

CABINET

10 DECEMBER 2018

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: LOCAL PLAN EXAMINATION AND MAIN MODIFICATIONS CONSULTATION

REPORT OF THE SERVICE DIRECTOR - REGULATORY
EXECUTIVE MEMBER: COUNCILLOR DAVID LEVETT
COUNCIL PRIORITY: PROSPER AND PROTECT

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to inform Members of the progress with the examination of the new Local Plan and to seek approval to conduct a consultation upon the Inspector's proposed Main Modifications to the Plan and documentation produced under delegated authority.

2. RECOMMENDATIONS

- 2.1 That overall progress since Full Council's decision of 11 April 2017 to approve the submission of the new Local Plan for North Hertfordshire (together with other associated documentation) for examination by the Secretary of State is noted.
- 2.2 That the range of additional documentation produced for the Examination to date under the delegated powers granted by Full Council on 11 April 2017 and listed in Appendix B is noted and endorsed.
- 2.3 That approval be granted to conduct a six-week consultation on the Inspector's proposed Main Modifications to the Plan attached as Appendix C, to include consultation on the associated sustainability appraisal (Appendix D) as well as relevant additional documentation endorsed under Recommendation 2.2.
- 2.4 That Officers continue to regularly update Members on the progress of the Examination, including any outcomes from the Main Modifications consultation, through the Strategic Planning Matters reports which are submitted to Cabinet.

3. REASONS FOR RECOMMENDATIONS

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

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Officers are of the view that there are no reasonable alternatives to the approach set out in this report. The Council has a statutory duty to keep its Local Plan under review. Failing to prepare a Local Plan carries significant risks. Given the generally positive nature of the proposed modifications (see Section 8.3 below), the extent of public engagement to date and the fact that the proposed Main Modifications consultation marks the continuation of a process initiated by the Council resolution of 11 April 2017, any alternate would represent a significant change of position.
- 4.2 The only alternate courses of action at this stage are to delay this decision, to seek to significantly alter the strategy in the draft Plan approved for submission by Full Council or to withdraw the Plan in its entirety and start work again on a replacement. None of these courses of action are recommended. Any of these approaches would carry significant risks and severely limit the Council's ability to properly manage or plan development within the District. This is discussed in further detail in Section 11.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Executive Member for Planning, Enterprise and Transport has been kept informed on the matters set out above on an ongoing basis.
- 5.2 The Local Plan Project Board has met on a number of occasions to discuss relevant issues and provide the necessary strategic guidance and direction for the production of the Local Plan.
- 5.3 Cabinet have been kept informed of key developments through Strategic Planning Matters reports which are a standing item on the agenda.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a Key Decision first notified to the public in the Forward Plan on 25 April 2018.

7. BACKGROUND

- 7.1 Members will be aware of, and familiar with, many of the issues surrounding the Local Plan from the regular Strategic Planning Matters reports referred to in paragraph 5.3 above and the reports to Cabinet on 26 September 2016 and Full Council on 11 April 2017.
- 7.2 As the Local Planning authority, North Hertfordshire District Council has a statutory duty to prepare a Local Plan and keep it under review. The Local Plan has to set out the Council's plans for the area, including allocating sites for development, identifying areas to be protected from development and setting the policies to be used when determining planning applications.

7.3 A new Local Plan must proceed through four key stages:

- Preparation of the new plan
- Publication of a final draft
- Examination; and
- Adoption

7.4 The third of these stages, the examination of the new North Hertfordshire Local Plan, is ongoing. The issuing of the Inspector's proposed Main Modifications is a key step within this stage of the process.

7.5 Overall progress with the Examination since April 2017 (Recommendation 2.1)

7.5.1 Full Council resolved to submit a new Local Plan for the District to the Secretary of State for Examination in April 2017. This followed consultation on a proposed submission draft approved by Cabinet in September 2016 and carried out between October and November the same year. The Plan was formally submitted to the Secretary of State – through the Planning Inspectorate – on 9 June 2017.

7.5.2 On 28 June 2017, the Programme Officer – who acts as the impartial intermediary between the Council, the Inspector and other participants for the duration of the Examination – wrote to all respondents to the consultation to advise that the Secretary of State had appointed Inspector Simon Berkeley BA MA MRTPI to carry out the independent examination of the Plan.

