied that reasonable grounds exist in relation to the authorisation. The Home Office issued guidance to all Magistrates' Courts in England and Wales for a local authority application seeking an order approving the grant or renewal of a RIPA authorisation or notice<sup>8</sup>.
- 7.2 Legal Services must be consulted on the form and content of the application to the Magistrates' Court for approval.
- 7.3 The types of offences for which RIPA authorisation can be obtained by the Council are outlined under section 4 above.

## 8 DURATION OF AUTHORISATIONS

- 8.1 It is no longer possible for urgent authorisations to be given orally. However, a Magistrate may consider an authorisation out of hours in exceptional circumstances.
- 8.2 Directed surveillance authorisations will cease to have effect (unless renewed) at the end of a period of three months beginning with the day on which it took effect.   ;

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<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118174/magistrates-courts-eng-wales.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118174/magistrates-courts-eng-wales.pdf)

8.3 ~~Three~~ months' is deemed for the purpose of this guidance to mean three calendar months/twelve weeks from the date of approval by the magistrate~~the start date of the operations.~~

8.4 Authorisations for the conduct or the use of covert human intelligence sources will last for up to 12 months, beginning with the day on which the grant or renewal takes effect.

8.5 Authorisations relating to Communications Data last 1 month.

## 8.6 Review

8.6.1 The Authorising Officer must review Directed Surveillance authorisations frequently, at least monthly. The frequency of mid term reviews should be risk assessed based on the nature of the operation. If this is a CHIS authorisation, then ordinarily this would be every 3-4 months<sup>9</sup>;

8.6.2 RIPA application forms must be reviewed on or before the expiry date of the authorisation which will be the date stated in the application form. When a RIPA authorisation is reviewed the appropriate form should be completed and record:

- the date and time of that review
- confirmation as to whether the surveillance is to continue or not
- the reasons for that decision

## 8.7 Renewal

8.7.1 If at any time before an authorisation would cease to have effect, it is necessary for the authorisation to continue for the purpose for which it was given, it may be renewed in writing for a further period of 3 calendar months, beginning with the day when the original authorisation would have expired. Magistrates Court approval is required before a renewal takes effect.

8.7.2 The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred.

8.7.3 Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation and are approved by the Magistrates' Court.

8.7.4 Prior to renewal of an authorisation for the use or conduct of a covert human intelligence source, there must be a full review of the use made of that source, the tasks given to that source and the information so obtained.

## 8.8 Cancellation

8.8.1 The Authorising Officer must cancel an authorisation if they become satisfied that the surveillance is no longer required or appropriate.

8.8.2 Authorisations should not be allowed simply to lapse. The matter should be referred to an Authorising Officer via the same process as for the initial application and a form of cancellation must be completed:

- if the necessary evidence has been obtained; or

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<sup>9</sup> IPCO inspection 2020.  
Draft review 2020

- it is decided at any time that the surveillance is unlikely to produce the evidence sought, then.

8.8.3 The Authorising Officer must then cancel the Application without delay. When cancelling the authorisation, the Authorising Officer is required to consider whether the surveillance was effective, necessary and met its objectives. Cancellations must be made using the cancellation form and should briefly detail what product(s) resulted from the surveillance.

8.8.4 When cancelling an authorisation, the Authorising Officer must ascertain what recorded material has been obtained ~~by the use of~~ using directed surveillance. The Authorising Officer should comment on the recorded material and how it is to be managed or used thereafter. If the matter is not proceeding to a prosecution, the Authorising Officer must be satisfied that any recorded material has been securely destroyed.

## 9 AUTHORISING OFFICERS

9.1 Authorisations may only be given by the Authorising Officers listed in Appendix B. Only the ~~Head of Paid Service~~ Chief Executive can authorise the use of a CHIS, or the acquisition of confidential information.

9.2 Applications for the acquisition of Communications Data can only be issued by a Home Office accredited single point of contact (SPoC). The Council has two ~~SPoCOes~~, Service Director: Customers and the Investigations Manager.

9.3 ~~NAFN The National Anti-Fraud Network (NAFN)~~ provides a SPoC service to local authorities. Local authorities using the NAFN SPoC service will still be responsible for ~~submitting any applications to a Magistrate and a designated person in the authority is still required to scrutinise the application for~~ Communications Data prior to contacting NAFN. ~~and approve any applications~~

### 9.4 Determining an Application

The applicant officer must complete the application form in its entirety.

Authorisation under RIPA is quite separate from delegated authority to act under the Council's Scheme of Delegation. **RIPA authorisations are for specific investigations only and must be cancelled or renewed once the specific surveillance is complete, or about to expire.**

The Authorising Officer should not just "sign off" an authorisation, ~~they, but~~ must give **personal consideration** to the necessity and proportionality of the proposed action prior to applying to the Magistrates Court for approval and must personally ensure that the surveillance is reviewed and cancelled.

Any rejected applications must be entered into the RIPA log held by the Service Director: Legal and Community.

9.5 In the case of applications for authority to carry out **directed surveillance** the Authorising Officer should:

- consider the relevant Codes of Practice

- consider whether the specific operation or investigation has been adequately described
- be satisfied as to the reasons for the application<sup>10</sup> (see 4.1 for grounds).
- be satisfied that the directed surveillance is **necessary** in the circumstances of the particular case.
- be satisfied that the surveillance is **proportionate** to the stated purpose and objectives
- be satisfied that the possibility of collateral intrusion has been avoided or minimised
- consider the likelihood of confidential information being acquired
- check that an appropriate review period has been listed on the application form.

**If there is an alternative practicable means of carrying out the surveillance, which is less intrusive, then the surveillance is neither necessary nor proportionate and should not be authorised. The least intrusive method should be used**

#### **Additional Factors when Authorising a CHIS**

In addition, when authorising the conduct or use of a CHIS the Authorising Officer must

- be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved.
- be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS.
- consider the likely degree of intrusion of all those potentially effected.
- consider any adverse impact on community confidence that may result from the use or conduct, or the information obtained.
- ensure **records** contain statutory particulars and are not available except on a need to know basis.
- ensure that authorisations relating to the use of a juvenile CHIS are only for ~~four~~<sup>one</sup> months at a time.
- be satisfied that a full risk assessment has been undertaken.

9.6 The role of Senior Responsible Officer (SRO) is undertaken by the Service Director: Legal and Community. The role of RIPA Co-ordinating Officer is undertaken by the ~~Service Director's Monitoring Officer Technical Support & PA to Service Director: Legal and Community.~~

The SRO is responsible for:

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<sup>10</sup> S.I. 2010/521, see article 7A  
[Draft review](#) 2020



- the integrity of the process in place within the public authority for the management of CHIS and Directed Surveillance;
- compliance with Part 2 of the Act and with the Codes;
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- engagement with the [OSCIPCO](#) inspectors when they conduct their inspections, where applicable; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

9.7 The role of CHIS Handler will be allocated to either one of the Service Director: Place, Service Director: Customers, or Service Director: Regulatory, depending which directorate is using the CHIS. The CHIS Controller will be allocated to one of the other two heads of service by the [Head of Paid Service Chief Executive](#).

The CHIS Handler is responsible for:

- dealing with the CHIS on behalf of the Council;
- directing the day to day activities of the CHIS;
- recording the information supplied by the CHIS; and
- monitoring the CHIS's security and welfare.

The CHIS Controller is responsible for management and supervision of the CHIS Handler, and general oversight of the use of CHIS.

## 10. WORKING WITH / THROUGH OTHER AGENCIES

10.1 The Council may work in conjunction with other agencies to carry out covert surveillance and to use CHIS's, eg police, DWP, Inland Revenue (but does not include RSLs). It is not necessary for each party to complete its own form of authorisation, and the Council can rely upon a duly authorised form completed by another agency providing that the Authorising Officer is made aware and it has been approved by the Magistrates' Court if required. If another agency chooses to rely on a RIPA authorisation from this Council the Authorising Officer must be made aware.

10.2 A copy of another agency's authorisation should be obtained, and copies kept in the same manner as an authorisation granted by the Council. Officers should also ensure that review and renewal dates are noted and that copies of the appropriate forms are also obtained and kept appropriately.

10.3 In the event that a member of staff has concerns that an authorisation, Magistrates' Court approval, review, or renewal completed by a partner agency does not comply with the law, codes of practice, or agreed arrangements for surveillance, they should refer the matter to an Authorising Officer of the Council for further action as necessary.

- 10.4 When another agency (e.g. the Police, Inland Revenue etc), wish to use the Council's premises or facilities (other than CCTV) for their own RIPA action, officers should normally co-operate unless there are good operational or management reasons as to why the Council's facilities should not be used for the agency's activities. Suitable insurance or other indemnities may be sought from the agency in return for the Council's co-operation. In such cases the Council's RIPA forms should not be used if it is merely assisting and is not actually involved in the RIPA activity.

## **11. RECORD MANAGEMENT**

- 11.1 The Council must keep a detailed record of all authorisations, Magistrates' Court approvals, reviews, renewals, and cancellations. Copies of all authorisations, Magistrates' Court approvals, records of oral authorisations, reviews, renewals, cancellations and refusals must be kept in a central register held by an Authorised Officer. In addition, all original authorisations, records of oral authorisations, Magistrates' Court approvals, reviews, renewals, cancellations, refusals and other relevant documents must be sent to the RIPA Co-ordinating Officer, who maintains the central RIPA log (record of authorisations and rejections).

- 11.2 All information obtained during directed surveillance should be recorded in a surveillance log. This should be in a format that gives an accurate and suitably detailed account of the events observed and conversations heard at particular times.

- 11.3 Copies of all authorisations, records of oral authorisations, Magistrates' Court approvals, reviews, renewals, cancellations and refusals should be kept for a period of 56 years after the conclusion of any Court proceedings arising for which the surveillance or use of the CHIS was relevant. If it is believed that the records could be relevant to pending or future criminal proceedings, the officer in charge of the investigation shall confirm that they should be retained for a suitable further period, subject to any subsequent review, prior to the expiry of the five-year period. This decision must be notified to the Service Director: Legal and Community.

### **11.4 Records maintained in the Directorates and Centrally**

- 11.4.1 Generally, all material (in whatever media) produced or obtained during the course of investigations subject to RIPA authorisation (whether authorised or not), should be processed, stored and destroyed in accordance with the requirements of the Data Protection Act 2018, General Data Protection Regulation (GDPR) (EU) 2016/679, the Freedom of Information Act 2000 and any other legal requirements, including those of confidentiality and the Council's policies and procedures regarding document retention. The following paragraphs give guidance on some specific situations, but advice should be sought from the Service Director: Legal and Community, or the Data Protection and Freedom of Information Officer where appropriate. All documents must be retained securely, and electronic copies of documents must be password protected.

- 11.4.2 Copies of the following documents must be retained securely in the departments. Original documents must be sent to the Monitoring Officer/Senior Responsible Officer within 5 working days. They should be submitted in a sealed envelope marked "Confidential RIPA forms".

- The application and the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- The application to the Magistrates' Court and any relevant approval/court order;
- A record of the period over which the surveillance has taken place;
- The frequency of reviews prescribed by the Authorising Officer;
- A record of the result of each review of the authorisation;
- Any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested and Magistrates' Court approval;
- The date and time when any instruction was given by the Authorising Officer.
- An electronic log is maintained centrally on a restricted public folder within G:/drive. The Log is kept in a password-protected Excel spreadsheet, located in drive G/RIPA 2000/ RIPA Log. Only Authorising Officers can view it.
- The Council shall retain records for a period of at least 6 years from the ending of the authorisation. The Investigatory Powers Commissioner's Office (IPCO) can review the Council's policies and procedures and individual authorisations. The IPCO usually provide notice before an inspection but can arrive unannounced.

**Copies of authorisations, renewals and cancellations are discoverable in legal proceedings. If proper records are not maintained, evidence gathered may be inadmissible.**

## 11.5 Records Relating to the CHIS

- 11.5.1 All information obtained by the CHIS and by the officer responsible for recording the use of the CHIS should be recorded by means of a daily log. This should be in a format that gives an accurate and suitably detailed account of the events observed and conversations heard at particular times.
- 11.5.2 All information recorded in respect of authorisations, surveillance or the use of CHIS must only be disclosed for the purposes for which it was gathered at the time or for use in any future civil or criminal proceedings brought by or against the Council.
- 11.5.3 Records which reveal the name(s) of the CHIS should only be disclosed to persons to the extent that there is a need for access to them; if legally necessary; or if ordered by any Court.
- 11.5.4 When it is intended to employ a CHIS a record must be kept that records all the detail specified in Appendix 2. The officer in charge of maintaining a record of the use of each CHIS should record all these details. The way these records are kept is designed to try to keep the CHIS safe from discovery by the subjects and safe from any harm which could result from their disclosure and also to keep in the open any money or other benefits paid to a CHIS who is not an employee officer of an authorising body.

## 12. RECORDED MATERIAL OBTAINED DURING INVESTIGATIONS

- 12.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 2018, General Data Protection Regulation (GDPR) (EU) 2016/679, the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures regarding document retention. Advice should be sought from the ~~Monitoring Officer~~Senior Responsible Officer or the Information and Records Manager.
- 12.2 Where recorded material is obtained, which is not related to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be destroyed immediately.
- 12.3 Recorded Material obtained in the course of an investigation may be used in connection with investigations other than the one that the relevant authorisation was issued for. However, the use or disclosure of such material outside the Council, unless directed by any court order, should only be considered in exceptional circumstances and in accordance with advice from the ~~Monitoring Officer~~Senior Responsible Officer.
- 12.4 Where recorded material obtained is of a confidential nature, then the following additional precautions should be taken:
- Confidential recorded material should not be retained or copied unless it is necessary for a specified purpose;
  - Confidential recorded material should only be disseminated in accordance with legal advice that it is necessary to do so for a specific purpose;
  - Confidential recorded material which is retained should be marked with a warning of its confidential nature. Safeguards should be put in place to ensure that such recorded material does not come into the possession of any person where to do so might prejudice the outcome of any civil or criminal proceedings;
  - Confidential recorded material should be destroyed as soon possible after it is used for the specified purpose.
  - Confidential recorded material should be made available for the ~~Office of Surveillance Commissioners~~PCO at the time of any Inspection.
- 12.5 If there is any doubt as to whether material is of a confidential nature, advice should be sought from the ~~Monitoring Officer~~Senior Responsible Officer.
- 12.6 The Authorising Officer must ascertain what material has been obtained by the use of directed surveillance. The Authorising Officer should comment on the material and how it is to be managed or used thereafter. If the matter is not proceeding to a prosecution, the Authorising Officer must be satisfied that any material has been securely destroyed.

## 13. SOCIAL NETWORKING SITES

- 13.1 Where privacy settings are available but not applied the data available on Social Networking Sites may be considered 'open source' and an authorisation is not usually required.

- 13.2 Repeat viewing of 'open source' sites, however, may constitute directed surveillance on a case by case basis and this should be borne in mind e.g. if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance.
- 13.3 To avoid the potential for inadvertent or inappropriate use of social network sites in investigative and enforcement roles, Council Officers should be mindful of any relevant guidance and the Council's separate policy regarding the use of Social Networking Sites: Conduct of Investigations.
- 13.4 The Home Office Revised Code of Practice on Covert Surveillance and Property Interference, published in August 2018, provides the following guidance in relation to online covert activity:

*'The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.*

*The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).*

*In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.*

*As set out below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for*

*a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.*

*Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.*

*Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.'*

## **14. TRAINING**

- 14.1 Training on RIPA and the procedures set out in this policy document will be given or authorised by the Service Director: Legal and Community. Any officer who wishes to undertake surveillance or employ a CHIS and all Authorising Officers must receive and maintain suitable training before signing any RIPA authorisations.
- 14.2 A Central Register of all officers who have received training on RIPA will be maintained by the Service Director: Legal and Community.
- 14.3 As part of the periodic review of this Policy and Procedures the ~~Monitoring Officer~~ **Senior Responsible Officer** will determine any ongoing training needs both for Authorising Officers and applicant officers. Refresher courses will be held as necessary.
- 14.4 The responsibility for ensuring that staff receive appropriate training in connection with RIPA lies with Service Directors.
- 14.5 The purpose of the training will be to ensure that both applicant and Authorising Officers are not only familiar with the law governing RIPA regulated activities, but also receive practical advice on the making and consideration of applications. In particular the training will be aimed at familiarising officers with the evidence that is needed to show that a covert operation is necessary, proportionate and likely to be conducted in a manner that will minimise collateral intrusion.
- 14.6 The training will also emphasise the need for Authorising Officers to state clearly the nature of the covert activity that they are authorising and the parameters of that activity i.e. what, where, when, how and against whom.
- 14.7 The importance of setting and observing review, cancellations and renewal dates will form part of the training.

14.8 The ~~Monitoring Officer~~Senior Responsible Officer will invite pertinent officers to a biannual forum to discuss RIPA and issues relating to enforcement. The forum should aim to benchmark best practice.

