

**CABINET**  
**16 January 2024**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: STRATEGIC PLANNING MATTERS**

REPORT OF: IAN FULLSTONE, SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: CLLR RUTH BROWN, EXECUTIVE MEMBER FOR PLANNING & TRANSPORT

COUNCIL PRIORITY: PEOPLE FIRST / SUSTAINABILITY / A BRIGHTER FUTURE TOGETHER

**1. EXECUTIVE SUMMARY**

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

**2. RECOMMENDATIONS**

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

**3. REASONS FOR RECOMMENDATIONS**

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

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. None

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

- 5.1. The Executive Member and Deputy have been briefed on the relevant matters in this report.

**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 the following key matters where there has been substantive change since the report in November 2023. A full Strategic Planning Matters report will be presented to Cabinet in March 2024:

- Publication of new National Planning Policy Framework (NPPF)
- Town Centre Strategies
- Biodiversity Net Gain
- London Luton Airport

## **8. RELEVANT CONSIDERATIONS**

### ***National Planning Policy Framework***

8.1. The revised National Planning Policy Framework (NPPF) was published on 19 December 2023. This follows the Levelling Up & Regeneration Act receiving Royal Assent and consultation on proposed changes to national policy which closed in March 2023.

8.2. The following key changes have been made to national policy:

- Authorities now do not need to demonstrate a five-year housing land supply (5YHLS) where their adopted Local Plan plan is less than 5 years old and the adopted plan identified a 5YHLS at the time the examination concluded. This is an extension of the previous 'grace period' which lasted approximately one year depending on circumstances;
  - However, this only applies to new applications made on or after the publication of this version of the Framework (19 December 2023). Any existing applications prior to this date should be considered under the previous rules;
- Clarifying that the standard method for delivering a sufficient supply of homes is an advisory starting-point. However, 'exceptional circumstances' must be shown in order to depart from it;
- Adding various references to "beauty" but with no definition or guidance on how this is to be assessed;
- Encouraging relevant planning conditions to reference clear and accurate plans and drawings to provide greater clarity on compliance
- Amending Green Belt guidance to state there is no requirement for boundaries to be reviewed when plans are updated but allowing authorities the 'choice' to do so (within the Framework's stated "overall aim...to meet as much of an area's identified housing need as possible")
- Outlining the need to give significant weight to supporting energy efficiency and low carbon heating improvements to existing buildings where planning permission is required; and
- Emphasising the importance of locally produced design codes

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- 8.3. The Framework is a material consideration for decisions made from the day of publication (19 December 2023) with the exception of the revised advice on five-year supply which only applies to new applications. Local Plans which reach Regulation 19 stage after 19 March 2024 will be assessed under the new NPPF
- 8.4. This revised version of the NPPF has limited information on the planning reforms set out in the Levelling Up and Regeneration Act and referred to in the separate report to this meeting on the Local Plan review. The Government intends to undertake a subsequent, fuller review of the NPPF to accompany implementation of this legislation. This will include the setting of national Development Management Policies which, subsequently, should not be repeated in individual local plans. No detailed timetable has yet been set for this wider review, enactment of the relevant sections of the Act or the laying of secondary legislation (regulations).

### ***Town Centre Strategies***

- 8.5. The Council adopted its Local Plan in November 2022. The town centres and retail strategy within this was prepared with key evidence derived from a 2016 'North Hertfordshire Retail Study Update'. Given the well documented changes to shopping, working and entertainment behaviours since the evidence for the Local Plan was produced, the Council's Delivery Plan 2023/24 sets out the requirement to develop 'town centre strategies', based on a high-level report covering the whole district. The council tendered a brief to inform the development of these strategies inviting consultants to:
- bid to review and update the current evidence and provide a critical review of the strategic, development management and allocation policies in the adopted Local Plan policies;
  - provide an evidence base to inform a district wide town centres strategy; and
  - provide an evidenced based framework for each of the four town centres to develop individual town centre strategies/action plans.
- 8.6. The tender was awarded to Lichfields in December 2023 and supports the implementation of the adopted Local Plan's policy requirement (Policy SP4 e) to 'Prepare and maintain up-to-date town centre strategies'.

### ***Biodiversity Net Gain***

- 8.7. In November, draft guidance on how to operate mandatory biodiversity net gain (BNG) was issued. The guidance documents cover a range of topics from the statutory framework for BNG, the biodiversity gain hierarchy, the planning process, exemptions, monitoring requirements and how to use the metric system. These guidance documents are aimed towards planners in local authorities, developers and landowners/mangers.
- 8.8. A series of templates have also been issued ranging from draft biodiversity gain plan template (created by DEFRA) and a habitat management and monitoring plan template (created by Natural England). There is no set date for when BNG will become mandatory, although the Government website states this will be in force from January 2024.