7.5.3 Following his initial appraisal of the Plan, Mr Berkeley issued his proposed Examination hearing timetable and the matters, issues and questions to be addressed in September 2017. Following feedback, this original timetable was significantly amended; the number of proposed hearing days was increased and the timetable for those sessions spread over a longer time period than originally proposed.

7.5.4 Examination hearings were held between November 2017 and March 2018. A full schedule of the hearing sessions is attached for information as **Appendix A** to this report. In summary, the Inspector considered key legal issues followed by the overall strategy of the Plan and the detailed Development Management policies between November 2017 and January 2018. He then considered the proposed site allocations on a settlement-by-settlement basis during February and March 2018.

7.5.5 A total of 25 hearing days were held. These predominantly took place at the Icknield Centre in Letchworth due to the ongoing refurbishment of the District Council offices. The final sessions in March 2018 took place in the re-opened Council Chamber.

7.5.6 A wide range of parties participated in the sessions and had their views heard by the Inspector. This included other Councils with an interest in the Plan (including the County Council, neighbouring authorities and local Parish Councils), local residents, interest groups and landowners and (prospective) developers with interests in the Plan. All sessions were held in public with a gallery for those who wished to observe proceedings.

- 7.5.7 A dedicated area of the Council's website has been kept up-to-date throughout this process including details of the hearing sessions and new documents submitted to the Examination by the Council and other parties (www.north-herts.gov.uk/localplan). Where available, audio recordings of the sessions have been uploaded to the Council's You Tube channel and linked from the Council website pages above.
- 7.5.8 Following the conclusion of the scheduled hearings, the Council were asked to complete and submit a significant quantity of additional work to support the Plan. This consisted, broadly, of the provision of additional information and the drafting of potential modifications to the Plan as directed by Mr Berkeley or otherwise identified during the hearing sessions.
- 7.5.9 The significant majority of this further work was submitted for the Inspector's consideration in June 2018. Two final pieces of work – addressing specific legal points relating to environmental assessment and Green Belt respectively – were submitted for the Inspector's consideration in September 2018. A note on the new household projections was submitted in October 2018 at the Inspector's request (see Section 8.2 below). The nature and range of the additional material produced by the Council in response to the Examination is discussed further in section 8.1 below.
- 7.5.10 Following consideration of all the relevant issues, the proposed Main Modifications to the Plan were published on 19 November 2018. Main Modifications are the mechanism by which the Secretary of State's Inspector can fix, or 'make sound', those parts of the Local Plan which he considers were not fit-for-purpose in the Plan as submitted.
- 7.5.11 Any Main Modifications consultation is upon the proposed changes to the Plan only. It is not an opportunity for interested parties to (re-)submit comments upon general principles or policies within the Plan which are not subject to proposed amendments. The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan.
- 7.5.12 The issuing of, and consultation upon, Main Modifications forms part of the Examination process which runs from the day the Plan was submitted to the Secretary of State to the day the Council receives the Inspector's final report on the Plan.

8. RELEVANT CONSIDERATIONS

8.1 Additional documentation produced under delegated powers (Recommendation 2.2)

- 8.1.1 Throughout the examination it is necessary for Councils to produce and submit a significant quantity of additional material to the examination in a timely fashion to ensure continued progress. This material was prepared under delegated powers of the (now) Service Director – Regulatory in consultation with the (now) Executive Member for Planning, Enterprise and Transport as authorised by Full Council on 11 April 2017.

8.1.2 A list of additional material prepared under this delegated authority is attached as Appendix B. In summary, this material can be split into a number of broad categories:

- Memoranda of Understanding, Statements of Common Ground or other agreements;
- Hearing statements;
- Additional evidence to inform the hearing sessions;
- Clarifications or notes on specific issues identified through the hearings by the Inspector; and
- Potential modifications to the plan

8.1.3 **Memoranda of Understanding, Statements of Common Ground or other agreements:** The Council has a statutory Duty to Co-operate with other Councils and bodies on strategic planning matters which cross administrative boundaries. National Policy advises that compliance with the Duty can be evidenced through the completion of agreements. Failure to meet the requirements of the Duty cannot be remedied at Examination and would be fatal to the Plan.

8.1.4 A number of agreements were completed prior to the decision of Full Council on 11 April 2017 and reported at that time. Further agreements were arrived at following that decision and also following submission of the Plan. This includes agreements with Welwyn Hatfield, Stevenage, Luton and Central Bedfordshire Councils, Hertfordshire County Council as the authority responsible for highways and Historic England and Natural England as statutory bodies with specific responsibilities.