## **15. ELECTED MEMBER INVOLVEMENT**

15.1 Two new Codes of Practice came into effect on 6 April 2010:

- Regulation of Investigatory Powers (Covert Human Intelligence Source: Code of Practice) Order 2010
- Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2010

15.2 The Codes of Practice state that elected members should:

- Set the RIPA policy at least once a year
- Review the local authority's use of RIPA
- Consider internal reports on the use of RIPA on at least a quarterly basis

15.3 The Terms of Reference for Cabinet in the Council's Constitution state that Cabinet is:

"To prepare and agree to implement policies and strategies other than those reserved to Council."

The setting of the RIPA policy annually is therefore a role for Cabinet. The Partnerships Scrutiny Sub Committee will consider the Policy annually and make recommendations to Cabinet.

15.4 The requirement for members to review the local authority's use of RIPA and consider internal reports on the use of RIPA on at least a quarterly basis is to be undertaken by the Overview and Scrutiny Committee in accordance with the terms of reference for that Committee contained in the Council's constitution.

**FLOW CHART OF RIPA PROCESS**

**Requesting Officer ('The Applicant') must:**

- Read the ~~Corporate~~RIPA Policy & Procedures documents~~Document~~. Seek advice from Legal.
- Determine that directed surveillance and/or a CHIS is required.
- Assess whether authorisation will be **in accordance with the law.**
- Assess whether authorisation is **necessary** under RIPA and whether it could be done overtly.
- Consider whether surveillance will be **proportionate.**
- If authorisation is approved – review regularly (including Court approval)
- For directed surveillance, confirm it is for the purpose of preventing/ detecting conduct which constitutes/corresponds to a criminal offence punishable at least 6 months imprisonment (or an offence under section 146, 147, or 147A of the Licensing act 2003).

If a less intrusive/  
overt option is  
available, and  
practicable  
**use that option!**

If authorisation is necessary and  
proportionate, prepare and submit an  
approved form to the Authorised Officer

**Authorised Officer must:**

- Consider in detail whether all options have been duly considered,
- Consider whether surveillance is considered ~~by him/her to be~~  
**necessary and proportionate.**
- Authorise only if an overt or less intrusive option is not practicable.
- Consult NAFN SPoC for Communications Data (s5 above)  
application who will submit to OCDA for approval
- Apply to the Magistrates Court for approval. Court approval is required for the authorisation can take effect.
- Set an appropriate review date (can be up to 3 months after authorisation date) and conduct the review.

**The Applicant must:**  
**REVIEW REGULARLY**  
(complete Review form) and  
submit to Authorised Officer on  
date set in good time to -apply to  
Court

**The Applicant must:**  
If operation is no longer  
necessary or proportionate,  
complete **CANCELLATION**  
**FORM** and submit to  
Authorised Officer.

**Authorised Officer must:**  
If surveillance is still necessary and  
proportionate:  
 Review authorisation  
 Set an appropriate further review  
date

**Authorised Officer must:**  
Cancel authorisation when it  
is no longer necessary or  
proportionate.

**ESSENTIAL**  
Send all Authorised  
**(and any rejected)**  
Forms, Review,  
Renewals and  
Cancellations to the  
**Monitoring**  
**Officer****Senior**  
**Responsible Officer**  
within 5 working  
days.



- Send all Quarterly Returns to the Service Director: Legal and Community's PA-MO
- ~~Regulation of Investigatory Powers (Covert Human Intelligence Source: Code of Practice) Order 2010~~
- ~~Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2010~~
  
- The Codes of Practice state that elected members should:
  - Set the RIPA policy at least once a year
  - Review the local authority's use of RIPA
  - Consider internal reports on the use of RIPA on at least a quarterly basis (these are covered by in a Member Information Note or other appropriate notification).

## APPENDIX B

### AUTHORISING OFFICERS AND RESPONSIBLE OFFICERS

<b>RIPA Authorising Officers</b>	<del>Head of Paid Service</del> <u>Chief Executive</u> , or in <del>their</del> <u>his</u> absence <del>someone acting as a the</del> <u>Deputy Chief Executive</u> , Service Director: Place, Service Director: Customers, Service Director: Regulatory <del>Service Director: Resources</del>
<b>Authorising operations where confidential information may be obtained</b>	<del>Head of Paid Service</del> <u>Chief Executive</u> only
<b>CHIS Authorising Officer</b>	<del>Head of Paid Service</del> <u>Chief Executive</u> only
<b>CHIS Controller/Handler</b>	Service Director: Place Service Director: Customers Service Director: Regulatory <del>Service Director: Resources</del>
<b>Senior Responsible Officer</b>	Service Director: Legal and Community and Monitoring Officer
<b>RIPA Co-ordinating Officer</b>	PA to Service Director: Legal and Community

Please note:

- Where use of a CHIS is authorised, the head of the directorate carrying out the activity shall usually act as the CHIS Handler, with the CHIS Controller role being allocated by the ~~Chief Executive~~Head of Paid Service.
- Authorising Officers must be “an assistant chief officer or investigations manager” or above.
- The Authorising Officers should not be directly involved in the investigation.

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**USE OF SOCIAL MEDIA IN INVESTINGATIONS**

**POLICY AND PROCEDURE**



~~Version 1—September 2016~~

2020 [draft updated](#)

**USE OF SOCIAL MEDIA IN INVESTINGATIONS**  
**POLICY AND PROCEDURES**  
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## **1 INTRODUCTION & BACKGROUND**

- 1.1 Social Media has become a significant part of many people's lives, with millions of people regularly using and interacting with a plethora of different forms of what can be categorised as Social Media. By its very nature, Social Media accumulates a sizable amount of information about a person's life, from daily routines to specific events. Their accessibility on mobile devices can also mean that a person's precise location at a given time may also be recorded whenever they interact with a form of Social Media on their devices. All of this means that incredibly detailed information can be obtained about a person and their activities like never before.
- 1.2 Social Media can therefore be a very useful tool when investigating alleged offences with a view to bringing a prosecution in the courts. The use of information gathered from the various different forms of Social Media available can go some way to proving or disproving such things as whether a statement made by a defendant, or an allegation made by a complainant, is truthful or not. However, there is a danger that the use of Social Media can be abused, which would have an adverse effect, damaging potential prosecutions and even leave the Council open to complaints or criminal charges itself.
- 1.3 This Policy sets the framework on which the Council may utilise Social Media when conducting investigations into alleged offences. Whilst the use of Social Media to investigate is not automatically considered covert surveillance, its misuse when conducting investigations can mean that it crosses over into the realms of covert and/or targeted surveillance, even when that misuse is inadvertent. It is therefore crucial that the provisions of The Regulation of Investigatory Powers Act 2000 (RIPA), as it relates to covert and directed surveillance, are followed at all times when using Social Media information in investigations.
- 1.4 It is possible for the Council's use of Social Media in investigating potential offences to cross over into becoming unauthorised surveillance, and in so doing, breach a person's right to privacy under Article 8 of the Human Rights Act. Even if surveillance without due authorisation in a particular instance is not illegal, if authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords and may mean it is rendered inadmissible.
- 1.5 It is the aim of this Procedure to ensure that investigations involving the use of Social Media are done so lawfully and correctly so as not to interfere with an accused's human rights, nor to require authorisation under RIPA, whilst ensuring that evidence gathered from Social Media is captured and presented to court in the correct manner.
- 1.6 Officers who are involved in investigations, into both individuals and business they suspect to have committed an offence, should consult Legal Services if they are unsure about any part of this Policy and how it affects their investigative practices.

## **2 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

- 2.1 Given the change in social habits in the last few years, with the almost ubiquitous use of smartphones and personal devices, there is a significant amount of information on an individual's Social Media pages. This information might be

relevant to an investigation being undertaken by the Council. However, unguided research into the sites of suspects could fall within the remit of RIPA and therefore require authorisation prior to it being undertaken. Officers should therefore seek advice from Legal Services prior to undertaking any investigation using Social Media sites.

- 2.2 Council officers embarking on any form of investigatory action should always do so with RIPA in mind. Whilst RIPA will not always be relevant to every investigation, it is vital that Council officers involved in investigative practices against individuals, regularly review their conduct with respect to investigatory actions. Any investigation is capable of evolving from being one that does not require RIPA authorisation, to one that does, at any point.
- 2.3 Accordingly, this Policy should be read in conjunction with the Council's RIPA Policy, as well as the statutory codes of practice issued by the Secretary of State, the Office of Surveillance Commissioners Guidance/ [or Investigatory Powers Commissioner's Office Guidance](#) and any additional guidance provided by individual NHDC Directorates to deal with the specific issues of their service.
- 2.4 Instances of repeated and/or regular monitoring of Social Media accounts, as opposed to one-off viewing, may require RIPA authorisation. Advice should be sought from Legal Services where it is envisaged that this level of monitoring will be required in relation to a particular investigation. See paragraph 6.2 below.

### **3 WHAT IS MEANT BY 'SOCIAL MEDIA' FOR THE PURPOSES OF THIS POLICY**

- 3.1 Social Media, sometimes also referred to as a Social Network, can take many forms, with different examples of Social Media ranging from being very similar to each other to very different. This makes defining Social Media, for the purposes of this policy, difficult, however there are some facets which will be common to all forms of Social Media.
- 3.2 Social Media will always be a web-based service that allows individuals and/or businesses to construct a public or semi-public profile. Beyond this, Social Media can be very diverse, but will often have some, or all, of the following characteristics;
  - The ability to show a list of other users with whom they share a connection; often termed "friends" or "followers",
  - The ability to view and browse their list of connections and those made by others within the system
  - Hosting capabilities allowing users to post audio, photographs and/or video content that is viewable by others

Social Media can include community based web sites, online discussions forums, chatrooms and other social spaces online as well.

- 3.3 Current examples of the most popular forms of Social Media, and therefore the most likely to be of use when conducting investigations into alleged offences, include;
  - Facebook
  - Twitter
  - Instagram
  - LinkedIn
  - YouTube
  - Vine
  - Tumblr
  - Reddit
  - Flickr

- Pintrest
- Google+

3.4 The number and type of Social Media available to the public is fluid. In a given year, many new sites can open whilst some of the more established names can wain in popularity, the classic example being that of Myspace; from 2005 to 2008, Myspace was the largest social networking site in the world, whereas today it is mostly ignored and is therefore largely insignificant. This Policy will concentrate on Social Media generally and will not make reference to specific sites or services.

#### **4 SOCIAL MEDIA – SURVEILLANCE AND PRIVACY SETTINGS**

4.1 Surveillance for the purpose of the 2000 Act includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications it may be conducted with or without the assistance of surveillance devices and includes reading of any information obtained.

4.2 Simple reconnaissance of such sites (ie preliminary examination to establish whether the site or its contents are of interest) is unlikely to interfere with a persons expectation of privacy and therefore not require directed surveillance authorisation. As the Code of practice indicates however, where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared on line.<sup>1</sup>

4.14.3 The majority of Social Media services will allow its users to dictate who can view their activity, and to what degree, through the use of privacy settings. Whilst some users are happy, or otherwise indifferent about who is able to view their information, others prefer to maintain a level of privacy.

4.24.4 Depending on their intentions, many users will purposely use Social Media with no privacy setting applied whatsoever. This could be due to the fact that they are actively promoting something, such as a business or event, and therefore require as many people as possible to be able to view their Social Media profile at all times; others may do so for reasons of self-promotion or even vanity. The information publicly available is known as an individual's public profile.

4.34.5 Those individuals with public profiles who operate on Social Media without any, or only limited, forms of privacy settings being activated do so at their own risk. Often, Social Media sites will advise its users through its terms and conditions of the implications of not activating privacy controls, namely that all content they publish or share will be viewable by everyone, including sometimes people who, themselves, do not have an account with that provider.

4.44.6 Whilst the content or information shared by individuals on Social Media remains the property of that individual, it is nonetheless considered to be in the public domain. Publishing content or information using a public, rather than a private setting, means that the individual publishing it is allowing everyone to access and use that information, and to associate it with them.

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<sup>1</sup> Code of Practice 3.15

4.54.7 The opposite of a public profile is a private profile. Some users of Social Media will not wish for their content, information or interactions to be viewable to anyone outside of a very small number of people, if any. In these instances, users will normally set a level of privacy on their Social Media profiles that reflects what they are comfortable with being made available, meaning that, for example, only friends, family and other pre-approved users are able to view their content or make contact with them through that site.

4.64.8 By setting their profile to private, a user does not allow everyone to access and use their content, and respect should be shown to that person's right to privacy under Article 8 of the Human Rights Act. This does not, however, extend to instances where a third party takes it upon themselves to share information which originated on a private profile on their own Social Media profile. For example, Person A publicises on their *private* Social Media page that they intend to throw a party, at which they will be selling alcohol and providing other forms of licensable activities, despite not having a licence from the Council to do so. Person B, who "follows" Person A's Social Media page, re-publishes this information on their *public* Social Media page. The information on Person A's profile cannot be used, however the same information on Person B's profile, can.

## **5 WHAT IS PERMITTED UNDER THIS POLICY**

5.1 Whether or not Social Media can be used in the course of investigating an offence, or potential offence, will depend on a number of things, not least of which is whether the suspect has a Social Media presence at all. Investigating offences will always be a multi-layered exercise utilising all manner of techniques, and it is important not to place too high an emphasis on the use of Social Media in place of more traditional investigative approaches.

5.2 Further to this, a lack of information on an individual's Social Media profile should not be taken as evidence that something is or isn't true. For example, a lack of evidence corroborating an individual's assertions that they were at a particular location on a specific day does not prove that they are being misleading and it is important to consider it only as part of a well rounded investigation.

5.3 For those individuals who do have a presence on Social Media, a lot of what is permitted under this policy for use in investigations will depend on whether they have a public or private profile. As outlined in 4.4 above, where a person publishes content on a public profile, they allow everyone, including those not on that particular Social Media platform, to access and use that information whilst also allowing it to be associated with them.

5.4 In practice, this means that things such as photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given Social Media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence.

5.5 When considering what is available on an individual's public Social Media profile, those investigating an offence, or potential offence, should always keep in mind what relevance it has to that investigation. Only information that is relevant to the investigation at hand, and goes some way toward proving the offence, should be gathered. If there is any doubt as to whether something is relevant, then advice should be sought from Legal Services.



5-55.6 The Council may also set up overt Social Media accounts and use these for overt enforcement checks, monitoring of public accessible areas of the internet and trade related information groups without the need for directed surveillance authorisation so long as these are not part of pre-planned or ongoing surveillance of a specific person or group of people<sup>2</sup>.

## **6 WHAT ISN'T PERMITTED UNDER THIS POLICY**

6.1 When it is discovered that an individual under investigation has set their Social Media account to private, Council officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to;

- sending “friend” or “follow” requests to the individual,
- setting up or using bogus Social Media profiles in an attempt to gain access to the individual's private profile,
- contacting the individual through any form of instant messaging or chat function requesting access or information,
- asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the Social Media accounts of such people to gain access, or
- any other method which relies on the use of subterfuge or deception.

Officers should keep in mind that simply using profiles belonging to others, or indeed fake profiles, in order to carry out investigations does not provide them with any form of true anonymity. The location and identity of an officer carrying out a search can be easily traced through tracking of IP Addresses, and other electronic identifying markers.

6.2 A distinction is made between one-off and repeated visits to an individual's Social Media profile. As outlined at paragraph 2 above, under Part II of RIPA, authorisation must be sought in order to carry out directed surveillance against an individual. Whilst one-off visits, or otherwise infrequent visits spread out over time, cannot be considered “directed surveillance” for the purposes of RIPA, repeated or frequent visits may cross over into becoming “directed surveillance” requiring RIPA authorisation. A person's Social Media profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require RIPA authorisation, the absence of which is an offence. For further guidance on this point, officers should contact Legal Services.

6.3 Regardless of whether the Social Media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and at no stage should a Council officer seek to make contact with the individual through the medium of Social Media. Any contact that is made may lead to accusations of harassment or, where a level of deception is employed by the officer, entrapment, either of which would be detrimental and potentially fatal to any future prosecution that may be considered.

## **7 CAPTURING EVIDENCE**

7.1 Once content available from an individual's Social Media profile has been identified as being relevant to the investigation being undertaken, it needs to be recorded and captured for the purposes of producing as evidence at any

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<sup>2</sup> Codes of Practice 3.33

potential prosecution. Depending on the nature of the evidence, there are a number of ways in which this may be done.