- 8.9. BNG for small sites have been given a temporary exemption which will run until April 2024 and the implementation for Nationally Significant Infrastructure Projects remains in place for 2025

***Proposed Expansion of Luton Airport***

- 8.10. As previously reported Luton Rising (LR), submitted their application for a Development Consent Order (DCO) involving the expansion of Luton Airport from 18mppa to 32mppa (including a new terminal and associated infrastructure) on 27 February 2023. The application was accepted by the Planning Inspectorate (PINS) on 27 March 2023 (the project is defined as a Nationally Significant Infrastructure Project given the proposed passenger numbers). The Examination process opened on 10 August 2023 and will close on 10 February 2024.
- 8.11. The three Hertfordshire Hosts Authorities, i.e. North Herts Council (NHC), Hertfordshire County Council (HCC) and Dacorum Borough Council (DBC) continue to work together with our commissioned specialist technical consultants and legal team in the preparation and submission of relevant documentation as required by the Examining Authority (ExA). These being solicitors from Pinsent & Masons and technical officers from WSP.
- 8.12. The list of documentation as required and associated submission of deadlines set by the ExA was reported in previous Strategic Planning Matters Report to Cabinet on 14 November 2023, i.e. from Deadline 1 through to Deadline 4 – 1 November 2023.
- 8.13. The ExA issued a Rule 13 letter on 30 October 2023 informing interested parties of the additional Issue Specific Hearings (ISHs) to be heard from 28 November to 1 December 2023. The host authorities took part in the ISH Hearing Sessions and were represented by its legal specialists, technical consultants and NHC officers on Surface Access and Air Quality. The Strategic Planning & Projects Officer from NHC and the Sustainable Growth Officer from HCC were in attendance throughout the hearing sessions.
- 8.14. Since the issue of the above Rule 13 letter a number of further Deadlines have been met:  
*Deadline 5 – 14 November 2023* included:
- Notification of attendance at the additional ISH sessions.
  - Submitting comments to the Applicant's responses to the first set of the ExA's written questions (EXQ1).

*Deadline 6 – 8 December 2023.* An immediate requirement following the additional ISHs included:

- Submitting written post hearing submissions of oral cases on the following sessions:
  - ISH7 – Traffic & Transport including surface access
  - ISH8 – Environmental Matters including noise, landscape and visual impacts including Area of Outstanding Natural Beauty (AONB), biodiversity, water and air quality
  - ISH 9 – Green Controlled Growth
  - ISH10 – Draft Development Consent Order.
- Responding to action points set by the ExA through the ISHs.
- Submitting an update to the Principal Areas of Disagreement Statements (PADSS) for the Hertfordshire Host authorities.

- Responding to the Applicant's responses to the Hertfordshire Hosts Written Representation and Local Impact Report submitted at Deadline 2.

*Deadline 7 – 9 January 2024.* Following the ISHs the ExA issued a further set of Written Questions (ExQ2) on 15 December where the Host Authorities are required to:

- Respond to the further written questions.
- Comment on the Applicant's revised Draft DCO.
- Comment on any further information/submissions received by Deadline 6.

- 8.15. The ExA is expected to publish its commentary on, or schedule of changes to the draft DCO on 16 January 2024 which will then be followed by the following set of further Deadlines to which the Host Authorities will be required to respond:

*Deadline 8 – 23 January 2024* will include -

- Submitting comments on the ExA's commentary on changes to the draft DCO.
- Submission of final Principal Areas of Disagreement Statements (PADSS).
- Responding to any further information requests by the ExA.
- Commenting on any further information/submissions received by Deadline 7.

*Deadline 9 – 30 January 2024* will include -

- Submission of final Statement of Common Ground (SoCG) between North Herts and the Applicant.
- Responding to any further information requests by the ExA.
- Commenting on any further information/submissions received by Deadline 8.

*Deadline 10 - 5 February 2024* will include -

- Responding to any further information requests by the ExA.
- Commenting on any further information/submissions received by Deadline 9.

- 8.16. The Council will continue to work together with its specialist consultants and the other Hertfordshire Host Authorities in seeking to respond and provide information as requested by the ExA. Officers will also continue to meet with the Applicant in seeking to resolve the various issues raised in the PADSS and through the SoCG to meet the further Deadlines set by the ExA.