8.1.5 A second ‘subset’ of agreements are those completed with developers or promoters of proposed allocations in the Plan relating to key principles such as the timing of delivery or the provision of key infrastructure. Such agreements are made without prejudice to the determination of any future planning applications on these sites.

8.1.6 **Hearing statements:** As set out in paragraph 7.1.3, the Inspector issued his matters, issues and questions for the examination in September 2017. For each of the main matters, the Council was invited to submit a statement addressing the key issues he identified. Other parties were also able to submit written statements in response.

8.1.7 **Additional evidence to inform the hearing sessions:** A significant quantity of evidence was submitted alongside the Plan in June 2017 to support its policies and proposals. However, there were a small number of areas where further evidence was required in order to ensure that the Plan was supported by robust and up-to-date information.

8.1.8 In particular, Members will recall that the April 2017 report to Full Council identified that a number of concerns with the Plan had been raised by Hertfordshire County Council, in their roles as highway authority and education authority.

- 8.1.9 Work on a detailed Transport Strategy to address those concerns had commenced at the time of that decision. The Transport Strategy was submitted to the Examination in October 2017. It sets out that, with a modest shift in journeys away from the private car towards more sustainable modes of transport, and a range of mitigation measures, the strategy in the Plan can be supported. This Strategy has the support of Hertfordshire County Council and aligns with the strategic priorities set out in their own Local Transport Plan (LTP4 adopted in May 2018). It has been considered through the examination process and a number of Main Modifications are proposed to embed its priorities and requirements within the Plan. The report to Full Council in April 2017 identified that this strategy would sit alongside the Plan and be updated over its lifetime. The Transport Strategy will be presented for formal adoption by Members following receipt of any future Inspector's Report which concludes that its measures are necessary to secure the soundness of the Plan.
- 8.1.10 Further evidence work was also submitted in advance of the hearing to support the Plan's position that it could be possible to deliver education provision alongside new homes in a number of locations.
- 8.1.11 **Clarifications and notes:** As the hearings progressed, Mr Berkeley identified a range of issues where he considered further information was required to inform his assessment of the Plan. These actions were recorded, and published on the Council website, on an ongoing basis.
- 8.1.12 The clarificatory notes prepared by the Council in response cover a wide range of topics and represent a significant proportion of the additional material submitted for the Inspector's consideration in June 2018. All of the actions arising from each Examination session have been collated into a single document for ease of use. Among the more substantive pieces of additional work are updates to the Green Belt Review and the Habitats Regulation Assessment, both of which were required to address case law issued during the Examination proceedings.
- 8.1.13 The Inspector additionally sought the Council's view on new household projections. This is discussed separately in Section 8.2 below.
- 8.1.14 **Potential modifications:** Through the examination process, a number of potential changes from the version submitted have been identified. The key changes to the Plan arising from the proposed modifications are explained further below.
- 8.1.15 Some of these potential changes were pro-actively identified by the Council in advance of the relevant hearing sessions, including through the agreements and statements identified above. These changes sought to address concerns raised by the Inspector or the representations of objectors to the Plan.
- 8.1.16 The wide range of work above has been a key input to, and influence upon, the proposed Main Modifications to the Plan. Following consideration of this report as a whole, Members are therefore requested to endorse the work undertaken under delegated powers.

8.2 Implications of new household projections for the Local Plan

- 8.2.1 Following the submission of the above, new household projections were released by the Office for National Statistics (ONS) on 20 September 2018. These showed a marked decrease on the household figures used to inform the evidence supporting the Plan. The latest projections show 9,700 additional households forming in the District over the period 2011-2031. The previous projections showed 13,800 households forming in the District over the same period. The Inspector sought the Council's views on these before proceeding to issue his Main Modifications.
- 8.2.2 As the ONS indicates on its website, the household projections are not predictions or forecasts of future growth; nor are they a housing requirement for the District to meet. They are based upon previous trends. The new projections contained a significant change in method compared to previous versions. The household trends are based on the period 2001 to 2011 only; previous iterations had used data over the period since 1971. As Members will be aware, the decade to 2011 saw a significant recession and substantial rises in house prices which affected the ability of households in the District (and beyond) to form and own their own home. Under the new method, these effects are projected into the future. Both the Government and professional commentators have expressed reservations about using the new projections as a basis for local planning because of these factors.
- 8.2.3 The paper submitted to the Inspector in response suggests that the most appropriate approach is to not seek changes to the Plan at this time and stage in the process. The Inspector has not queried this position further nor introduced any modifications to alter the housing requirements in the Plan. The proposed consultation will provide opportunity for interested parties to comment on this approach.
- 8.2.4 There is currently a separate consultation being undertaken by the Government suggesting that these latest projections should not be used as the basis for calculating future housing requirements in Local Plans. Under the transitional arrangements of the new National Planning Policy Framework (NPPF), this consultation does not affect the current examination of NHDC's emerging Plan but would have implications for any future plans that the Council may prepare. A response to this consultation will be considered and, if required, prepared separately and reported in a future Strategic Planning Matters report.