- 7.2 Where evidence takes the form of a readable or otherwise observable content, such as text, status updates or photographs, it is acceptable for this to be copied directly from the site, or captured via a screenshot, onto a hard drive or some other form of storage device, and subsequently printed to a hard copy. The hard copy evidence should then be exhibited to a suitably prepared witness statement in the normal way.
- 7.3 Where evidence takes the form of audio or video content, then efforts should be made to download that content onto a hard drive or some other form of storage device such as a CD or DVD. Those CD's and/or DVD's should then be exhibited to a suitably prepared witness statement in the normal way. Any difficulties in downloading this kind of evidence should be brought to the attention of NHDC's IT Section who will be able to assist in capturing it.
- 7.4 When capturing evidence from an individual's public Social Media profile, steps should be taken to ensure that all relevant aspects of that evidence are recorded effectively. For example, when taking a screenshot of a person's Social Media profile, the Council officer doing so should make sure that the time and date are visible on the screenshot in order to prove when the evidence was captured. Likewise, if the evidence being captured is a specific status update or post published on the suspected offender's profile, steps should be taken to make sure that the date and time of that status update or post is visible within the screenshot. Without this information, the effectiveness of the evidence is potentially lost as it may not be admissible in court.
- 7.5 Due to the nature of Social Media, there is a significant risk of collateral damage in the form of other, innocent parties' information being inadvertently captured along side that of the suspected offender's. When capturing evidence from a Social Media profile, steps should be taken to minimise this collateral damage either before capturing the evidence, or subsequently through redaction. This might be particularly prevalent on Social Media profiles promoting certain events, where users are encouraged to interact with each other by posting messages or on photographs where other users may be making comments.

## **8 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE PURPOSES**

- 8.1 Whilst Social Media can be a useful and fruitful means of investigating offences and potential offences, it is by no means the only tool available within the realm of Information Technology. A vast array of other, mostly web-based tools are also at the disposal of those conducting investigations. For example, where there is a website advertising the services of a local business, and there is evidence that this business is engaging in illegal activity, there are IT tools available that can track who is responsible for setting up that website, and so can be a good starting point when trying to link potential offenders to the offending business.
- 8.2 For assistance in identifying which tools may be appropriate, and how best to utilise them, advice should be sought from the Shared Anti-Fraud Service (SAFS), who are best placed to advise on this point.

## **9 RETENTION AND DESTRUCTION OF INFORMATION**

- 9.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 1998 , the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures regarding document retention. Advice should be sought from the Monitoring Officer or the Information and Records Manager.
- 9.2 Personal data gathered by the Council is subject to the Data Protection Act 1998. When considering whether to retain the data, the Council should:
- review the length of time it keeps personal data;
  - consider the purpose or purposes it holds the information for in deciding whether (and for how long) to retain it;
  - securely delete information that is no longer needed for this purpose or these purposes; and
  - update, archive or securely delete information if it goes out of date
- 9.3 Due to the nature of Social Media, it is important to remember that when information produced as a hard copy is destroyed in line with this paragraph, that all digital copies of that evidence is likewise destroyed.

## **10 REVIEW**

- 10.1 This Policy will be reviewed periodically and in line with the RIPA Policy & Procedure document to ensure that both Policies remain current and compliant with relevant legal requirements and best practice guidance.

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**CABINET  
23 JUNE 2020**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: REVENUE BUDGET OUTTURN 2019/20**

REPORT OF THE SERVICE DIRECTOR - RESOURCES

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR FINANCE AND IT

COUNCIL PRIORITY: ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY

**1. EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to inform Cabinet of the summary position on revenue income and expenditure as at the end of the financial year 2019/20. The net outturn of £14.692m represents a £129k decrease from the working budget of £14.821million. There are corresponding requests to carry forward £195k (of underspends) to fund specific projects that will now take place in 2020/21. There is a further forecast impact on the 2020/21 base budget of a £149k increase. Within these summary totals there are a number of budget areas with more significant variances, which are detailed and explained in table 3. The report also provides an update on;
- the delivery of planned efficiencies (paragraph 8.4)
  - the use of budget approved to be carried forward from 2018/19 (paragraph 8.5)
  - performance against the four key corporate 'financial health' indicators (paras 8.6-8.8)
  - confirmation of the funding position as at the end of 2019/20 (table 6)
  - details of earmarked reserves movements and balances (table 8)

**2. RECOMMENDATIONS**

- 2.1. That Cabinet note this report.
- 2.2. That Cabinet approves a decrease of £129k in the 2019/20 net General Fund expenditure, as identified in table 3 and paragraph 8.1, to a total of £14.692million.
- 2.3. That Cabinet approves the changes to the 2020/21 General Fund budget, as identified in table 3 and paragraph 8.2, a total £344k increase in net expenditure.
- 2.4. That, as referred to in paragraph 8.3, Cabinet approves the transfer of £59k from the underspend on the General Fund to the Strategic Priority fund to enable the Leadership Team to undertake invest to save and/or continuous improvement projects.

**That Cabinet recommends to Council**

- 2.5. That Council approves the net transfer to earmarked reserves, as identified in table 8, of £2.161million.

### 3. REASONS FOR RECOMMENDATIONS

- 3.1. Members are able to monitor, make adjustments within the overall budgetary framework and request appropriate action of Services who do not meet the budget targets set as part of the Corporate Business Planning process.
- 3.2. Changes to the Council's balances are monitored and approved.

### 4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. Budget holders have considered the options to manage within the existing budget but consider the variances reported here necessary and appropriate

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

- 5.1. Consultation on the budget monitoring report is not required. Members will be aware that there is wider consultation on budget estimates during the corporate business planning process each year.

### 6. FORWARD PLAN

- 6.1. The report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 13<sup>th</sup> March 2020.

### 7. BACKGROUND

- 7.1. Council approved the revenue budget for 2019/20 of £15.251million in February 2019. At the end of the year the working budget has decreased to £14.821million. Table 1 below details the approved changes to this budget to get to the current working budget:

**Table 1 - Current Working Budget**

	<b>£k</b>
Original approved budget for 2019/20	15,251
Quarter 3 2018/19 Revenue Monitoring report – 2019/20 budget changes approved by Cabinet (March 2019)	25
2018/19 Revenue Outturn Report – 2019/20 budget changes approved by Cabinet (June 2019)	521
Quarter 1 2019/20 Revenue Monitoring report - 2019/20 variances approved by Cabinet (July 2019)	(239)
Playgrounds report - delaying the removal of play equipment from two playgrounds in Royston until the 31st March 2020 – additional expenditure approved by Cabinet (July 2019)	4
Waste Collection from Multi Occupancy Properties report – retention of weekly residual waste collection service – variation to contract approved by Cabinet (July 2019)	68
Quarter 2 2019/20 Revenue Monitoring report – 2019/20 variances approved by Cabinet (December 2018)	(360)
Revenue monitoring included within 2020/21 budget report – 2019/20 variances approved by Cabinet (January 2020)	(187)
Quarter 3 2019/20 Revenue Monitoring report – 2019/20 variances approved by Chief Executive under delegated authority as a result of the Cabinet meeting on 24 March 2020 being cancelled due to Covid-19 situation (March 2020)	(262)
<b>Current Working Budget</b>	<b>14,821</b>

- 7.2. The Council is managed under Service Directorates. Table 2 below confirms the current net direct resource allocation of each Service Directorate in 2019/20 and how this has changed from the allocations published in the quarter three monitoring report.

**Table 2 – Service Directorate Budget Allocations**

Service Directorate	Working Budget at Q3	Changes approved at Q3	Other Budget Transfers	Current Net Direct Working Budget
	£k	£k	£k	£k
Chief Executive	1,807	(86)	(169)	1,552
Commercialisation	(463)	(50)	11	(502)
Customers	3,544	17	38	3,599
Legal & Community	2,262	(51)	33	2,244
Place	4,563	59	149	4,771
Regulatory Services	867	(142)	38	763
Resources	2,503	(9)	(100)	2,394
<b>TOTAL</b>	<b>15,083</b>	<b>(262)</b>	<b>0</b>	<b>14,821</b>

## 8. RELEVANT CONSIDERATIONS

- 8.1. Cabinet are asked to approve the net expenditure on the General Fund in 2019/20 of £14.692 million (recommendation 2.2). This is a net decrease of £129k on the working budget of £14.821million. Table 3 below highlights the most significant variances, which are generally more than £25k, and contains an explanation for each. The final columns detail if a carry forward into 2020/21 is requested and the estimated ongoing impact of any variances:

**Table 3 - Summary of significant variances**

Budget Area	Working Budget £k	Outturn £k	Variance £k	Reason for difference	Carry Forward Request £k	Estimated Impact on 2020/21 £k
Strategic Priorities Fund	41	0	(41)	A total budget of £100k was made available for the Strategic Priorities Fund in 2019/20, of which a total of £59k was allocated to successful investment bids. It is requested that the remaining £41k goes towards a new allocation of £100k for 2020/21.	41	0
Commercialisation Projects	85	52	(33)	A commercial consultant has compiled a report with several recommendations. The expertise of the consultant will be required in delivering these recommendations in the new year. The unspent budget is therefore requested to be carried forward to meet the associated costs in 2020/21.	33	0
COVID-19 Government Grant Income	0	(48)	(48)	Grant was received in March 2020 from MHCLG. The funding has not been ringfenced and can be allocated to COVID-19 pressures in whatever way the Council feels is appropriate.	0	0

Budget Area	Working Budget £k	Outturn £k	Variance £k	Reason for difference	Carry Forward Request £k	Estimated Impact on 2020/21 £k
Customers Directorate Employee Costs – Redundancy Costs	0	32	+32	Redundancy costs associated with the closure of the Document Centre in January.	0	0
Careline Service – Community Alarms Equipment	231	309	+78	Careline are now purchasing and installing digital alarms when an alarm requires replacement. The digital alarm costs twice as much as the analogue product previously installed but can be used up to three times, whereas the old analogue equipment could only be used once. Once there is sufficient turnover of the new alarm, annual equipment costs should reduce as alarms returned from former clients can be used for new installations.	0	78
Council Tax Court Summons Income	(228)	(201)	+27	Lower than budgeted Council Tax summons income follows the closure of the Court until at least June 30 <sup>th</sup> , in response to the COVID-19 pandemic. The Council has since not made any applications for the issue of court summons.	0	57
Net Housing Benefit Expenditure	400	430	+30	Increase in net cost is primarily due to an increase in benefit payments relating to temporary accommodation, which are not eligible for Housing Benefit Subsidy funding from Government. In 2018/19 this cost was £20k and this increased to £42k in 2019/20.	0	0
Commingled Recycling – Haulage and Processing Costs	381	462	+81	Variance reflects recent steep falls in sales prices for the materials collected, the income from which reduces the charge for haulage and processing. Monthly income from materials in the first eight months of the year averaged £38k, whereas for the remainder of the year the monthly average dropped to £20k. In addition, the total volume of commingled material collected in 19/20 was higher than the prior year, therefore increasing the amount of haulage and processing required.	0	0
Commingled Recycling – Recycling Credits Income	(446)	(472)	(26)	The higher volume of comingled material collected for recycling, and hence diverted from landfill, has increased the corresponding total of recycling credit income eligible from Hertfordshire County Council. The total annual tonnage rose from 9,360 tons in 2018/19 to 10,051 tons in 2019/20, an increase of 7%.	0	0
Textiles Recycling – Sales Income	(11)	0	+11	Both the volume of materials collected, and the price received for textiles, have fallen significantly. As such, officers are now investigating the viability of the service.	0	11



Budget Area	Working Budget £k	Outturn £k	Variance £k	Reason for difference	Carry Forward Request £k	Estimated Impact on 2020/21 £k
Garden Waste Service Expenditure	299	269	(30)	The underspend variance is due to a performance management reduction issued to the contractor for missed bin collections.	0	0
Garden Waste Service Income	(781)	(849)	(68)	Higher than budgeted income follows the removal, for the subscription period commencing 1 <sup>st</sup> August 2019, of both the £35 'early bird' offer and the £20 rate offered for those who joined partway through the first year of the service.	0	0
Green Space Management – Development and Maintenance of Howard Park	51	11	(40)	The Council supports the Friends of Howard Park group in maintaining the park through purchasing materials and equipment. Last year a large volume was purchased which meant that little extra was required this year. The activities of the Park Ranger in 2019/20 have also generally been focused on Norton Common rather than Howard Park, while the Countryside Management Service have used volunteers to carry out works such as hedge laying and cleaning ditches at no additional cost to the Council.	0	0
NHDC Trees Maintenance	110	74	(36)	Planned tree works were put on hold in 19/20 due to staff sickness. It is therefore proposed that the unspent budget is carried forward to fund the completion of the scheduled works in 2020/21.	36	0
Crematorium Project Consultants	30	6	(24)	The planning appeal hearing has been deferred to a later date. Consultants will be representing NHDC at the hearing and these costs will be invoiced once the hearing has taken place. It is therefore requested that the unspent budget is carried forward.	24	0
Car Parking – Pay-As-You-Use Income	(1,885)	(1,823)	+62	Shortfall in parking income is indicative of the impact of the response from the government and public to the COVID-19 pandemic. Income recorded for March of £107k is significantly lower than the £164k recorded for March 2019. On 16th March, the Government advised the public to stay at home where possible by working from home and limiting time in public spaces. On 20th March restaurants, pubs and cafes were ordered to close. These actions have affected the number of people going to town centres and using the car parks.	0	0

Budget Area	Working Budget £k	Outturn £k	Variance £k	Reason for difference	Carry Forward Request £k	Estimated Impact on 2020/21 £k
Parking Lines and Signs Maintenance	25	43	+18	The working budget total was reduced by the £64k approved to be carried forward into 20/21 (originally requested at Q2). Certain lines and signs however were since identified as being in urgent need of re-marking to ensure the necessary enforcement could be undertaken and prevent safety or anti-social parking issues. These works were consequently carried out in 2019/20. As a result, the carry forward budget requested has been amended accordingly.	(18)	0
Local Plan Legal and Consultants Costs	168	99	(69)	Local Plan hearings in March were suspended due to COVID-19 restrictions. This has resulted in the majority of the associated costs also being deferred until the resumption of the hearings when circumstances allow. As such, it is requested that the unspent budget is carried forward into 2020/21.	66	0
Planning Application Income	(820)	(861)	(41)	Forecast income from planning applications was reduced at Q3 based on the experience of the first three quarters of 2019/20. The overachievement of the revised budget at outturn indicates an increase in activity in the final quarter of the year.	0	0
Electric Vehicle Charging Consultants	15	0	(15)	This budget was an investment bid to engage consultants to undertake a study to review and consider opportunities from Electric Vehicle Charging. Officers have prepared a Scoping Document and undertaken a consultation to define the extent of a Strategy and agreed action plan for adoption in 2020/21. Work on the Strategy was underway prior to the pandemic and will continue into 20/21. The requested carry forward of the unspent budget will fund any specialist advice required.	15	0
<b>Total of explained variances</b>	<b>(2,335)</b>	<b>(2,467)</b>	<b>(132)</b>		<b>197</b>	<b>146</b>
Other minor balances	17,156	17,159	+3		(2)	3
<b>Overall Total</b>	<b>14,821</b>	<b>14,692</b>	<b>(129)</b>		<b>195</b>	<b>149</b>

- 8.2. Cabinet are asked to approve the estimated impact on the 2020/21 budget, a £344k increase in budget, which includes:
- £195k of budget carry-forwards from 2019/20 to 2020/21 for projects that were not completed by the end of the financial year. These are shown in the penultimate column of table 3 above. This will take the total carry-forward to £679k, after including those reported and approved at quarter 2, month 8 and quarter 3.
  - £149k increase in budget to reflect the estimated ongoing net impact in 2019/20 of variances identified in Q4. These are shown in the final column of table 3 above.
- 8.3. Cabinet are asked to approve the transfer of £59k from the underspend in 2019/20 into the Strategic Priorities Fund in the following year (recommendation 2.4). Along with the Strategic Priorities Fund carry forward of £41k requested, this will bring the total amount in the fund next year to £100k. The fund provides the Council's Leadership Team with authority to approve the allocation of the funds during the year for invest to save or continuous improvement projects as the opportunity arises. As identified in the Corporate Peer Challenge Action Plan report (also on the agenda of this Cabinet meeting) there could be transformation and continuous improvement projects identified that could be funded from this budget.
- 8.4. The original approved budget for 2019/20 (and therefore working budget) included efficiencies totalling £610k, which were agreed by Council in February 2019. Progress in delivering the efficiencies identified has been monitored throughout the year and reported at each quarter. All the efficiencies approved in February last year for 2019/20 have been delivered.
- 8.5. The working budget for 2019/20 includes budgets totalling £689k that were carried forward from the previous year. These are generally carried forward so that they can be spent for a particular purpose that had been due to happen in 2018/19 but was delayed into 2019/20. At the end of the year a total of £197k of the budget carried forward has not been spent in 2019/20, as detailed in Table 4 below, of which £187k has been requested to be carried forward into 2020/21.

