

CABINET

18 December 2018

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

TITLE OF REPORT: STRATEGIC PLANNING MATTERS

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 current positions regarding:

- Other Local Plans and Examinations
- North Hertfordshire Local Plan
- Neighbourhood Plans
- Government announcements
- Strategic Planning

1.2 The report also proposes to continue collecting developer contributions through the use of Section 106 legal agreements.

2. RECOMMENDATIONS

2.1 That the report on strategic planning matters be noted.

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

2.3 That Cabinet reaffirm its resolution of 30th July 2013: "That a Community Infrastructure Levy for North Hertfordshire be not pursued for the time being"

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.

3.2 To provide clarity on the Council's corporate approach to the collection of financial and other contributions from developers and to enable the production of a revised Supplementary Planning Document (SPD) on developer contributions in line with the Cabinet resolution of 25th July 2017.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Officers have given consideration to alternate approaches to the collection of developer contributions, namely the potential to prepare and adopt a Community Infrastructure Levy (CIL) for the District. This approach is not recommended for the reasons set out in this report.

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.

6. FORWARD PLAN

- 6.1 Recommendation 2.3 relates to a key decision first referred to 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 strategic planning matters referred to in paragraph 1.1 above. This report is intended to provide Members with the current positions on these matters.
- 7.2 By way of background to recommendation 2.3, the Community Infrastructure Levy (CIL) was introduced in 2010 under the Community Infrastructure Levy Regulations 2010, as an alternative to Section 106 legal agreements in funding the delivery of infrastructure required as a result of new development.
- 7.3 CIL works on the principle that charging rates are set based on pounds per square metre of net additional floorspace. CIL charging rates are non-negotiable, unlike Section 106 agreements.
- 7.4 Introducing a CIL is not compulsory for local authorities, and Section 106 continues to play a role even if CIL is introduced, particularly towards the delivery of affordable housing and site-specific infrastructure.
- 7.5 In February to March 2013, North Hertfordshire embarked on the first stage of the preparation of a CIL and consulted upon a Preliminary Draft Charging Schedule. Soon after however, work was halted on the production of a CIL as it was considered that it would not be the best way of maximising either affordable housing or monies for infrastructure in North Hertfordshire for the time being. This decision to halt work on CIL was made at Cabinet on the 30th July 2013.
- 7.6 Since 2013, work has significantly progressed on the Council's emerging Local Plan, which sets out what development and infrastructure will be required over the period 2011-2031.

- 7.7 In November 2016, it was reported to Cabinet that CIL had been subject to a number of regulatory amendments and that the Government had launched a review into its operation. At this time it was stated that Cabinet would be requested to make an ‘in principle’ decision on the most appropriate approach to developer contributions for the District once the final outcomes of this review were known.
- 7.8 A review of the Council’s current planning guidance was undertaken in 2017. This identified that the Council’s Planning Obligations Supplementary Planning Document (SPD) (2006) should be prioritised for updating. This review of current Council planning guidance, and the identification of documents to be produced in the future, was considered and approved by Cabinet on 25th July 2017.
- 7.9 Following announcements in the 2017 Budget relating to the CIL Review, the Government consulted on potential reforms to developer contributions in the Spring of 2018. The Government response to this consultation was published alongside the Autumn Budget 2018. Of greatest significance to North Hertfordshire is the confirmation that all pooling restrictions are to be lifted so that multiple Section 106 agreements can be collected towards a single piece of infrastructure. This restriction has been in place since 2015 and presently means that no more than five Section 106 contributions may be made towards any single infrastructure scheme. This has been a notable barrier to the funding and delivery of infrastructure, particularly for larger projects.