8.3 The proposed Main Modifications (recommendation 2.3)

- 8.3.1 The legal framework for the preparation of Local Plans confers powers on the appointed Inspector to, at the request of the local planning authority, recommend modifications to the Plan to ensure that it meets relevant legal requirements and is sound.
- 8.3.2 The Inspector's schedule of proposed Main Modifications to the North Hertfordshire Local Plan 2011-2031 is attached as **Appendix C** to this report where the proposed changes can be seen in full.

8.3.3 Around 400 modifications have been identified. These range from the insertion or substitution of single words to the introduction of wholly new or replacement policies. The content of the Main Modifications is discussed further below. However, before doing so it is appropriate to note that the Main Modifications do not require changes to the Plan approved for submission by Full Council in April 2017 in respect of:

- The overall future housing requirement to be met within the District;
- The general principles that the Plan should:
 - Seek to address the identified development needs of North Hertfordshire in full;
 - Make reasonable contributions towards unmet housing and employment needs arising from Luton and Stevenage respectively to satisfy the legal Duty to Co-operate; and
 - Release land currently designated as Green Belt for future development to achieve these aims;
- The proposed housing allocations in the Plan; with the exception of one site in Royston where redevelopment has begun in the intervening period, no housing allocations are to be deleted from the Plan and no new housing allocations are to be added;
- The designation of land broadly between Offley and Whitwell as new Green Belt effectively ‘filling the gap’ between the current Green Belt to the west of Stevenage and Hitchin and the east of Luton;
- The concept that new development should make provision for necessary infrastructure; and
- The provision of up to 40% affordable housing on new developments.

8.3.4 In this regard, the Plan, as proposed to be modified, still contains the same broad strategy for future growth and development in the District as that approved for submission to the Secretary of State by Full Council in April 2017.

8.3.5 The Main Modifications are too numerous and wide-ranging to be individually explained within this report. However, some of the key changes and themes arising include:

- The ‘reclassification’ of Barkway, Knebworth, Codicote, Little Wymondley and Ickleford from proposed ‘Category A’ villages to ‘villages identified for growth’. This is a presentational change in recognition of the fact that these locations will each see more than 200 additional homes provided over the plan period, in contrast to other Category A villages (such as Ashwell, Preston or Reed) where lower levels of development are anticipated. In making this change, no new allocations or additional growth are directed to these settlements;
- A clearer explanation of how future retail needs will be met by distributing the required new floorspace across the District;
- Implementation of the key aims of the County Council’s new Local Transport Plan and the Transport Strategy to achieve a realistic ‘modal shift’ of journeys to more sustainable modes of transport;
- Provision of additional criteria and information for the proposed housing allocations that must be met by any new development. This includes clarifying that all of the criteria for individual development sites in Chapter 13 of the Plan are policy requirements rather than advisory guidance;

- Extensive amendments to the detailed Development Management Policies of the Plan to ensure they are sufficiently robust to achieve the desired outcomes;
- Providing additional policy and guidance on how the Plan will be implemented and monitored;
- The retention of the existing Letchworth Garden City Design Principles from the current District Plan; and
- The formal allocation of land at Danesbury Park Road, in the south of the District, to meet future needs for Gypsy and Traveller accommodation

8.3.6 The Main Modifications have been subject to a Sustainability Appraisal to test their likely social, economic and environmental effects and to comply with relevant legislation. The Sustainability Appraisal report is provided as **Appendix D**. Given the general nature of the changes in the proposed Main Modifications, and the fact that the Local Plan has been subject to Sustainability Appraisal throughout the process this latest appraisal does not necessitate substantive further changes to the Plan. Some minor additions have been made to the detailed site criteria following the assessment.