**Table 4 – Unspent Carry Forward Budget in 2019/20**

Monitoring Report	Carry Forward Budget in 19/20 (£k)	Project	Underspend reported (£k)
Q2	13	Herts Warmer Homes Project	10
Q2	64	Parking Lines and Signs; forecast underspend at Q2 of £64k since revised at Outturn, as highlighted and explained in Table 3 above.	46
Q3	17	Brexit Grant Expenditure	17
Q3	87	Community Infrastructure Levy	87
<b>Outturn</b>	95	Commercialisation projects; £52k of the £85k carry forward budget has been spent in 2019/20, with the remainder requested to be carried forward into 2020/21 (as highlighted and explained in table 3 above).	33
<b>Outturn</b>	18	Letchworth Area Committee; 50% of a grant awarded in June 2019, funded from 2018/19 carry forward budget, is payable in June 2020.	2
<b>Outturn</b>	6	Southern Rural Area Committee; The March 2020 meeting of the Southern Rural Area Committee was cancelled due to COVID-19 so the balance of the 2018/19 carry forward was not spent in 2019/20. This has since been allocated and spent as grants were awarded by delegated decision in April 2020.	2
<b>Total Underspend 2019/20</b>			<b>197</b>

- 8.6. There are 4 key corporate ‘financial health’ indicators identified in relation to key sources of income for the Council. Table 5 below shows the performance for the year. A comparison is made to the original budget to give the complete picture for the year. Each indicator is given a status of red, amber or green. A green indicator means that income recorded matched or exceeded the budgeted level of income. A red indicator means that the outturn has not met the budgeted level of income. An amber indicator is only used during the year to highlight that there is a risk that the budgeted level of income may not be met.
- 8.7. At the end of the year, three indicators are green and one indicator is red.
- 8.8. The red indicator in relation to income from planning applications was highlighted within the revenue monitoring report at quarter 3. While the position improved during quarter four, as indicated by the income variance highlighted in table 3 above, the uncertainty around the next steps of the Local Plan and the national situation with regards to Brexit are believed to have impacted upon the level of income during the year; either through uncertainty with regard to the timescale for sites to progress or through uncertainty around house prices and mortgage rates.

**Table 5 - Corporate financial health indicators**

<b>Indicator</b>	<b>Status</b>	<b>Original Budget</b>	<b>Outturn</b>	<b>Projected Variance</b>
		<b>£k</b>	<b>£k</b>	<b>£k</b>
Planning Application Fees (including fees for pre-application advice)	Red	(950)	(861)	+89
Land Charges	Green	(164)	(165)	(1)
Car Parking Fees	Green	(1,809)	(1,823)	(14)
Parking Penalty Charge Notices	Green	(532)	(726)	(194)

## **FUNDING, RISK AND GENERAL FUND BALANCE**

- 8.9. The Council’s revenue budget is funded from the following main sources; Council Tax, New Homes Bonus and Retained Business Rates income. The Council was notified by Central Government in February 2019 of the amount of New Homes Bonus it could expect to receive in 2019/20 and planned accordingly.
- 8.10. Council Tax and Business Rates are accounted for in the Collection Fund rather than directly in our accounts, as we also collect them on behalf of other bodies. Each organisation has a share of the balance on the Collection Fund account.
- 8.11. At the end of 2019/20, there is an overall deficit on the NHDC share of the Council Tax Collection Fund of £82k. Part of the deficit (£21k) relates to the deterioration in the position in the final quarter of 2018/19, as explained in the Quarter One Revenue Monitoring report. The £82k overall deficit is £27k higher than the £55k deficit anticipated for 2019/20 at the time of setting the budget for 2020/21. Statute requires that the £55k estimate must be repaid to the Collection Fund in 2020/21. The £27k difference will be incorporated in the calculation of the surplus/deficit for 2020/21 and therefore not impact the General Fund position until 2021/22.

- 8.12. The recent trend of deficits on the Council Tax Collection Fund, after several consecutive years of recording annual surpluses, is attributed to the amount of Council Tax reduction awarded. In previous years falling numbers of claimants eligible for Council Tax reduction had more than offset the absolute increase in the reduction amount awarded to those eligible, which has increased as Council Tax has risen. The trend of falling numbers of claimants has however plateaued over the last eighteen months and is now likely to increase with the economic impact of the COVID-19 pandemic.
- 8.13. With regards to Business Rates, while income collected in year was in line with original estimates, at the end of 2019/20 there is an overall surplus on the NHDC share of the Business Rates Collection Fund of £365k. The overall surplus position comprises a £911k in-year surplus for 2019/20 that is partially offset by the £546k adjustment for the prior year final outturn, as detailed and explained at Quarter One. Both amounts are primarily explained by changes to the calculation of the provision required for business rates appeals. At the end of 2018/19, it was considered prudent that the provision calculation reflected the experience of Hertfordshire as a whole in terms of the impact of successful appeals on rates income. This change increased the contribution required to the provision in 2018/19 and hence increased the final recorded deficit for that year. In reviewing the position at the end of this financial year, a revised approach was taken to identifying premises most likely to appeal successfully and for which provision should be made. This has reduced the total amount of provision required at the end of 2019/20, with the release of some of the provision making an £820k contribution to the £911k in-year surplus recorded.
- 8.14. The Central Government return submitted in January 2020 estimated an overall Business Rates Collection Fund deficit for 2019/20 of £294k. The contribution to the Collection Fund required in 2020/21 in respect of the position for 2019/20 is based on this January estimate. The £659k difference between the actual surplus of £365k and the January estimated deficit of £294k will be included in the calculation of the estimated surplus/deficit for 2020/21 (submitted to Central Government in January 2021), and hence will affect the calculation of the Council's retained business rates income for 2021/22.
- 8.15. While legislation requires that annual Collection Fund surpluses or deficits do not affect the General Fund balance in the year they are recorded, the Council's share of the gain from Hertfordshire being a Business Rate pilot in 2019/20 will increase the General Fund balance at the end of March 2020. The actual gain is dependent on the overall Business Rates collected across Hertfordshire. Calculation of the gain is being coordinated by Hertfordshire County Council. At the time of writing the amount is still to be confirmed, with timetables and processes delayed by the impact of the COVID-19 emergency. The funding total in table 6 below currently assumes only the budgeted business rates baseline amount, which represents close to the minimum level of funding the Council can expect to receive from business rates. It should therefore be noted that, once notification of the final gain amount is received from the County Council, accounting for the gain will increase the General Fund balance at 31 March 2020 to a total higher than that currently shown in table 6.
- 8.16. The Council also receives compensation in the form of a grant from Central Government for business rate reliefs introduced, which goes into our funds rather than the Collection Fund. In 2019/20 NHDC received grant totalling £1.922m. We are holding the grant received in a reserve to fund the repayment of deficits recorded in future years. Some of the amount held in reserve has been used in 19/20 to fund the repayment to the Collection Fund of the deficit for 2018/19, as shown in table 6, and some will be used in the next financial year to fund the repayment of the £294k deficit amount highlighted above.

- 8.17. Table 6 summarises the impact on the General Fund balance of the outturn position detailed in this report. It should however also be noted at this point that the Statement of Accounts is yet to be audited and changes to the General Fund balance may arise as a result of the final accounts audit.

**Table 6 – General Fund impact**

	<b>Working Budget £k</b>	<b>Outturn £k</b>	<b>Difference £k</b>
<b>Brought Forward balance (1<sup>st</sup> April 2019)</b>	<b>(7,862)</b>	<b>(7,862)</b>	<b>-</b>
Net Expenditure	14,821	14,692	(129)
Funding (Council Tax, Business Rates, NHB)	(15,319)	(15,319)	0
Contribution to Funding Equalisation Reserve	68	68	0
Contribution to Collection Fund	58	58	0
Funding from Reserves (including Business Rate Relief Grant and transfer of reserves as approved at Full Council in February 2020)	(405)	(405)	0
<b>Carried Forward balance (31<sup>st</sup> March 2020)</b>	<b>(8,639)</b>	<b>(8,768)</b>	<b>(129)</b>

- 8.18. The minimum level of General Fund balance is determined based on known and unknown risks. Known risks are those things that we think could happen and we can forecast both a potential cost if they happen, and percentage likelihood. The notional amount is based on multiplying the cost by the potential likelihood. The notional amount for unknown risks is based on 5% of net expenditure. There is not an actual budget set aside for either of these risk types, so when they occur they are reflected as budget variances (see table 3). We monitor the level of known risks that actually happen, as it highlights whether there might be further variances. This would be likely if a number of risks come to fruition during the early part of the year. We also use this monitoring to inform the assessment of risks in future years. The notional amount calculated at the start of the year for known risks was £1,203k, and at the end of the financial year a total of £349k have come to fruition. The identified risk realised in the final quarter relates to;

- Recycling services. Increase in net cost due to both; increased cost of haulage and processing of commingled recycling collected - £81k; the reduction in income from textiles collected for recycling - £11k (both highlighted in table 3 above).

**Table 7 – Known financial risks**

	<b>£'000</b>
<b>Original allowance for known financial risks</b>	<b>1,203</b>
Known financial risks realised in Quarter 1	(17)
Known financial risks realised in Quarter 2	(84)
Known financial risks realised in Quarter 3	(156)
Known financial risks realised in Quarter 4	(92)
<b>Remaining allowance for known financial risks</b>	<b>854</b>

## EARMARKED RESERVES

- 8.19. The Council has a number of earmarked reserves, which can be used to fund revenue expenditure. These are detailed in Table 8 below. A total of £3.372million has been contributed to the reserves in 2019/20 and a total of £1.211million has been transferred out of the reserves to the General Fund. The total transferred to the General Fund includes the release of those balances no longer needed - the Community Right to Challenge Reserve, Environmental Warranty Reserve, Property Maintenance Reserve and the Street Furniture Reserve - as detailed and explained in the Revenue Budget Report 2020/21 and approved by Council in February this year.
- 8.20. Cabinet are therefore asked to recommend to Council that the net contribution to reserves of £2.161million be approved (recommendation 2.5), which leaves a total balance in earmarked reserves at 31 March 2020 of £9.344million.

**Table 8 – Earmarked Reserves**

	Balance at 1 April 2019	Contributions to reserve	Transfers out of reserves	Balance at 31 March 2020
	£'000	£'000	£'000	£'000
Cemetery Mausoleum Reserve	161	7	(1)	167
Childrens Services Reserve	7	52	(2)	57
Climate Change Grant Reserve	28	0	(2)	26
Community Right to Challenge Reserve	45	0	(45)	0
MHCLG Grants Reserve	1,814	2,004	(77)	3,741
DWP Additional Grants Reserve	190	116	(121)	185
Environmental Warranty Reserve	209	0	(209)	0
Funding Equalisation Reserve	0	68	0	68
Growth Area Fund Reserve	53	0	0	53
Homelessness Grants Reserve	262	210	(59)	413
Housing & Planning Delivery Reserve	1,142	95	(168)	1,069
Information Technology Reserve	82	0	(4)	78
Insurance Reserve	34	0	0	34
Land Charges Reserve	94	0	0	94
Leisure Management Maintenance Reserve	47	30	0	77
Museum Exhibits Reserve	12	1	0	13
Neighbourhood Plan Reserve	41	40	(3)	78
Office Move IT Works	7	0	(7)	0
Paintings Conservation Reserve	11	0	0	11
Property Maintenance Reserve	72	0	(72)	0
S106 Monitoring Reserve	36	0	(17)	19
Special Reserve	1,395	0	(220)	1,175
Street Furniture	21	0	(21)	0
Street Name Plates	16	0	0	16
Syrian Refugee Project	115	339	(182)	272
Taxi Licences Reserve	13	2	0	15
Town Centre Maintenance	45	8	0	53
Traffic Regulation Orders	347	0	(1)	346
Waste Reserve	631	99	0	730
Waste Vehicles Reserve	253	301	0	554
<b>Total Revenue Reserves</b>	<b>7,183</b>	<b>3,372</b>	<b>(1,211)</b>	<b>9,344</b>

## **9. LEGAL IMPLICATIONS**

- 9.1. The Cabinet has a responsibility to keep under review the budget of the Council and any other matter having substantial implications for the financial resources of the Council. Specifically, 5.6.8 of Cabinet's terms of reference state that it has remit "*to monitor quarterly revenue expenditure and agree adjustments within the overall budgetary framework*". By considering monitoring reports throughout the financial year Cabinet is able to make informed recommendations on the budget to Council. The Council is under a duty to maintain a balanced budget and to maintain a prudent balance of reserves.
- 9.2. The Accounts and Audit Regulations 2015 require that the Annual Statement of Accounts be approved and published.
- 9.3. The requirement for financial reserves is acknowledged in statute. Sections 31A, 32 42A and 43 of the Local Government Finance Act 1992 require billing and precepting authorities in England and Wales to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement.
- 9.4. The Council must ensure sufficient flexibility to avoid going into deficit at any point during the financial year. The Chief Financial Officer is required to report on the robustness of the proposed financial reserves, under Section 25 of the Local Government Act 2003.
- 9.5. Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. The level of the general reserve is a matter for the Council to determine having had regard to the advice of the S151 Officer.
- 9.6. This is a requirement of the Council Procedure Rules as set out in Part 4.4.1 (b) and 4.4.1 (k) of the Council's Constitution.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. Members have been advised of any variations from the budgets in the body of this report and of any action taken by officers.
- 10.2. The General Fund balance of £8.768million (table 6) meets the recommended minimum balance of General Fund reserves agreed when the budget was set. The Statement of Accounts is however yet to be audited and changes to the General Fund balance may arise as a result of the final audit. As the Housing Benefit claim is also yet to be audited, the relevant values included in the reported outturn are based on un-audited figures.

## **11. RISK IMPLICATIONS**

- 11.1. As outlined in the body of the report. The process of quarterly monitoring to Cabinet is a control mechanism to help to mitigate the risk of unplanned overspending of the overall Council budget.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.



- 12.2. For any individual new revenue investment proposal of £50k or more, or affecting more than two wards, a brief equality analysis is required to be carried out to demonstrate that the authority has taken full account of any negative, or positive, equalities implications; this will take place following agreement of the investment.

**13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and “go local” policy do not apply to this report.

**14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

**15. HUMAN RESOURCE IMPLICATIONS**

- 15.1. Although there are no direct human resource implications at this stage, care is taken to ensure that where efficiency proposals or service reviews may affect staff, appropriate communication and consultation is provided in line with HR policy.

**16. APPENDICES**

- 16.1. None.

**17. CONTACT OFFICERS**

- 17.1. Antonio Ciampa, Accountancy Manager  
[antonio.ciampa@north-herts.gov.uk](mailto:antonio.ciampa@north-herts.gov.uk); ext 4566
- 17.2. Jodie Penfold, Group Accountant  
[jodie.penfold@north-herts.gov.uk](mailto:jodie.penfold@north-herts.gov.uk); ext 4332
- 17.3. Ian Couper, Service Director – Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk); ext 4243
- 17.4. Kerry Shorrocks, Corporate Human Resources Manager  
[kerry.shorrocks@north-herts.gov.uk](mailto:kerry.shorrocks@north-herts.gov.uk); ext 4224
- 17.5. Isabelle Alajooz, Acting Legal Commercial Team Manager and Deputy Monitoring Officer  
[isabelle.alajooz@north-herts.gov.uk](mailto:isabelle.alajooz@north-herts.gov.uk); ext 4346
- 17.6. Reuben Ayavoo, Policy and Community Engagement Manager  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext 4212

**18. BACKGROUND PAPERS**

- 18.1. None.

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**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: INVESTMENT STRATEGY (CAPITAL AND TREASURY) END OF YEAR REVIEW 2019/20**

REPORT OF THE SERVICE DIRECTOR - RESOURCES

EXECUTIVE MEMBER FOR FINANCE AND I.T.

COUNCIL PRIORITY: ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY

**1 EXECUTIVE SUMMARY**

- 1.1 As at the end of financial year 2019/20, there is a reduction in Capital spend compared to quarter 3 of **£0.331million**. The majority of this change is due to revisions to the profile of planned project spend, with **£0.277million** that will now instead be incurred in 2020/21.
- 1.2 During the year the Council has generated **£0.411million** of interest from its investments. This is slightly below the budgeted total of £0.418million. The Council continued to invest in smaller Building Societies (subject to checks that compare the size of the Society with that of the investment) and also now invests in non-UK banks.
- 1.3 The Council has repaid £0.017million of borrowing during the year as it has matured. The Council has £0.423million of remaining borrowing. This borrowing is at a fixed rate for a fixed period. The premium incurred from repaying this borrowing early means that it is not worthwhile to do so.
- 1.4 The Council complied with its legislative and regulatory requirements throughout the year.
- 1.5 The forecast for 2020/21 is that investment income will continue to reduce due to market conditions, the use of cash balances to fund the capital programme and the effect of Covid-19.

**2 RECOMMENDATIONS**

- 2.1 That Cabinet notes expenditure of **£1.473million** in 2019/20 on the capital programme, paragraph 8.3 refers, and in particular the changes detailed in table 3 which resulted in a net decrease on the working estimate of **£0.055million**.
- 2.2 That Cabinet approves the adjustments to the capital programme for 2020/21 as a result of the revised timetable of schemes detailed in table 2, increasing the estimated spend in 2020/21 by **£0.277million** (re-profiled from 2019/20).