8. RELEVANT CONSIDERATIONS

8.1 Developer contributions

- 8.1.1 Now that the Autumn Budget 2018 and the Government’s response to the Developer Contributions have provided greater certainty on the future use of developer contributions, discussions with key internal departments and officers have taken place to discuss the implications of the proposed changes for North Hertfordshire.
- 8.1.2 Following these discussions, and in light of recent announcements, it is recommended that CIL is not taken forward in North Hertfordshire at this time and that Section 106 legal agreements continue to be used in all relevant instances to secure appropriate contributions from new development. In addition to internal officer consensus on this matter, the appetite from Hertfordshire County Council officers to introduce CIL in North Hertfordshire is also limited given the proposed lifting of pooling restrictions. Further to this, issues have been raised by Hertfordshire County Council given the legal position of CIL in that it does not require that collected monies are guaranteed towards specific items of infrastructure. This has been reinforced by the experience Hertfordshire County Council has had with other Hertfordshire authorities where CIL has been introduced.
- 8.1.3 Instead it is recommended that work is expedited on the review and adoption of a revised Planning Obligations SPD, as approved in principle by Cabinet in July 2017. This would also be an opportunity to reflect the Governments’ recent strengthening of viability matters in Planning Practice Guidance and address the full range of potential contributions that might be sought through s106 in the absence of CIL.

- 8.1.4 Whilst there are / were merits to CIL for local authorities with a large number of smaller sites (that would normally not generate a need for a Section 106 agreement, especially with pooling restrictions in place), this is not the case in for North Hertfordshire. It is not considered that the cost, resources and time required for the preparation and Examination of a CIL charging schedule, as well its eventual operation, are outweighed by its benefits when considered in a North Hertfordshire context. It is also worth noting that it would be necessary in any case to secure S106 agreements on a number of sites proposed in the new Local Plan to secure on-site infrastructure (such as schools) and mitigation measures. Furthermore, recent reports suggest that the proposed lifting of pooling restrictions will assist in the delivery of strategic sites and unlock regeneration. The lifting of pooling restrictions also enables the Council to consider whether there is now scope to seek contributions from smaller sites through unilateral agreements. This will be explored through the SPD.
- 8.1.5 The approach recommended does not differ from that taken forward the last time a decision on the progress of CIL was taken at Cabinet on 18th July 2013 and it is recommended that Cabinet therefore reaffirm this standing resolution, especially given that it is now more than five years old.

8.2 Other Plans and Examinations

- 8.2.1 **Central Bedfordshire Council** – As previously reported, Central Bedfordshire’s Local Plan was submitted to the Secretary of State for independent examination in the summer. The Inspector has presented Central Bedfordshire with a number of requests for further information and hearing sessions are not anticipated until Spring 2019 at the earliest.
- 8.2.2 Since the last meeting of Cabinet, agreement has been reached on a Memorandum of Understanding with Central Bedfordshire addressing the issues raised by this Council in its consultation response to the Plan. This was agreed and signed by the Executive Member for Planning, Enterprise and Transport under delegated powers granted by Cabinet.
- 8.2.3 The agreement secures a number of proposed modifications to the Plan requested by NHDC that will ensure relevant future developments within Central Bedfordshire will properly assess cumulative traffic impacts on the North Hertfordshire transport network. A copy of the agreement is attached as Appendix A to this report.
- 8.2.4 **South Cambridgeshire** –South Cambridgeshire’s Local Plan was adopted on 27 September 2018. The Plan commits to an early review, with submission for examination anticipated by the end of Summer 2022.
- 8.2.5 **Uttlesford District Council**- Following consultation on the Council’s Proposed Submission Local Plan in the summer, a further consultation on focussed changes to the Plan was held between October and November 2016. None of these changes impacted upon the issues raised in this Council’s previous response and no further comments were submitted.