8.3.7 In order to aid understanding of how the Plan, as proposed to be modified, would now read a ‘track change’ version of the Plan has also been made available on the Council’s website. This document is not a formal part of any future consultation. However, it allows the proposed Main Modifications to be viewed in context and helps to illustrate what the Plan would contain should it proceed to adoption with these changes.

8.4 Next steps (recommendations 2.3 and 2.4)

8.4.1 Subject to the agreement of Cabinet to the recommendations above, a consultation will be held on the proposed Main Modifications. This will be hosted and administered by the District Council.

8.4.2 The consultation will be available on the Council’s website with a prominent link from the homepage throughout the consultation period. Copies of the proposed modifications will be provided to each Parish Council and made available at Baldock, Hitchin, Letchworth Garden City, Royston and Knebworth libraries. Copies will also be placed in the central libraries at Luton and Stevenage. The consultation will be publicised through use of the Council’s social media channels, press releases and adverts in the local papers.

8.4.3 Subject to approval of the recommendations of this report, the aim is to commence consultation on Thursday 3 January 2019.

8.4.4 The length and format of the consultation is not prescribed in regulations. Guidance issued by the Planning Inspectorate is that consultation on the Main Modifications should generally reflect that undertaken at the proposed submission stage. It is therefore recommended that consultation should run for a period of six weeks, closing on Thursday 14 February 2019. Although the formal consultation period would not commence until the New Year, all of the material that would be consulted upon is already in the public domain allowing interested parties to begin reviewing it now.

- 8.4.5 As already set out, the Main Modifications consultation is upon the proposed changes to the Plan only. It is not an opportunity for interested parties to (re-)submit comments upon general principles or policies within the Plan which are not subject to proposed amendments. The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan.
- 8.4.6 Alongside the main modifications consultation, respondents will also be able to comment on the 'homework' and other documents produced by the Council post 11 April 2017.
- 8.4.7 All representations received during the consultation will be collated by the Council and sent to the Inspector. At this point it is for the Inspector to determine what additional actions (if any) are required to address the issues raised in the consultation responses. This could include asking the Council to provide additional information on certain points or holding additional hearing sessions on particular issues. The progress of the examination remains at the Inspector's discretion.
- 8.4.8 As with the examination process to date, any further steps identified by the Inspector may require the completion and submission of additional documentation by the Council. These will continue to be produced under the existing delegated powers of the Service Director – Regulatory in consultation with the Executive Member for Planning, Transport and Enterprise, as granted by Full Council in April 2017 and which covers the entirety of the examination process (i.e. until receipt of the Inspector's report).
- 8.4.9 Once any such further steps have been completed to the Inspector's satisfaction, he will complete and issue his final report. This will set out his findings on key issues relating to the Plan and his recommendations. Subject to a positive outcome and recommendation, the Plan (incorporating any modifications required by the Inspector) will be brought to Full Council for adoption.
- 8.4.10 Where the Inspector recommends that Main Modifications are required to the Plan, the authority must adopt the Plan with those Modifications. In this regard, Members do not have the discretion to amend or otherwise change the Inspector's Main Modifications either as contained in the attached schedule or at any future adoption of the Plan. If Members wish to propose any alterations at this point they would need to resolve to not proceed with the consultation and separately notify the Inspector of their intentions (see Section 11).
- 8.4.11 Officers will continue to provide updates on progress with the consultation and any subsequent steps through the regular Strategic Planning Matters reports presented to each meeting of the Cabinet.

9. LEGAL IMPLICATIONS

- 9.1 The legal framework for the preparation, submission, examination and adoption of Development Plan Documents is set out in the Planning & Compulsory Purchase Act 2004 (as amended). Detailed regulatory requirements are contained in the Town & Country Planning (Local Planning) (England) Regulations 2012.