- 2.3 That Cabinet notes the position of the availability of capital resources, as detailed in table 4 paragraph 8.6 and the requirement to keep the capital programme under review for affordability.
- 2.4 That Cabinet approves the application of **£0.639million** of capital receipts towards the 2019/20 capital programme and the drawdown of £0.397million from set aside receipts, paragraph 8.6 refers.
- 2.5 Cabinet is asked to note the position of Treasury Management activity as at the end of March 2020.
- 2.6 Cabinet is asked to recommend this report to Council and ask Council to:
- 1) Approve the actual 2019/20 prudential and treasury indicators.
  - 2) Note the annual Treasury Report for 2019/20.

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 Cabinet is required to approve adjustments to the capital programme and ensure the capital programme is fully funded.
- 3.2 To ensure the Council's continued compliance with CIPFA's code of practice on Treasury Management and the Local Government Act 2003 and that the Council manages its exposure to interest and capital risk.

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

- 4.1 Options for capital investment are considered as part of the Corporate Business Planning process.
- 4.2 The primary principles governing the Council's investment criteria are the security of its investments (ensuring that it gets the capital invested back) and liquidity of investments (being able to get the funds back when needed). After this the return (or yield) is then considered, which provides an income source for the Council. In relation to this the Council could take a different view on its appetite for risk, which would be reflected in the Investment Strategy. In general, greater returns can be achieved by taking on greater risk. Once the Strategy has been set for the year, there is limited scope for alternative options as Officers will seek the best return that is in accordance with the Investment Strategy.

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

- 5.1 Consultation on the capital expenditure report is not required. Members will be aware that consultation is incorporated into project plans of individual capital schemes as they are progressed.

5.2 There are quarterly updates with the Authority's Cash Manager, Tradition and regular meetings with Treasury advisors (Link).

## **6. FORWARD PLAN**

6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 13th March 2020.

## **7. BACKGROUND**

7.1 In February 2019, Council approved the Integrated Capital and Treasury Strategy for 2019/20 to 2022/23. This was a change from having a separate Capital Programme and Treasury Strategy. The change was in response to guidance from the Ministry for Housing, Communities and Local Government (MHCLG) and the Chartered Institute of Public Finance and Accountancy (CIPFA). To be consistent with the strategy (and the guidance), the monitoring reports for Capital and Treasury are also integrated.

7.2 The Medium Term Financial Strategy for 2019 to 2024 confirmed that the Council will seek opportunities to utilise capital funding (including set aside receipts) for 'invest to save' schemes and proposals that generate higher rates of return than standard treasury investments. This is one way the Council will allocate resources to support organisational transformation that will reduce revenue expenditure.

7.3 Link Asset Services Ltd were first contracted to provide Treasury advice for the financial year 2012/13 and this arrangement has been extended until 2022/23. The service includes:

- Regular updates on economic and political changes which may impact on the Council's borrowing and investment strategies
- Information on investment counterparty creditworthiness
- Technical updates
- Access to a Technical Advisory Group.

## **8. RELEVANT CONSIDERATIONS**

8.1 The Council has £117.0 million of capital assets that it currently owns. This has increased from £114.5 million as at 31 March 2019. The Investment Strategy set out the reasons for owning assets that are not for service delivery, including an assessment of Security, Liquidity, Yield and Fair Value. There have been no changes in relation to these since the Strategy was set.

### **Capital Programme 2019/20**

8.2 The full capital programme is detailed in Appendix A and shows the revised costs to date, together with the expected spend from 2019/20 to 2022/23 and the funding source for each capital scheme.

- 8.3 The outturn Capital expenditure for 2019/20 is **£1.473million**. This is a reduction of **£0.331million** on that reported at the end of the third quarter. The decrease in spend is largely due to re-profiling spend into future years and underspend on projects. Table 1 below details the changes from what was reported at Quarter 3.

**Table 1- Current Capital Estimates**

	2019/20 £M	2020/21 £M	2021/22 to 2024/25 £M
<b>Original Estimates approved by Full Council February 2019</b>	<b>8.213</b>	<b>0.962</b>	
<b>Changes approved by Cabinet in 2018/19 Capital Outturn report</b>	1.007	0	
<b>Revised Capital estimates at start of 2019/20</b>	<b>9.220</b>	<b>0.962</b>	
<b>Changes at Q1</b>	-1.398	1.408	
<b>Changes at Q2</b>	-1.936	1.450	
<b>Changes in 20/21 strategy approved by full Council in February</b>	0	5.507	
<b>Changes at Q3</b>	-4.082	3.831	
<b>Changes since Q3</b>	-0.331	0.277	
<b>Outturn 2019/20</b>	<b>1.473</b>	<b>13.435</b>	<b>23.524</b>

- 8.4 Table 2 lists the schemes in the 2019/20 Capital Programme that will start or continue in 2020/21:

**Table 2: Scheme Timetable Revision:**

(Key: - = reduction in capital expenditure, + = increase in capital expenditure)

Scheme	2019/20 Working Budget £'000	2019/20 Outturn £'000	Difference £'000	Reason for Difference	Estimated impact on 2020/21 onwards £'000
Community Facilities Refurbishment	313	210	-103	Community facilities are run with minimal resource to service the needs of the building. Many facilities are solely supported by volunteers. Officers have found that these committees are often under-resourced to complete any additional work over and above the maintenance of the building, taking bookings and other general up-keep of a facility. The completion of applications has, therefore,	103

Scheme	2019/20 Working Budget £'000	2019/20 Outturn £'000	Difference £'000	Reason for Difference	Estimated impact on 2020/21 onwards £'000
				taken more time than anticipated since the inception of the grant scheme.	
Baldock Town Hall Improvements	70	21	-49	This project is demand led and spend is dependent on invoices being submitted for payment once works have been completed.	49
Cyber Attacks	30	0	-30	The pre-planned Cyber Essentials training and procurement of new hardware was put back due to a delay in the annual Penetration Test being carried out. The results of the test will contain recommendations for any new hardware required.	30
Leisure Condition Survey	30	0	-30	Works were originally programmed in 20/21 but an opportunity arose to bring the work forward to 19/20. However, only one formal price was received from contractors and, as this did not comply with our contract procurement rules, the work was unable to commence before the end of March.	30
Total Minor (under £25k) slippage on other projects			-65		65
<b>Total Revision to Budget Profile</b>			<b>-277</b>		<b>277</b>

8.5 There are also changes to the overall costs of schemes in 2019/20. These changes total a net decrease of £0.055million and are detailed in Table 3.

**Table 3: Changes to Capital Schemes Commencing in 2019/20:**

(Key: - = reduction in capital expenditure, + = increase in capital expenditure)

Scheme	2019/20 Working Budget £'000	2019/20 Forecast Spend £'000	Difference £'000	Comments
Home Repair Assistance	60	21	-39	Spend on this budget is demand led. All applications received during the year were actioned. Some have taken longer to process due to resourcing issues and some have been delayed by the request of the applicant. £15K income offset the spend as previously award grant funding was returned as per the terms of the grant agreements.
<b>Other minor changes</b>			<b>-16</b>	
<b>Total revision to scheme spend</b>			<b>-55</b>	

8.6 The following capital schemes have been completed during 2019/20:

- Channel Shift - Housing Register
- Museum / Town Hall Lift
- Acoustic Panelling Hitchin Town Hall
- Bar Facility Hitchin Town Hall
- Letchworth Outdoor Pool Safety
- Auto Chemical Dosing Pumps
- Renovate District Park Great Ashby
- Renovate King George V Play Area
- Various IT Projects

**Capital Programme 2019/20 Funding onwards**



8.7 Table 4 below shows how the Council will fund the 2019/20 capital programme.

**Table 4: Funding the Capital Programme:**

	2019/20 Balance at start of year £M	2019/20 Additions £M	2019/20 Funding Used £M	2019/20 Balance at end of year £M
Useable Capital Receipts and Set-aside Receipts	8.490	0.0	(1.036)	7.454
IT Reserve			(0.005)	
S106 receipts			(0.346)	
Other third party grants and contributions			(0.083)	
Revenue contributions			(0.003)	
<b>Total</b>	<b>8.490</b>		<b>(1.473)</b>	

8.8 The availability of third party contributions and grants to fund capital investment is continuously sought in order to reduce pressure on the Council's available capital receipts and allow for further investment.

8.9 The Council's Capital Financing Requirement (CFR) at 31<sup>st</sup> March 2020 was negative £5.60 million (negative £5.99 million 31<sup>st</sup> March 2019). As the CFR is negative the Council does not have a need to borrow to fund capital spend. However, should the Capital programme be fully spent in 20/21 there will be a potential need to borrow £4.0M, which will have an impact on the General Fund by way of a Minimum Revenue Provision (MRP). This need to borrow will mainly be dependent on spend in line with the property acquisition and development strategy. It is expected that any such spend will generate income that will exceed the cost of capital (interest costs and Minimum Revenue Provision).

#### **Treasury Management 2019/20**

8.10 In summary, the Council has operated both within the treasury and prudential indicators set out in the Treasury Management Strategy Statement and in compliance with the Treasury Management Practices. The £5 million limit on the Council's current account was exceeded on two separate occasions and each was reported to Members in the quarterly monitoring reports.

8.11 The Council generated £0.411M of interest during 2019/20. The average interest rate agreed on new deals during the year was 0.99%. The average interest rate on all outstanding investments at the 31<sup>st</sup> March was 1.18%.

8.12 The Council's activities expose it to a variety of risks (credit, liquidity and market). The Treasury Strategy sets out the Authority's appetite for the level of exposure to these risks.

- 8.13 **Security Risk** – The possibility that other parties fail to pay amounts due to the Authority.

The Council's counterparty list comprises UK building societies and UK banks with a Fitch (a credit rating agency) credit rating greater than BBB, non-UK banks with a credit rating greater than AA- with a AAA Country rating, but also includes other Local Authorities and Public Corporations. It also includes smaller Building Societies that do not have a credit rating.

- 8.14 **Liquidity Risk** – the possibility that the Authority may not have funds available to meet its commitments to make payments.

- 8.15 **Market Risk** - the possibility that financial loss might arise as a result of changes in interest rates.

Investing long term (greater than one year) currently achieves higher interest rates than short term deals. The risks of long term deals are:

- (i) The longer the time period the longer the investment is exposed to default.
- (ii) If the investment has a fixed interest rate, interest rates could rise and the potential to invest at a higher rate will be lost until the investment matures.

- 8.16 Members have indicated that they are prepared to accept this risk within the limits expressed in the Treasury Strategy, which allows no more than 12M of outstanding investments to be invested for longer than 365 days at any one time. At the end of the year the Council had £1.0M (3.4%) invested for longer than 365 days.

- 8.17 **Interest (Yield)** - This year has continued to prove challenging to find counterparties willing to pay a reasonable return on cash investments, either long or short term. The uncertainty around interest rate changes has continued in 19/20, with the latest predictions indicating that there will be no increase in base rate during 2020/21.

- 8.18 The investments outstanding at the 31 March 2020 were £37.5million. This compares to a balance of £32.4million at 31 March 2019. These figures include the balance on the interest-bearing current account. Investment in capital projects will continue during 2020/21 and combined with declining returns for new investments, means that the estimated investment interest for 2020/21 was set at £0.300million. This was set, however, prior to a further fall in interest rates and the outbreak of Covid-19. This figure is therefore expected to reduce and will be updated in the first monitoring report of 2020/21.

## 9. LEGAL IMPLICATIONS

- 9.1 Cabinet's terms of reference under 5.6.7 specifically includes "to monitor expenditure on the capital programme and agree adjustments within the overall budgetary framework". The Cabinet also has a responsibility to keep under review the budget of the Council and any other matter having substantial implications for the financial resources of the Council. By considering monitoring reports throughout the financial year Cabinet is able to make informed recommendations on the budget to Council. The Council is under a duty to maintain a balanced budget.

- 9.2 Section 151 of the Local Government Act 1972 states that:  
“every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.”
- 9.3 Asset disposals must be handled in accordance with the Council’s Contract Procurement Rules.
- 9.4 The Prudential Indicators comply with the Local Government Act 2003.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 The main financial implications are covered in section 8 of the report. Tolerance
- 10.2 The Authority operates a tolerance limit on capital projects that depends on the value of the scheme and on this basis over the next ten-year programme it should be anticipated that the total spend over the period could be £4.022million higher than the originally budgeted £45.491million.
- 10.3 The capital programme will need to remain under close review due to the limited availability of capital resources and the affordability in the general fund of the cost of using the Council’s capital receipts. When capital receipts are used and not replaced the availability of cash for investment reduces. Consequently interest income from investments reduces. £1.0million currently earns the Authority approximately £10.0k a year in interest. The general fund estimates are routinely updated to reflect the reduced income from investments. When the Capital Financing Requirement (CFR) reaches zero the Council will need to start charging a minimum revenue provision to the general fund for the cost of capital and will need to consider external borrowing for further capital spend. The CFR at the 31 March 2020 was negative £5.6million.
- 10.4 The Council also aims to ensure that the level of planned capital spending in any one-year matches the capacity of the organisation to deliver the schemes to ensure that the impact on the revenue budget of loss of cash-flow investment income is minimised.

## **11. RISK IMPLICATIONS**

- 11.1 The inherent risks in undertaking a capital project are managed by the project manager of each individual scheme. These are recorded on a project risk log which will be considered by the Project Board (if applicable). The key risks arising from the project may be recorded on Pentana (the Council’s Performance & Risk management software). Some of the major capital projects have been included in the Council’s Corporate Risks (such as the new North Hertfordshire Museum). The Corporate Risks are monitored by the Finance, Audit and Risk Committee and Cabinet.

- 11.2 Risks associated with treasury management and procedures to minimise risk are outlined in the Treasury Management Practices document, TMP1, which was adopted by Cabinet in July 2003 and is revisited annually as part of the Treasury Strategy review. The risk on the General Fund of a fall of investment interest below the budgeted level is dependant on banks and building societies need for borrowing.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2 There are no direct equalities implications directly arising from the adoption of the Capital Programme for 2019/20 onwards. For any individual new capital investment proposal of £50k or more, or affecting more than two wards, an equality analysis is required to be carried out. This will take place following agreement of the investment proposal.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. There are no known Environmental impacts or requirements that apply to recommendations of this report. The projects at section 8.4 may have impacts that contribute to an adverse impact. As these projects go forward, an assessment will be made where necessary.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 There are no direct human resource implications.

## **16. APPENDICES**

- 16.1 Appendix A - Capital Programme Detail including Funding 2019/20 onwards.  
16.2 Appendix B - Treasury Management Annual Review.