- 8.17. Full details of the application and written submission documents can be seen on the PINS website at: [London Luton Airport Expansion | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk/london-luton-airport-expansion-national-infrastructure-planning)

- 8.18. Officers will continue to keep members updated via this Strategic Planning Matters Report and through MIS notes.

## **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 and supporting documents 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.
- 9.3. Under the Council's Constitution (14.6.10 (b) vii B) all functions relating to National Infrastructure Planning including co-ordination of the Council's response to any consultation, examination or other any other matter concerned with major infrastructure projects, is delegated to the Service Director Regulatory.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The general costs of activities identified in this report are met through existing revenue budgets or benefit from external funding or other arrangements to recover costs.
- 10.2. Cabinet previously agreed on 27 June 2023 the use of £85k of reserve funding to respond to the London Luton Airport planning application being considered by the Planning Inspectorate. Previous work on the application has been funded from existing reserves. NHC has continued to work together with the other Hertfordshire Host Authorities through the process, where HCC and Dacorum BC are each contributing a greater amount. Officers are seeking a further £50k funding towards completing the Examination process in being able to continue negotiations with its specialist consultants and legal advisors in seeking suitable funding towards appropriate mitigation measures.
- 10.3. Where possible funding has also been provided by Luton Rising (LR) through a Planning Performance Agreement (PPA) where North Herts along with the other host authorities (Herts County Council, Luton, and Central Beds) signed a PPA at the start of the process. The PPA has provided funding for the host authorities to engage consultants and legal expertise to review documents and submit comments on their behalf since the pre-consultation stage up to and through the Examination process. The host authorities have recently written to LR requesting additional funding through the PPA to cover ongoing legal costs associated with the DCO application and negotiating S106 agreement which are all requirements requested by the Examining Authority as part of the process. Although LR have made it clear that no additional funding will be provided, officers are still making a case for additional funds. Hence the reason for the above request.

## **11. RISK IMPLICATIONS**

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. The lack of additional funding for completion of the Luton Airport DCO Examination process could result in the Council not being able to complete its negotiations for suitable funding and mitigation measures associated with the development on behalf of its residents.

## **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. A number of the schemes noted at section 8 will have considerable impact on the environment as they come to fruition. Many of these will be subject to their own statutory requirements for environmental assessment such as Sustainability Appraisal or Environmental Impact Assessment. The need for further assessment, for example where there is no statutory requirement, is considered on a case-by-case basis.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1. The approved budget for 2022/23 included funding for a number of additional posts across the wider planning service. In recent months there has also been a turnover of staff, particularly in more senior professional positions. A number of vacancies were advertised and successfully filled during 2023. Recruitment exercises are currently ongoing for the remaining posts with agency staff, consultants used where appropriate. Some workstreams are delayed as a result of an inability to recruit and also with the significant time required by officers during the Luton Airport examination.

## **16. APPENDICES**

None

## **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)
- 17.2 Louise Symes, Strategic Projects & Infrastructure Manager  
01462 474359 [louise.symes@north-herts.gov.uk](mailto:louise.symes@north-herts.gov.uk)
- 17.3 Deborah Coates, Principal Strategic Planning Officer

01462 474353      [deborah.coates@north-herts.gov.uk](mailto:deborah.coates@north-herts.gov.uk)

- 17.4 Simon Meecham, Town Centre Regeneration Officer  
01462 474479      [simon.meecham@north-herts.gov.uk](mailto:simon.meecham@north-herts.gov.uk)
- 17.5 Hollie Hawkins, Strategic Planning Officer  
01462 474425      [hollie.hawkins@north-herts.gov.uk](mailto:hollie.hawkins@north-herts.gov.uk)
- 17.6 Nigel Smith, Strategic Planning Manager  
01462 474847      [nigel.smith@north-herts.gov.uk](mailto:nigel.smith@north-herts.gov.uk)
- 17.7 Kerrie Munro, Locum Planning Lawyer  
01462 474364      [kerrie.munro@north-herts.gov.uk](mailto:kerrie.munro@north-herts.gov.uk)
- 17.8 Ian Couper, Service Director of Resources  
01462 474243      [ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk)
- 17.9 Jo Keshishian, Human Resources Operations Manager  
01462 474314      [Jo.keshishian@north-herts.gov.uk](mailto:Jo.keshishian@north-herts.gov.uk)
- 17.10 Reuben Ayavoo, Policy and Communities Manager  
01462 474212      [reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk)

## **18. BACKGROUND PAPERS**

- 18.1 None