- 9.2 The powers of the Inspector to recommend modifications at the request of the Local Planning authority are established in Section 20 of the Planning & Compulsory Purchase Act 2004 (as amended). The Council requested that the appointed Inspector exercise these powers when the Plan was submitted in June 2017.
- 9.3 Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 allocates responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between an authority and their executive.
- 9.4 Schedule 3 lists amongst various plans and strategies in its table, plans and alterations which together comprise the Development Plan as provided by s54 of the TCPA 1990. Once adopted, the new Local Plan will form part of the Statutory Development Plan.
- 9.5 Paragraph 4 of regulation 4 allocates responsibility for the amendment, modification, variation, revocation of the plans and strategies specified in Schedule 3 for the executive. In particular article 4(4) states that the function of amending, modifying or varying any relevant plan or strategy shall be the responsibility of the executive to the extent that this is recommended by the person carrying out an independent examination of a Development Plan Document under section 20 of the Planning & Compulsory Purchase Act 2004. Furthermore the Cabinet has a general function of acting as the Local Planning Authority for strategic planning matters, as per 5.6.8 of their terms of reference.
- 9.6 At this stage, Members are only being asked to approve the carrying out of a consultation on the proposed Main Modifications. Upon receipt of any future positive Inspector's report, it will be a function of Full Council to adopt the new Local Plan (incorporating any required Main Modifications) as part of the Council's policy framework.

10. FINANCIAL IMPLICATIONS

- 10.1 The forecast costs of preparing the Local Plan and running the examination have been included within the budget for 2017/18 and 2018/19. In each year there has also been a financial risk that reflects the uncertainty over the examination process. As set out above, the examination timetable, and the level of detail required by the Inspector, have been greater than was anticipated. In 2017/18, there was a significant use of a planning reserve, as well as an overspend of £21k. For 2018/19, the forecast at the end of the 2nd Quarter is to use up the remaining balance of the reserve and an overspend of £115k. Officers are continually monitoring the impact of the extended Examination and the subsequent increase in costs.
- 10.2 Any decision on the Local Plan must be made on its planning merits but there are potentially significant financial risks attached to not having a plan in place.
- 10.3 Without an up to date Local Plan the Council is increasingly vulnerable to planning applications in areas where it may wish to resist development. The cost of trying to resist developments is generally far higher than the cost of negotiating developments supported by an up to date Local Plan.

10.4 The future of New Homes Bonus is uncertain and can not be relied upon as a funding source at the same level it is currently. However, any future funding is likely to be dependent on a range of measures, and based on previous comment, having an adopted local plan is likely to be one of those. The Council currently receives around £1.2m per year in New Homes Bonus funding.

11. RISK IMPLICATIONS

11.1 Sustainable Development of the District and the Local Plan are both Cabinet Top 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.

11.2 Cabinet cannot make changes to the Inspector's proposed Main Modifications. Should the Plan proceed onwards to adoption it would be necessary to incorporate any Main Modifications recommended by the Inspector in his final report. In this context, the only alternate courses of action for Cabinet to consider at this stage are (i) to delay this decision and, if applicable, notify the Inspector as to the reasons for not wishing to proceed or (ii) to recommend withdrawing the entire Plan from examination. This second option would require the Local Plan process to be restarted.

11.3 These courses of action are not recommended. Officers consider that there are no specific technical or planning reasons to delay the decision. The Inspector has issued the Main Modifications having had regard to the evidence submitted by the Council and other parties, including representations seeking changes to the Plan and consideration of the latest household projections. Any significant 'change of tack' by the Council at this stage could incur significant additional delays or costs. The Government have placed great emphasis on Councils achieving up-to-date Plans. Councils who are deemed to not be making satisfactory progress have been subject to the threat of intervention by the Secretary of State under his statutory powers. The Council has additionally had to determine a number of planning applications for sites not included in the Plan whilst the examination has been ongoing. A number of refusals of these have had to be defended at Planning Appeals, including one Public Inquiry. The prospect of timely progress with a new Local Plan has been one factor which has enabled the Council to defend itself against these schemes.

11.4 In addition to the cost and resources that have been expended in bringing the Local Plan to this point, withdrawal would leave the Council reliant upon the (largely out-of-date) saved policies of the 1996 District Plan. This Plan is believed to be the third oldest in the country (behind York and St Albans). Both of these authorities are developing new plans under the threat of intervention from the Secretary of State outlined above if they do not continue to make timely progress.

11.5 There would additionally be further planning and financial implications arising from the risks of speculative and unplanned development and the loss of prospective New Homes Bonus, Council Tax receipts (or other or alternate / successor arrangements) anticipated from the sites proposed for development in the Plan.

11.6 Any new Plan would need to be prepared having regard to the revised National Planning Policy Framework issued in July 2018.