## **17. CONTACT OFFICERS**

- 17.1 Report Writer – Dean Fury, Corporate Support Accountant, Tel 474509,  
[Dean.fury@north-herts.gov.uk](mailto:Dean.fury@north-herts.gov.uk)

Ian Couper, Service Director: Resources, Tel 474243, email  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk)

Antonio Ciampa, Accountancy Manager, Tel 474566, email,  
[Antonio.ciampa@north-herts.gov.uk](mailto:Antonio.ciampa@north-herts.gov.uk)

Reuben Ayavoo, Policy and Community Engagement Manager, Tel  
47212, email,  
[Reuben.ayavoo@north-herts.gov.uk](mailto:Reuben.ayavoo@north-herts.gov.uk)

**17. BACKGROUND PAPERS**

- 17.1 Investment Strategy (Integrated Capital and Treasury Strategy) <https://democracy.north-herts.gov.uk/documents/s4263/Appendix%20A-%20Investment%20Strategy.pdf>

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Project	Service Directorate	Spend Forecasts				Funding					
		Actual 2019/20 Funding £	2020/21 Funding £	2021/22 Funding £	2022/23 Funding £	Funded from capital contributions	Funded from Government Grant	Funded from s106 contributions	Funded from Revenue / IT Reserve	Funded from Planned Borrowing	Balance funded from Capital Receipts/ Set-aside receipts
PC's - Refresh Programme	Customers	19,500	17,000	17,000	17,000	0	0	0	0	0	70,500
Playground Renovation District Wide	Place	0	0	180,000	180,000	0	0	0	0	0	360,000
Private Sector Grants	Regulatory	20,800	60,000	60,000	60,000	0	0	0	0	0	200,800
Provide housing at market rents.	Commercial	4,800	2,976,700	0	0	0	0	0	0	0	2,981,500
Refurbishment and improvement of community facilities	Legal and Community	210,000	522,900	0	0	0	0	0	0	0	732,900
Refurbishment of lifts at Lairage Car Park	Regulatory	700	359,300	0	0	0	0	0	0	0	360,000
Ransoms Rec Footpaths, Gates and Railing	Place	0	0	0	10,000	0	0	0	0	0	10,000
Renovate play area Howard Park, Letchworth	Place	0	75,000	0	0	0	0	0	0	0	75,000
Renovate play area King George V Recreation Ground, Hitchin	Place	30,000	800	0	0	0	0	0	0	0	30,800
Renovate play area, District Park, Gt. Ashby	Place	74,200	800	0	0	0	0	0	0	0	75,000
Replace and enhance lighting at St Mary's Car Park	Regulatory	0	60,000	0	0	0	0	0	0	0	60,000
Replace items of equipment Brook View	Place	300	0	0	0	0	0	0	0	0	300
Replace items of play equipment Holroyd Cres, Baldock	Place	0	10,000	0	0	0	0	0	0	0	10,000
Replace items of play equipment Wilbury Recreation Ground, Letchworth	Place	0	10,000	0	0	0	0	0	0	0	10,000
Replace items of play equipment, Chiltern Road, Baldock	Place	0	0	0	0	0	0	0	0	0	0
Replacement SAN	Customers	0	110,000	0	0	0	0	0	0	0	110,000
Royston Leisure Centre extension	Place	0	0	0	1,000,000	0	0	0	0	0	1,000,000
Royston Leisure Centre Changing Village Refurbishment	Place	0	0	0	225,000	0	0	0	0	0	225,000
Royston Leisure Centre Dry Side Toilet Refurbishment	Place	0	0	0	30,000	0	0	0	0	0	30,000
S106 Projects	Various	162,700	128,800	0	0	0	0	288,900	2,600	0	0
Security - Firewalls	Customers	12,600	14,000	0	14,000	0	0	0	0	0	40,600
St Johns Cemetery Footpath	Place	0	10,000	0	0	0	0	0	0	10,000	0
Storage Facilities	Resources	-4,000	0	0	0	0	0	0	0	0	-4,000
Tablets - Android Devices	Customers	13,100	12,900	15,000	18,000	0	0	0	0	0	59,000
Telephony system	Customers	0	10,600	0	0	0	0	0	0	0	10,600
Transport Plans implementation (GAF)	Regulatory	0	250,000	0	0	0	250,000	0	0	0	0
Walsworth Common Pavilion - contribution to scheme	Place	0	0	300,000	0	250,000	0	37,000	0	0	13,000
Walsworth Common Pitch Improvements	Place	73,600	18,900	0	0	0	0	85,300	0	0	7,200
Weston Hills LNR Footpath Renovation	Place	0	0	0	20,000	0	0	0	0	0	20,000
Wilbury Hills Cemetery Footpaths	Place	0	10,000	10,000	0	0	0	0	0	20,000	0
WiFi Upgrades for DCO & Hitchin Town Hall	Customers	0	35,000	0	0	0	0	0	0	0	35,000

<b>1,472,800</b>	<b>13,435,500</b>	<b>5,405,000</b>	<b>6,334,100</b>	<b>379,800</b>	<b>764,500</b>	<b>800,900</b>	<b>7,900</b>	<b>3,827,700</b>	<b>20,866,600</b>
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# **Annual Treasury Management Review**

## **2019/20**

English Local Authorities

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April 2020

# Annual Treasury Management Review 2019/20

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## 1. Introduction

This Council is required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2019/20. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management, (the Code), and the CIPFA Prudential Code for Capital Finance in Local Authorities, (the Prudential Code).

During 2019/20 the minimum reporting requirements were that the full Council should receive the following reports:

- an annual treasury strategy in advance of the year (Council 07/02/2019)
- a mid-year (minimum) treasury update report (Cabinet 18/12/2019)
- an annual review following the end of the year describing the activity compared to the strategy (this report)

In addition, Cabinet and the Finance, Audit and Risk (FAR) Committee have received quarterly treasury management update reports.

The regulatory environment places responsibility on members for the review and scrutiny of treasury management policy and activities. This report is therefore important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by members.

This Council confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Finance Audit and Risk Committee before they were reported to the full Council.

## 2. The Council's Capital Expenditure and Financing

The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
- If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

The actual capital expenditure forms one of the required prudential indicators. The table below shows the actual capital expenditure and how this was financed.

	2018/19 Actual £'000	2019/20 Working Budget £'000	2019/20 Actual £'000
<b>Capital expenditure</b>	<b>5,574</b>	<b>1,804</b>	<b>1,473</b>
Financed in year	1,233	1,220	1,076
<b>Unfinanced capital expenditure</b>	<b>4,341</b>	<b>584</b>	<b>397</b>

### 3. The Council's Overall Borrowing Need

The Council's underlying need to borrow to finance capital expenditure is termed the Capital Financing Requirement (CFR). This figure is a gauge of the Council's indebtedness. The CFR results from the capital activity of the Council and resources used to pay for the capital spend. It represents the 2019/20 unfinanced capital expenditure (see above table), and prior years' net or unfinanced capital expenditure which has not yet been paid for by revenue or other resources.

Part of the Council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure that sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through borrowing from external bodies, (such as the Government, through the Public Works Loan Board [PWLB], or the money markets), or utilising temporary cash resources within the Council.

CFR (£m): General Fund	31 March 2019 Actual	31 March 2020 Budget	31 March 2020 Actual
Opening balance	-10,335	-4,394	-5,993
Add unfinanced capital expenditure (as above)	4,342	4,332	397
Closing balance	-5,993	-62	<b>-5,596</b>

**Gross borrowing and the CFR** - in order to ensure that borrowing levels are prudent over the medium term and only for a capital purpose, the Council should ensure that its gross external borrowing does not, except in the short term, exceed the total of the capital financing requirement in the preceding year (2019/20) plus the estimates of any additional capital financing requirement for the current (2020/21) and next two financial years. This essentially means that the Council is not borrowing to support revenue expenditure. This indicator allowed the Council some flexibility to borrow in advance of its immediate capital needs in 2019/20. The table below highlights the Council's gross borrowing position against the CFR. The Council has complied with this prudential indicator.

	31 March 2019 Actual £'000	31 March 2020 Budget £'000	31 March 2020 Actual £'000
Gross borrowing position	440	423	423
CFR	-5,993	-62	-5,596

The CFR is negative as the Council has more cash investments than borrowing. Borrowing is historic and was undertaken prior to the housing stock transfer when the CFR was positive.

**The authorised limit** - the authorised limit is the “affordable borrowing limit” required by s3 of the Local Government Act 2003. Once this has been set, the Council does not have the power to borrow above this level. The table below demonstrates that during 2019/20 the Council has maintained gross borrowing within its authorised limit.

**The operational boundary** – the operational boundary is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary are acceptable subject to the authorised limit not being breached.

**Actual financing costs as a proportion of net revenue stream** - - this indicator is the net cost of borrowing as a percentage of the total revenue budget. This would usually show how much of the overall budget is spent on borrowing costs. However as the Councils investment income exceeds the cost of interest on borrowing it is a negative number.

	2019/20
Authorised limit	£10.0m
Maximum gross borrowing position during the year	£0.440m
Operational boundary	£4.1m
Average gross borrowing position	£0.432m
Financing costs as a proportion of net revenue stream	-2.3%

## 4. Treasury Position as at 31 March 2020

At the end of 2019/20 the Council’s treasury position was as follows:

	31 March 2019 Principal £'000	Rate/ Return	31 March 2020 Principal £'000	Rate/ Return
<b>Fixed rate borrowing:</b>				
-PWLB	440	9.7%	423	9.82%
-Market	0		0	
<b>Variable rate borrowing:</b>				

-PWLB	0		0	
-Market	0		0	
<b>Total debt</b>	<b>440</b>	<b>9.7%</b>	<b>423</b>	<b>9.82%</b>
<b>CFR</b>	<b>-5,993</b>		<b>-5,596</b>	
<b>Over / (under) borrowing</b>	<b>6,433</b>		<b>6,019</b>	
Investments:				
<b>Total investments</b>	<b>30,000</b>	<b>1.17%</b>	<b>29,500</b>	<b>1.18%</b>

The maturity structure of the debt portfolio was as follows:

	31 March 2019 Actual £'000	31 March 2020 Actual £'000
Under 12 months	17	18
12 months and within 24 months	18	18
24 months and within 5 years	58	61
5 years and within 10 years	82	69
10 years and above	265	257

The table below summaries where investments were held at 31 March and includes the Lloyds Bank interest bearing current account:

<b>INVESTMENT PORTFOLIO</b>	Actual 31.3.19 £000	Actual 31.3.19 %	Actual 31.3.20 £000	Actual 31.3.20 %
<b>Treasury investments</b>				
Banks	9,900	30	10,000	27
Building Societies	16,500	51	9,500	25
Local authorities	6,000	19	16,000	43

Money Market Funds	0	0	0	0
Central Government	0	0	2,000	5
<b>TOTAL TREASURY INVESTMENTS</b>	<b>32,400</b>	<b>100</b>	<b>37,500</b>	<b>100</b>

Money market funds provide a short-term investment option with no entry or exit fees. Due to changes in accounting regulations the Council would have been required to obtain (and possibly pay for) professional advice on the risk of default in relation to balances held in Money Market Funds at 31st March 2020. To avoid these fees, it was decided to temporarily remove the funds and then reinvest them after the 1st April 2020.

The maturity structure of the investment portfolio was as follows:

	2018/19 Actual £000	31 March 2020 Actual £000
Investments Longer than 1 Year	1,500	1,000
Investments Up to 1 Year	28,500	28,500
Total	30,000	29,500

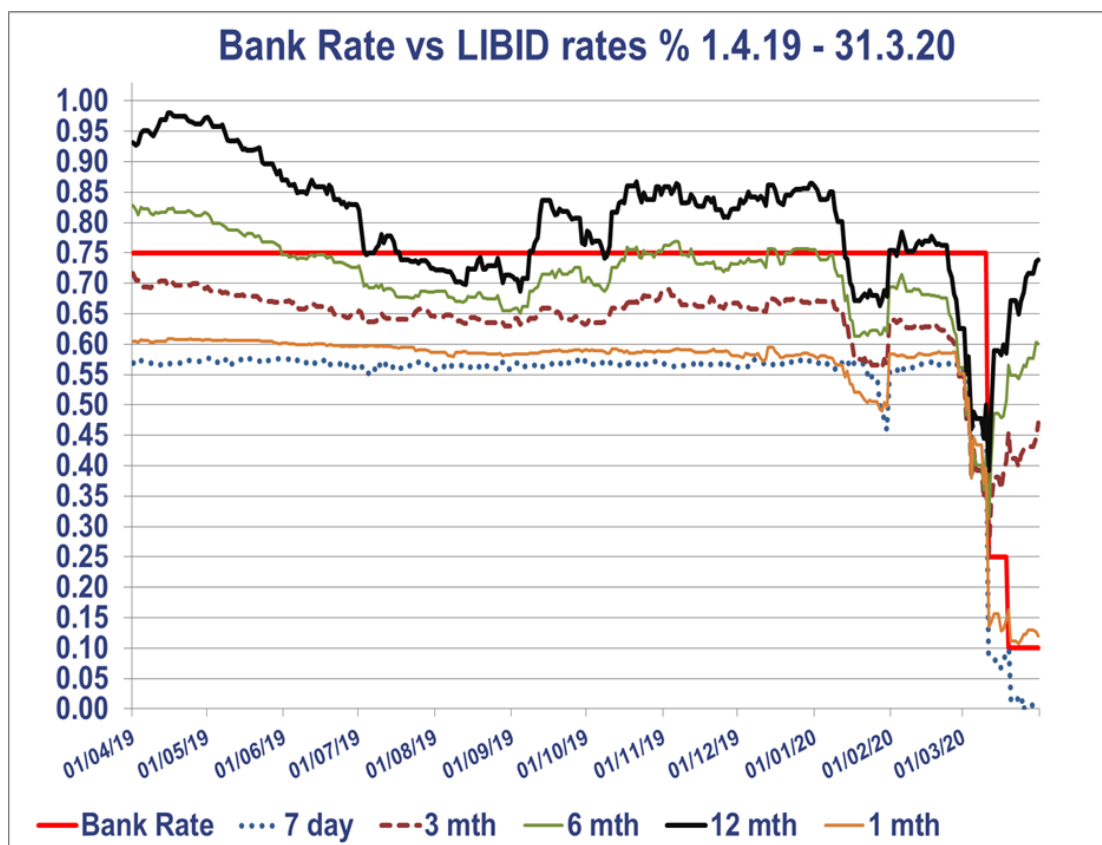
## 5. The strategy for 2019/20

The strategy in 2019/20 was to continue only lending to UK banks, building societies, money market funds, Local Authorities and property funds. Only UK banks with a credit rating, for longer term deals, greater than “BBB” and F3 or above for short term credit ratings were on the Council’s lending list. (These are Fitch definitions of ratings). Not all building societies are credit rated but this did not preclude them from the lending list as lending to a building society was dependant on their asset size. Where a society did have a rating, this was considered at the time of the deal taking into account the amount of investment and the length of the deal. In addition, the strategy was changed in 2019/20 to allow investments with non-UK banks with a credit rating greater than AA- with a AAA Country rating. The strategy moved from imposing limits based on a percentage of the total investments outstanding to a fixed limit.

**Change in strategy during the year** – the strategy adopted in the original Treasury Management Strategy Report for 2019/20, approved by the Council on 07/02/2019, was not changed during the year.

### 5.1 Investment strategy and control of interest rate risk





	Bank Rate	7 day	1 mth	3 mth	6 mth	12 mth
High	0.75	0.58	0.61	0.72	0.83	0.98
High Date	01/04/2019	09/05/2019	15/04/2019	01/04/2019	01/04/2019	15/04/2019
Low	0.10	0.00	0.11	0.26	0.31	0.39
Low Date	19/03/2020	25/03/2020	23/03/2020	11/03/2020	11/03/2020	11/03/2020
Average	0.72	0.53	0.56	0.63	0.70	0.80
Spread	0.65	0.58	0.50	0.46	0.52	0.59

Link Asset Services Interest Rate View		31.3.20							
		Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View		0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
3 Month LIBID		0.45	0.40	0.35	0.30	0.30	0.30	0.30	0.30
6 Month LIBID		0.60	0.55	0.50	0.45	0.40	0.40	0.40	0.40
12 Month LIBID		0.75	0.70	0.65	0.60	0.55	0.55	0.55	0.55
5yr PWLB Rate		1.90	1.90	1.90	2.00	2.00	2.00	2.10	2.10
10yr PWLB Rate		2.10	2.10	2.10	2.20	2.20	2.20	2.30	2.30
25yr PWLB Rate		2.50	2.50	2.50	2.60	2.60	2.60	2.70	2.70
50yr PWLB Rate		2.30	2.30	2.30	2.40	2.40	2.40	2.50	2.50

Investment returns remained low during 2019/20. The expectation for interest rates within the treasury management strategy for 2019/20 was that Bank Rate would stay at 0.75% during 2019/20 as it was not expected that the MPC would be able to deliver on an increase in Bank Rate until the Brexit issue was finally settled. However, there was an expectation that Bank Rate would rise after that issue was settled, but would only rise to 1.0% during 2020.

Rising concerns over the possibility that the UK could leave the EU at the end of October 2019 caused longer term investment rates to be on a falling trend for most of April to September. They then rose after the end of October deadline was rejected by the Commons but fell back again in January before recovering again after the 31 January departure of the UK from the EU. When the

coronavirus outbreak hit the UK in February/March, rates initially plunged but then rose sharply back up again due to a shortage of liquidity in financial markets. As longer term rates were significantly higher than shorter term rates during the year, value was therefore sought by placing longer term investments where cash balances were sufficient to allow this.

## 6. Borrowing Outturn

### Borrowing

No new long term loans were taken during the year.

A temporary loan of £2.0M was borrowed for cash flow on the 20 June until the 1 July at a rate of 0.7%

£17K of PWLB loans were repaid during the year, as they became due.

### Borrowing in advance of need

The Council has not borrowed more than, or in advance of its needs, purely in order to profit from the investment of the extra sums borrowed.

### Rescheduling

No rescheduling was done during the year as the average 1% differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable.

## 7. Investment Outturn

**Investment Policy** – the Council’s investment policy is governed by MHCLG investment guidance, which has been implemented in the annual investment strategy approved by the Council on 07/02/19. This policy sets out the approach for choosing investment counterparties, and is based on credit ratings provided by the Fitch credit rating agency for banks and asset size for building societies.

The investment activity during the year conformed to the approved strategy. The £5M limit on the Council’s current account was exceeded on two separate occasions and were reported to Members in the quarterly monitoring reports.