11.7 The plans of neighbouring Stevenage and East Hertfordshire have both completed their examinations and the Inspectors' reports have been issued. However, both Councils were subject to holding directions imposed by the Secretary of State using his statutory powers. This meant that no further steps could be taken until the Secretary of State concluded his deliberations. East Hertfordshire's Plan has now been adopted. However, potential intervention by the Secretary of State in North Hertfordshire's plan is a risk that will need to be monitored on an on-going basis. The Local Plan risk has been updated accordingly.

12. PLANNING IMPLICATIONS

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

12.2 A revised National Planning Policy Framework (NPPF), which sets out the Government's planning policies, was published in July 2018. This has immediate effect for the purposes of making planning decisions (i.e. determining planning applications). However, the transitional arrangements contained in that document make clear that the previous (March 2012) version of the NPPF will continue to be applied in respect of the Local Plan examination.

12.3 Paragraph 48 of the July 2018 NPPF states that local planning authorities may give weight to relevant policies in emerging plans in the determination of planning applications having regard to the stage of preparation of the new local plan, the extent of unresolved objections and the conformity of the draft policies with national policy.

12.4 The publication of the Inspector's Main Modifications (and the Council's agreement to consult upon them) is a significant milestone. As set out in paragraph 7.1.10, this is the Inspector's opportunity to 'fix' any parts of the Plan he considers to be unsound having had regard to the objections raised and the matters considered through the Examination hearing sessions. By implication, the Inspector considers the proposed Main Modifications to be sound. Equally it might be reasonably inferred that the Inspector is currently broadly satisfied with the soundness of those parts of the Plan where Main Modifications are not proposed. In both instances it must be recognised that the Main Modifications are put forward without prejudice to the Inspector's final report on the Plan.

12.5 In this regard, and as a matter of general principle, it is considered that the Plan as proposed to be modified, is capable of attracting greater weight than the version of the Plan submitted for examination. There is no standard approach to the weight to be attributed to relevant policies of the emerging Plan; it is a matter for the decision-maker having regard to facts of each individual application.

13. EQUALITIES IMPLICATIONS

13.1 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.

- 13.2 An Equality Impact Assessment has been produced assessing the plan's compliance with relevant legislation and requirements. The Planning Inspectorate specifically requested that this document accompanied submission of the local plan.
- 13.3 The latest national guidance on Gypsy and Traveller sites, and specifically defining those who retain a 'nomadic' lifestyle, must also be considered alongside the protections afforded to some travellers by virtue of their ethnicity under the Equality Act 2010.

14. SOCIAL VALUE IMPLICATIONS

- 14.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and are discussed in Section 12 above.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no new human resource implications arising from the contents of this report. Temporary staff or consultants were brought in to assist during the preparation of the Local Plan in order to cover vacancies and long term absences and provide specialised technical advice. This approach will continue as required through the examination process.
- 15.2 Following the restructure of senior management within the Council earlier in 2018, the Service Director – Regulatory has subsequently implemented a restructure within the Planning service. This has been specifically designed having regard to the likely projects and workloads facing the service area in the coming years. There are presently two vacancies within the Strategic Planning and Enterprise Service. Staffing and workloads are monitored on an ongoing basis.

16. APPENDICES

- 16.1 Appendix A – Schedule of Examination Hearing Sessions.
- 16.2 Appendix B – Documents produced for the Examination under delegated powers
- 16.3 Appendix C – North Hertfordshire Local Plan proposed Main Modifications (provided separately)
- 16.4 Appendix D – Sustainability Appraisal of North Hertfordshire Local Plan proposed Main Modifications (**Note:** The technical Appendices to the Sustainability Appraisal have been made available on the website only)

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18. BACKGROUND PAPERS

- 18.1 [Full Council Report 20 July 2016](#) – North Hertfordshire Local Plan
- 18.2 [Cabinet Report 26 September 2016](#) – North Hertfordshire Local Plan
- 18.3 [Full Council Report 11 April 2017](#) – North Hertfordshire Local Plan
- 18.4 Strategic Planning Matters Reports to Cabinet on 13 June 2017, 25 July 2017, 26 September 2017, 19 December 2017, 19 June 2018, 31 July 2018, 25 September 2018.

The Proposed Submission Local Plan, associated evidence base and correspondence and statements relating to the examination, along with the proposed Main Modifications are all available via www.north-herts.gov.uk/localplan.