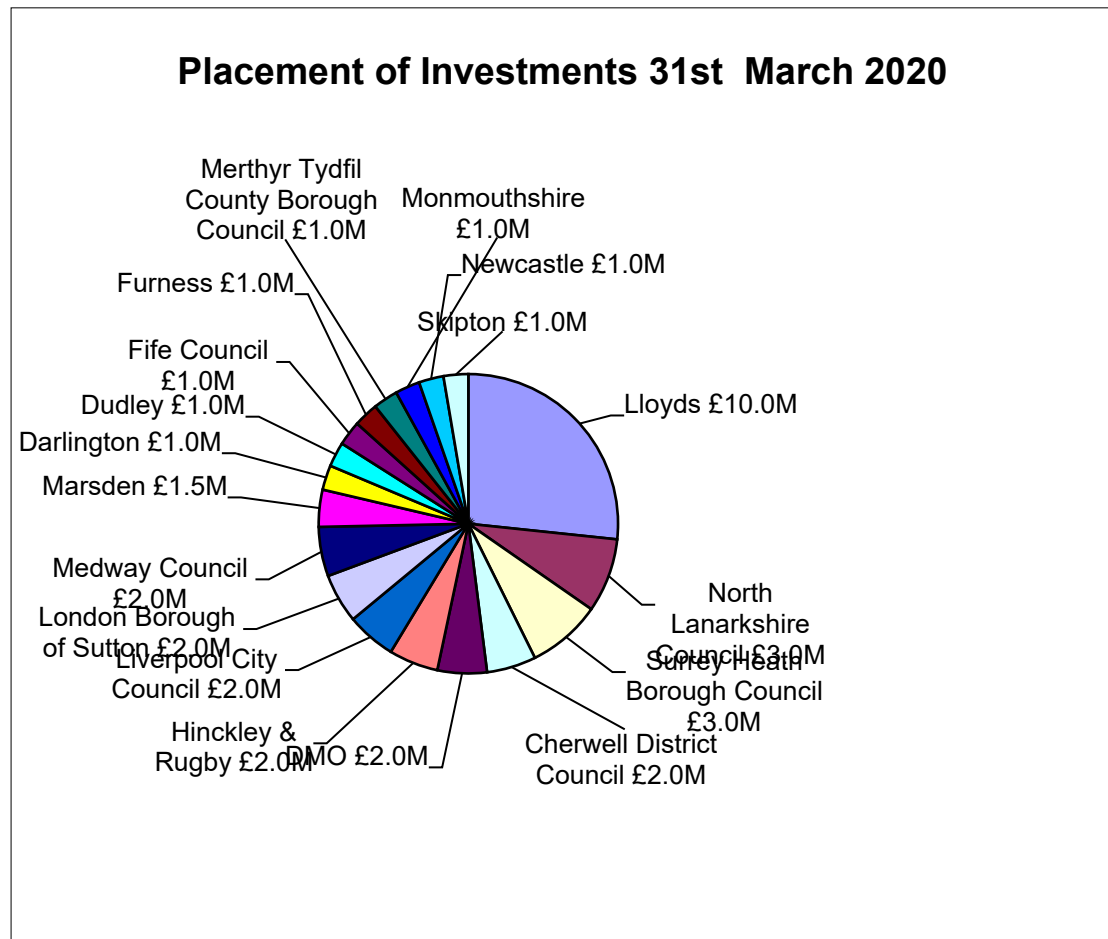
**Investments placed by Cash Managers** – the Council used an external cash manager to invest some of its longer term cash balances, where the rate achieved (after fees) is better than can be obtained by the Council directly. At the start of the year, Tradition had £8.5m of outstanding investments. This remained the same throughout the year. The performance of the Tradition against the benchmark return was:

Cash Manager	Investments Placed	Interest	Return	Benchmark*
Tradition	£8.5M	£0.116M	1.36%	0.55%

\* Ave 7 days notice Rate 0.55%

This compares with an original budget of £0.111M.

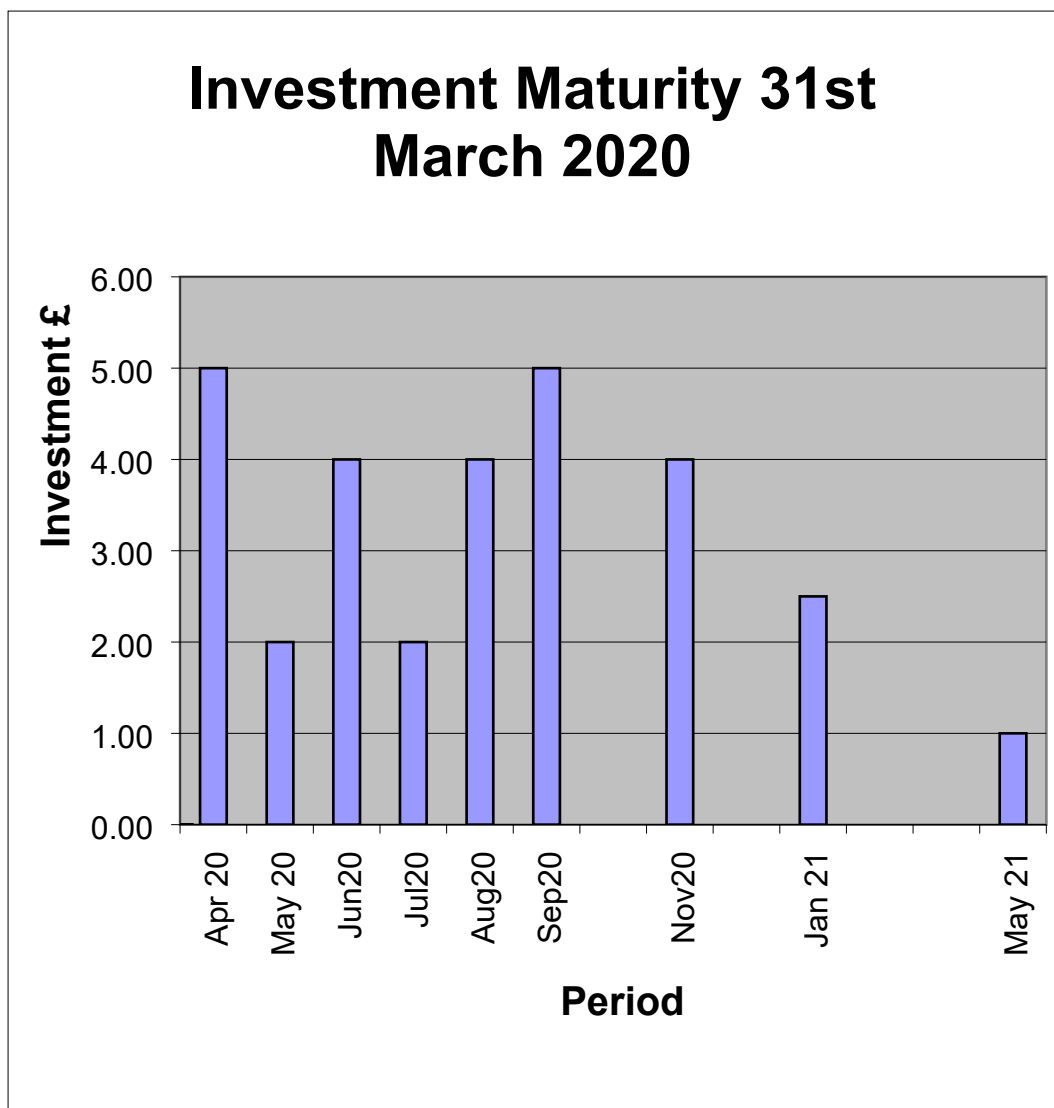
The pie chart below shows the spread of investment balances as at 31 March 2020. This is a snapshot in time that demonstrates the diversification of investments.



The average daily balance of investments was £39.8m with balances varying between £29.5m and £51.0m.

£0.411m of interest was generated from investments during the year. This is slightly less than the estimated interest of £0.418m (as per Quarter 3 forecast).

The graph below shows the maturity profile of investments at 31st March 2020.



The level of risk of any investment will be affected by the riskiness of the institution where it is invested and the period that it is invested for. Where an institution has a credit rating this can be used to measure its riskiness. This can be combined with the period remaining on the investment to give a historic risk of default percentage measure. The table below shows the Historic Risk of Default for outstanding investments at 31 March. The most risky investment still has a historic risk of default of below 1%. It should also be noted that in general the interest rate received is correlated to the risk, so the interest income received would be less if it took on less risk. All investments have been made in accordance with the Investment Strategy.

Borrower	Interest Rate %	Principal	Days to Maturity from 31/03/20	Historic Risk of Default	Risk of Default
DMO	0.09	2,000,000	3	0.00%	0.00000
HINCKLEY & RUGBY	1.35	2,000,000	24	0.15%	0.00010
SKIPTON	0.92	1,000,000	29	0.15%	0.00012
DUDLEY	1.3	1,000,000	37	0.15%	0.00015
MERTHYR TYDFIL COUNTY BOROUGH COUNCIL	0.85	1,000,000	58	0.00%	0.00000
FURNESS	1.3	1,000,000	63	0.15%	0.00026
LONDON BOROUGH OF SUTTON	0.8	2,000,000	66	0.00%	0.00000
FIFE COUNCIL	1.15	1,000,000	90	0.00%	0.00000
LIVERPOOL CITY COUNCIL	0.83	2,000,000	118	0.00%	0.00000
LLOYDS	1.25	1,000,000	125	0.05%	0.00017
SURREY HEATH BOROUGH COUNCIL	0.9	3,000,000	146	0.00%	0.00000
NORTH LANARKSHIRE COUNCIL	0.9	3,000,000	163	0.00%	0.00000
CHERWELL DISTRICT COUNCIL	0.87	2,000,000	174	0.00%	0.00000
LLOYDS	1.1	1,000,000	219	0.05%	0.00030
MEDWAY COUNCIL	1.25	2,000,000	220	0.00%	0.00000
NEWCASTLE	1.17	1,000,000	241	0.15%	0.00099
DARLINGTON	1.2	1,000,000	283	0.15%	0.00116
MARSDEN	1.6	1,500,000	297	0.15%	0.00122
MONMOUTHSHIRE	1.5	1,000,000	423	0.15%	0.00174

**Resources** – the Council’s cash balances comprise revenue and capital resources and cash flow monies. The Council’s core cash resources comprised as follows:

Balance Sheet Resources	31 March 2019 £,000	31 March 2020 £'000
Balances	<b>8,800</b>	<b>9,332</b>
Earmarked reserves	<b>7,184</b>	<b>9,271</b>
Provisions	<b>1,245</b>	<b>2,446</b>
Usable capital receipts	<b>2,580</b>	<b>1,941</b>
<b>Total</b>	<b>19,679</b>	<b>22,990</b>

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**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: GARDEN WASTE COLLECTION SERVICE IMPACTS OF COVID 19**

REPORT OF THE SERVICE DIRECTOR - PLACE

EXECUTIVE MEMBER: CLLR ELIZABETH DENNIS-HARBURG

COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

- 1.1 This report outlines the service disruption for the collection of garden waste in North Herts since services were suspended due to the Covid 19 outbreak on 30<sup>th</sup> March 2020 and asks to consider and agree initiatives and recompense that recognises the inconvenience caused to our residents.

**2. RECOMMENDATIONS**

- 2.1 The Council agrees an extension of the current 12 months payment period for green waste collection, for a further period of 2 months [The loss of income based on current (48%) uptake is approximately £186,000].

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To acknowledge service disruption / suspension in our garden waste collection service and demonstrate to residents that the Council accepts the inconvenience caused during the seasonal peak of garden waste production.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Reimbursing all residents that were signed up to the service on 30<sup>th</sup> March 2020 has been considered by the executive member and officers. This option was discounted as the administrative costs of providing a refund to those affected would not be economic or practical.
- 4.2 Reducing the cost of the next sign up period has been considered. This was discounted as it will not recompense residents who do not sign up to the new subscription period and may benefit residents who have not been affected by the disruption we are seeking to redress. The financial recompense may not be considered sufficient by some residents.

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

- 5.1 Consultation was undertaken with our Executive Member and there is a general expectation that fair and proportionate redress will be provided to all residents affected.

## **6. FORWARD PLAN**

- 6.1 This is a key executive decision and first went on the Forward Plan on 5<sup>th</sup> May 2020

## **7. BACKGROUND**

- 7.1 On 30<sup>th</sup> January 2020 the World Health Organisation declared a Public Health Emergency of International Concern for the coronavirus known as Covid 19. During March social distancing measures were introduced along with initial guidance on self-isolation.
- 7.2 On 24<sup>th</sup> March 2020 the government issued a countrywide lockdown and strict social distancing measure in an attempt to reduce the rate of infection from Covid 19.
- 7.3 The shared waste service operates with 126 frontline staff and on 25<sup>th</sup> March 10% of frontline staff were self-isolating with concerns that this number would rapidly rise over the coming days and weeks.
- 7.4 On 26<sup>th</sup> March the decision was therefore made to suspend garden waste and food waste collections in North Herts.
- 7.5 A decision was made to reinstate services from 11<sup>th</sup> May resulting in residents experiencing three missed garden waste collections over a six week period.

## **8. RELEVANT CONSIDERATIONS**

- 8.1 An extension to the existing 12 month paid garden waste service can be provided with minimum overheads and administrative cost to paying customers of the garden waste service. The loss of income is circa £93,000 per month of extension. There are currently approximately 28,000 residents in North Herts that subscribe to our garden waste collection service.
- 8.2 An extension of two months would see the new start of the next sign up period beginning on 1<sup>st</sup> October. This is after the main growing season and may initially result in a reduced take up of the service.
- 8.3 It is likely that the majority of residents not signing up for an October start, who have previously used the service will sign up in spring. If the majority of these sign ups are after 1<sup>st</sup> April this will further impact on the financial position for 2020/21.
- 8.4 Had a reduced rate of £35 for the 2020/21 subscription period been offered the financial implications would be estimated to be in the region of £140,000, assuming a similar level of take-up to this year.



## **9. LEGAL IMPLICATIONS**

- 9.1 Cabinet's terms of reference include, at 5.6.8 To monitor quarterly revenue expenditure and agree adjustments within the overall budgetary framework and at 5.6.11 To approve those major service developments or reductions which also constitute Key Decisions. This report covers such proposed changes.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 As detailed above the total cost of extending the 12-month paid garden waste service by two months would be around £186,000. The cost of the extension would be incurred in 2020/21 and if approved will be incorporated into the budget. This is a one-off cost. The Council will include this in returns to the Ministry of Housing, Communities and Local Government on the financial impact of Covid-19. It is unknown to what extent the Council will receive compensation for lost income.
- 10.2 As highlighted in paragraph 8.3, there is a risk that some residents will not sign up again until after 1<sup>st</sup> April 2021. This could further affect the budget position for 2020/21, although this could be off-set by an improved position in 2021/22.

## **11. RISK IMPLICATIONS**

- 11.1 There is a reputational risk to the authority if we do not offer any recompense for the suspended service and the inconvenience caused to residents. This could have an adverse effect on our residents' perception of the waste collection service and Council services in general as well as reducing the number of residents choosing to sign up for the service in future. For the vast majority of our residents, there has been understanding and support for our waste collection service and we rely on them to participate in recycling to ensure we maintain our high levels of performance.
- 11.2 There is a risk of reduced sign up numbers as residents are less likely to need the service during the winter months. It is expected that the majority of these will sign up later in March or April 2021.
- 11.3 If the sign up period is not extended this will impact on the length of time available for residents to sign up to the new subscription year. Past experience has demonstrated that short sign up periods put significant pressure on the Customer Contact Centre at Urbaser and would result in poor call answering performance and complaints. A phased sign up period has been planned for this year.
- 11.4 If the sign up period is not extended there is a risk that the new sign up website will not be ready due to delays experienced with Barclays in setting up the direct debit processing due to their Covid 19 related impacts.
- 11.5 The Shared Waste Services client team has two vacancies. Recruitment and training of new staff is impacted by Covid 19. It is therefore not likely that all vacancies will be filled with permanent staff in time for the new sign up period, impacting on capacity within the team. A delay to the sign up period will assist in ensuring the staff resource requirements can be managed.

- 11.6 There is a risk that frontline staff will be affected further by the virus spread. So far only one frontline staff has been confirmed as having had Covid 19 as testing was not available when staff were originally self-isolating. Depending on the impact of future self-isolation, this could lead to further service disruption. Any need for further redress for any disruption experienced will be considered separately in addition to this report.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2 There are no equalities implications.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1 There are no known Environmental impacts or requirements that apply to suggested recompense. Section 8 indicates that there may be a reduced sign up in the removal of garden waste. It is not possible to quantify the reduction or assess what residents will do with green waste if not collected. Waste may be home composted or otherwise disposed of through residual waste streams.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 The garden waste collection service requires an increase in staffing both within the client team and Urbaser during the sign up period, the impact on staff it is not expected to be over and above the normal increase in resource requirements during sign up which we anticipate will be filled by agency staff.
- 15.2 The Shared Waste Services client team has two vacancies, with a third vacancy from mid June. Recruitment and training of new staff is impacted by Covid 19 it is therefore not likely that all vacancies will be filled with permanent staff in time for the new sign up period.

## **16. APPENDICES**

- 15.1 There are no appendices.

## **16. CONTACT OFFICERS**

- 16.1 Chloe Hipwood, Shared Service Manager  
[Chloe.hipwood@north-herts.gov.uk](mailto:Chloe.hipwood@north-herts.gov.uk) Ext 4304

Ian Couper, Service Director - Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk) Ext 4243

Jeanette Thompson, Service Director - Legal & Community  
[jeanette.thompson@north-herts.gov.uk](mailto:jeanette.thompson@north-herts.gov.uk) Ext 4370.

Reuben Ayavoo Senior Policy Officer  
[Reuben.ayavoo@north-herts.gov.uk](mailto:Reuben.ayavoo@north-herts.gov.uk) Ext 4212

**17. BACKGROUND PAPERS**

None

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**CABINET  
23 JUNE 2020**

**\*PART 1**

**TITLE OF REPORT: BUSINESS CONTINUITY PLANNING UPDATE**

REPORT OF THE DEPUTY CHIEF EXECUTIVE AND SERVICE DIRECTOR LEGAL AND COMMUNITY

EXECUTIVE MEMBER: LEADER & DEPUTY LEADER OF COUNCIL

COUNCIL PRIORITY: RESPOND TO CHALLENGES TO THE ENVIRONMENT

**1. EXECUTIVE SUMMARY**

- 1.1 The report provides an update on actions following the part 2 exempt report of 24 March 2020 and resolutions from the urgent part 2 decision taken on 3 April 2020.

**2. RECOMMENDATIONS**

- 2.1. That Cabinet considers the information in the Part 2 report before coming to its decisions.
- 2.2. That Cabinet approves the further commissioning of legal services in relation to the holding company, to be agreed by the Service Director: Legal and Community, the Deputy Chief Executive [Managing Director] in consultation with the Leader and Deputy Leader.
- 2.3. To delegate to the Deputy Chief Executive [Managing Director] in consultation with the Leader and Deputy Leader the decision on establishment of the trading company, with business case to be presented to the Cabinet Sub-Committee as soon as possible for approval thereafter.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To ensure that the Council is as prepared as it can be for contractor failure/ withdrawal from major contracts.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. The Council has established the holding company following the urgent decision referred to above. At this stage no other options considered (the above giving the Leader and Deputy Leader sufficient latitude to proceed as may be required).

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

- 5.1. The Leader of the Council, Deputy Leader, relevant Executive Member for Business Continuity Planning (Finance and IT) and relevant Deputy Member were consulted before the first Part 2 report. The Leader and Deputy Leader were consulted on the establishment of the holding company and relevant initial company documentation prior to incorporation to meet resolution 2 of the 3 April delegated decision.

## **6. FORWARD PLAN**

- 6.1. At this stage the issues continue to be explored with a view to maintaining a dormant company for such time as is justified for business continuity purposes during and post pandemic – it is therefore not a Key Executive Decision, although has been listed on the forward plan on 15 May 2020 as part 2 exempt decision.

## **7. BACKGROUND**

- 7.1. This captured in the Part 2 report of 24 March. See also Part 2 report.
- 7.2. The Cabinet Sub-Committee and Cabinet previously gave authority to establish a holding and housing company on 27 March 2018, and ‘trading companies’ *for the purposes of development*; authority was delegated to the Chief Finance Officer and Executive Member for Finance and IT to determine detail of the structure.
- 7.3. In February and March, issues started to be highlighted regarding some services and also the coronavirus pandemic.
- 7.4. A (part 2) Cabinet report was circulated for the meeting of 24 March (which was cancelled due to the pandemic). An urgent decision was then taken by the Chief Executive in consultation with the Leader of Council on the matter as follows:
- (1) *That the principle of establishing a holding and trading company for business continuity preparedness reasons be approved.*
  - (2) *That the Chief Executive and Deputy Chief Executive be authorised, in consultation with the Leader of the Council and Deputy Leader to agree the legal documents required to establish and register a holding and a trading company / companies for business continuity preparedness reasons.*
  - (3) *That a further report be presented to Cabinet, and/or the Cabinet Sub-Committee (Local Authority Trading Companies’ Shareholder) as appropriate, at its next meeting outlining steps taken and any further information for this action.*
- 7.5. The application(s) to establish a holding company and trading company (including Memorandum and Articles of Association and shareholder agreement) were drafted and then agreed as per resolution 2 (24<sup>th</sup> and 26<sup>th</sup> April respectively for Leader and Deputy Leader). The documents had been checked by an external legal firm (Freeths LLP) prior to establishing the holding company, Broadwater Hundred Limited (12590961) on 7<sup>th</sup> May. The two Directors named are Steve Crowley and Howard Crompton. There is currently no company secretary (it is not a requirement for the private limited company).

## **8. RELEVANT CONSIDERATIONS**

- 8.1. See Part 2 report.

## **9. LEGAL IMPLICATIONS**

- 9.1. Cabinet's terms of reference include at paragraphs: 5.6.15 *"To oversee the provision of all the Council's services other than those functions reserved to the Council"*; and 5.6.34 *"To agree to the establishment or wind up of a Council wholly or partly owned Local Authority Company, and to approve investment, loans, resource arrangements and asset transfers, act as corporate shareholder, save as otherwise delegated to the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder), Executive Members or Officers under the Sub-Committee terms of reference."*
- 9.2. Resolution (3) of the Delegated Decision of 3 April required "That a further report be presented to Cabinet, and/or the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder) as appropriate, at its next meeting outlining steps taken and any further information for this action". This report provides this update to Cabinet. At this stage the trading company has not been established – and more detailed consideration in terms of the business case is required in terms of the Local Government Act 2003 and or s1 Localism Act 2011 general power of competence. The Part 2 report is also relevant. In both respects further considering will be required regarding the business case for the next steps of a trading company and recommendation 2.3 above covers this point.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. Fairly minimal at this stage in terms of establishment of a company c. £1000.
- 10.2. Further external legal advice would be required to deal with bespoke and specialist company documentation for a trading company, see part 2 report.

## **11. RISK IMPLICATIONS**

- 11.1. The risks of setting up a holding company and trading company are low.
- 11.2. The biggest risk of operating a contract due to one of the Councils contractors going into administration is that the Council (through its company) is then responsible for all operational and financial risks of that service. However, if there is not another contractor to undertake the service immediately at a reasonable cost this could be a better option for the Council than trying to let a new contract in an emergency situation. If the Council has set up a holding company and trading company this would allow the Council to TUPE staff to the company, continue delivering the service and therefore reduce the financial impact to the Council in the short term, whilst all alternative options are considered for future delivery.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.

12.2. There are no equalities implications in this report.

### **13. SOCIAL VALUE IMPLICATIONS**

13.1. The Social Value Act and “go local” requirements do not apply to this report.

### **14. HUMAN RESOURCE IMPLICATIONS**

14.1 There are certain conflict of interest issues covered in the Articles of Association in respect of any conflict with current Service Directors roles. Further specialist advice would will also be required in terms of any staffing implications for a trading company. Otherwise, see Part 2 report.

### **15. ENVIRONMENTAL IMPLICATIONS**

15.1 There are no environmental impacts arising from this report. Further steps in terms of a trading company should factor an impact assessment.

### **16 APPENDICES**

16.1 None.

### **17. CONTACT OFFICERS**

17.1 Jeanette Thompson, Service Director: Legal and Community  
[Jeanette.thompson@north-herts.gov.uk](mailto:Jeanette.thompson@north-herts.gov.uk); ext 4370

17.2 Anthony Roche, Deputy Chief Executive  
[anthony.roche@north-herts.gov.uk](mailto:anthony.roche@north-herts.gov.uk); ext 4588

17.3 Ian Couper, Service Director: Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk); ext 4243

17.4 Reuben Ayavoo, Policy and Community Engagement Manager  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext 4212

17.5 Kerry Shorrocks, Corporate Human Resources Manager  
[Kerry.shorrocks@north-herts.gov.uk](mailto:Kerry.shorrocks@north-herts.gov.uk); ext 4224

### **18. BACKGROUND PAPERS**

18.1 Companies House information:  
<https://beta.companieshouse.gov.uk/company/12590961>



**CABINET  
23 JUNE 2020**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: COMMERCIAL WASTE COLLECTION SERVICE IMPACTS OF COVID 19**

REPORT OF: THE SERVICE DIRECTOR - PLACE

EXECUTIVE MEMBER: CLLR ELIZABETH DENNIS-HARBURG

COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

- 1.1 The government instigated lockdown on 24th March meant that a number of businesses, and therefore our trade waste customers, stopped operating. To support businesses, a decision was made to suspend the issuing of Quarter 1 (1st April to 30th June) invoices and contact all customers to ask if they wanted to temporarily suspend or reduce the service that they received. As businesses are now starting to open up again, it is now necessary to consider what charges should be made for the 1st Quarter.

**2. RECOMMENDATIONS**

- 2.1 That Cabinet be recommended to agree the recommendation of the Part 2 report.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To acknowledge the reduced service needs and hardship experienced by local businesses during the Covid 19 pandemic and government initiated lockdown. However at the same time there is a need to make sure that proposals are equitable and that any income lost will not be funded by local taxpayers.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Send out all Q1 invoices in accordance with current terms and conditions of contract. This would include only adjusting invoices for suspending or reducing service levels in accordance with the terms of contracts.
- 4.2 To withdraw the Q1 invoices for all commercial waste and recycling customers leading to a budget deficit. [redacted] This is considered to be unaffordable.
- 4.3 To withdraw the Q1 invoices for all customer who we think are likely to have not used the service as well as those customers who suspended their service with us and only resume charges upon the start of services. [redacted] This is considered to be inequitable due to insufficient robust information.

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

- 5.1 Consultation was undertaken with our Executive Member and the Executive Member for Finance and IT.

## **6. FORWARD PLAN**

- 6.1 This is a urgent executive decision– which has not been notified as a decision on the forward plan. The requisite Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Regulations”) Notice of reasons for Urgency has however been published by the Proper Officer on 22 May 2020 on the Council’s website<sup>1</sup>.

## **7. BACKGROUND**

- 7.1 On 30<sup>th</sup> January 2020 the World Health Organisation declared a Public Health Emergency of International Concern for the coronavirus known as Covid 19. During March social distancing measures were introduced along with initial guidance on self-isolation.
- 7.2 On 24<sup>th</sup> March 2020 the government issued a countrywide lockdown, closing the majority of businesses; and strict social distancing measure in an attempt to reduce the rate of infection from Covid 19.
- 7.3 After consultation with the Executive Member, and Service Director – Resources, all businesses using the commercial waste and/or recycling services were written to, asking that they inform us if they wished to suspend their collections during the lockdown.
- 7.4 14.5% of residual waste and 13.5% of recycling customers responded and suspended collections.
- 7.5 It is estimated that 55% of customers may have continued to use the services.
- 7.6 The remaining 30% of businesses we estimate have not been operating but have not suspended their collections with us.

## **8. RELEVANT CONSIDERATIONS**

- 8.1 The management of commercial waste invoicing is administratively heavy and requires a significant amount of manual inputting of data by staff.
- 8.2 For those customers who normally pay by direct debit (66% of customers) our invoicing system Integra2 would automatically seek to recover all monies due upon the release of Q1 invoices. This may lead to unnecessary hardship for customers who would normally spread payments monthly.

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<sup>1</sup> <https://www.north-herts.gov.uk/sites/northherts-cms/files/Urgency%20Notice%20-%20Part%202%20report%20-%20Commercial%20Waste%20Arrangements%20%281%29.pdf>

- 8.3 Council staff will reconfigure the payment terms for all direct debit customers to ensure the invoice due date is delayed. Customers who need further assistance or a payment plan will be encouraged to contact us via a letter or e-mail sent with the invoice. The Quarter 2 invoices would be due to be issued at the start of July, so the delayed Quarter 1 invoices would become due after when the Quarter 2 invoices should have been due. To further support businesses cashflow the Quarter 2, Quarter 3 and Quarter 4 invoices will be delayed so they are issued at the start of September, November and February (rather than July, October and January).
- 8.4 It is anticipated that some direct debit customers will contact us for a payment plan or to request a cancellation of their invoice where they have not used the service.
- 8.5 The shared waste service does not have comprehensive data on which customers have not been using the service during lockdown. We have some information provided by collection staff however this is not wholly accurate. We are able to identify business types by their Standard Industrial Classification (SIC) code, and assumptions could be made on the use of waste and recycling services on this basis, however this would not account for those businesses who used lockdown to clear out their business premises.
- 8.6 It is anticipated that not all customers will pay their invoices and an additional administrative burden would be added if direct debits are taken and/or invoices produced and retrospective credits are applied. Each customer would be considered on a case by case basis in accordance with this Council's debt recovery procedures.
- 8.7 Many local businesses are likely to experience addition waste disposal cost burdens over coming months due to a requirement to use and dispose of PPE.
- 8.8 The waste services team is currently understaffed and this administrative burden would be over and above the capacity of the team. It is expected that additional support will be identified from within other teams.

## **9. LEGAL IMPLICATIONS**

- 9.1 Cabinet's terms of reference include, at 5.6.8 To monitor quarterly revenue expenditure and agree adjustments within the overall budgetary framework and at 5.6.11 To approve those major service developments or reductions which also constitute Key Decisions. This report covers such proposed changes.
- 9.2 The alternative options outlined under 4.2-4.3 are likely to require Full Council approval under the Financial Regulations.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 The Quarter 1 invoice figure is valued at [redacted] and includes full year income for recycling services.
- 10.2 The Q1 income value from customers who did not suspend their service with us is estimated to be [redacted]. The reduced income based on this figure; is estimated at [redacted] based on customers paying for Q2 services onwards.

- 10.3 The Q1 income value from customers we think used the service is estimated to be in the region of [redacted]. The reduced income based on this figure; is estimated at [redacted] based on customers paying for Q2 services onwards.
- 10.4 It is likely that some customers may continue their suspension into Q2, at this time we cannot quantify the anticipated reduction in income as a result of this. It is also possible that some customers who suspended (or reduced) their service at the start of lock-down will resume (or increase) their service before the end of Quarter 1, in line with the easing of lock-down restrictions.
- 10.5 There will be a reduction in landfill and recycling processing costs but at the time of writing this report it has not been possible to quantify these costs accurately. It is estimated the Q1 reduction in cost will be [redacted], based on customers who suspended collections.
- 10.6 Based on the PPN: 02/20: Supplier Relief Due To Covid 19 we do not anticipate a reduction in costs paid to Urbaser.

## **11. RISK IMPLICATIONS**

- 11.1 There is a reputational risk to the authority if we do not offer any recompense for the suspended services. This could have an adverse effect on our customers' perception of the waste and recycling collection services and Council services in general as well as reducing the number of businesses choosing to use our services in the future.
- 11.2 There is a risk that if we do not change payment terms or offer instalments on invoices which are due, customers may default due to financial hardship, leading to increased costs and a rise in the bad debt provision.
- 11.3 It is likely that any option to invoice customers during lockdown will result in an increase in bad debt for the service.
- 11.4 The PPE requirements for businesses choosing to open may be extensive, adding an additional disposal burden on commercial waste customers. It is therefore likely they may experience additional hardship with increase waste disposal costs on an ongoing basis.
- 11.5 The Shared Waste Services client team has two vacancies. Recruitment and training of new staff is impacted by Covid 19. It is therefore not likely that all vacancies will be filled with permanent staff to support the administrative burden of releasing the Q1 invoices.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2 There are no equalities implications. This supportive act for the commercial waste customers will seek to assist the wider community as lockdown eases as noted at 11.4.

### **13. SOCIAL VALUE IMPLICATIONS**

13.1. The Social Value Act and “go local” requirements do not apply to this report.

### **14. ENVIRONMENTAL IMPLICATIONS**

14.1 There are no known Environmental impacts or requirements that apply to the recommendations.

### **15. HUMAN RESOURCE IMPLICATIONS**

15.1 The commercial waste services are administratively heavy and require significant administrative input for both authorities. Any decision made will reduce the time available for the shared client team to respond and manage the domestic collection services and street cleansing operations.

15.2 The Shared Waste Services client team has two vacancies. Recruitment and training of new staff is impacted by Covid 19 it is therefore not likely that all vacancies will be filled with permanent staff in time for the release of Q1 invoices.

15.3 Additional resources will be required and options are being discussed with various teams in the Council to resource this internally. It is not possible to use agency staff for this work due to the difficulty training staff remotely during our current remote working arrangements.

### **16. APPENDICES**

16.1 There are no appendices.

### **17. CONTACT OFFICERS**

17.1 Chloe Hipwood, Shared Service Manager  
[Chloe.hipwood@north-herts.gov.uk](mailto:Chloe.hipwood@north-herts.gov.uk) Ext 4304

Ian Couper, Service Director - Resources  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk) Ext 4243

Reuben Ayavoo Policy and Community Engagement Manager  
[Reuben.ayavoo@north-herts.gov.uk](mailto:Reuben.ayavoo@north-herts.gov.uk) Ext 4212

Jeanette Thompson, Service Director: Legal and Community  
[Jeanette.thompson@north-herts.gov.uk](mailto:Jeanette.thompson@north-herts.gov.uk) ; ext 4370

### **18. BACKGROUND PAPERS**

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