- 8.2.6 **East Hertfordshire District Council** – As previously reported, following receipt of the Inspector’s report finding the new District Plan ‘sound’, the Secretary of State issued a holding direction on 11 September 2018 preventing any further step in connection with the adoption of the Plan.
- 8.2.7 The holding direction was subsequently lifted on 12 October 2018 and the new Plan was adopted on 23 October 2018.
- 8.2.8 **Stevenage Borough Council** – There is no further update on the holding direction by The Secretary of State which was issued on 13 November 2017. Stevenage had previously been advised that they would receive a response from the Secretary of State by 13 November 2018.
- 8.2.9 A response to Stevenage’s consultation on the introduction of a Community Infrastructure Levy for the Borough was prepared and submitted under delegated powers. This is attached at Appendix B. The response seeks reassurances that the introduction of a CIL in Stevenage will not adversely impact planned development or the provision of infrastructure in, or meeting the needs of, North Hertfordshire.
- 8.2.10 **Welwyn Hatfield Borough Council** – A further Examination hearing session on the Council’s updated Green Belt study was held in November 2018. A short consultation on the matters arising is being held, running until 20 December 2018. No further hearing sessions will be held until the New Year.
- 8.2.11 **St. Albans City & District Council** – Consultation on the Proposed Submission Local Plan was held between September and October 2018. A response was prepared and approved under delegated powers and is attached as Appendix C. The response welcomes the Plan’s commitment to meeting identified housing needs in full but seeks further clarity on how this will be achieved to reduce the risk of any future Examination determining there is an unmet need which must be met elsewhere.
- 8.2.12 **Luton Borough Council** – Luton’s Local Plan was adopted in November 2017. This requires a review of the Plan to commence before the end of 2019. No steps have been taken to date.
- 8.2.13 **Hertfordshire County Council (waste & minerals)** – A ‘Way Forward’ paper on the Waste Local Plan will be presented to HCC’s Cabinet Panel in the first quarter of 2019. This will present the outcomes of the Call for Sites exercise carried out earlier this year and the proposed approach to the Plan.
- 8.2.14 The Proposed Submission Minerals Local Plan is currently progressing through the County Council’s political process with public participation expected in January 2019 for 10 weeks
- 8.2.15 **Chilterns AONB Management Plan** – the Chilterns Conservation Board is reviewing and consulting on their draft Management Plan 2019 – 2024. The Management Plan is a statutory document under the Countryside and Rights of Way Act 2009 and sets out the vision, objectives and policies for the AONB over the next 5 years. The purpose of a management plan is to help all those involved in managing the AONB to:

- conserve its character and special qualities;
- manage the pressures on these qualities; and
- where possible, improve the AONB for current and future generations of people who live in and visit the area.

8.2.16 The Consultation was launched at the end of October and will run until 31st December 2018. An MIS was sent out on 2 November informing Members about the consultation and to forward any comments they may wish to make to officers for inclusion in the Council's formal response. Officers are currently reviewing the consultation to identify any implications for North Hertfordshire. A response will be prepared and approved under delegated powers and reported to a future meeting of Cabinet.

8.2.17 Full details of the draft Management Plan 2019 – 2014 are available on the Chilterns AONB website at: <https://www.chilternsaonb.org/conservation-board/management-plan-review.html>

8.3 North Hertfordshire Local Plan

8.3.1 The Inspector's Main Modifications, and the associated additional work completed by the Council, were published on 19 November 2018. The Main Modifications are subject to a separate report and meeting of Cabinet on 10 December 2018. Any necessary updates will be reported verbally at the meeting.

8.4 Neighbourhood Plans

8.4.1 As previously reported, Deborah McCann was appointed to undertake the examination of the Wymondley Neighbourhood Plan. Following her initial review, the examiner arranged an exploratory meeting held on November 30 2018. At the request of the Parish Council and the Neighbourhood Plan Steering Group, this meeting was postponed. A revised date is being sought for January 2019 and any update will be provided verbally at the meeting.

8.4.2 Ashwell Parish Council consulted on a draft Neighbourhood Plan between September and October 2018. As previously reported, this is the first neighbourhood plan in the District which considers the possibility of allocating sites for housing development. A response to the consultation was prepared by officers and is attached as Appendix D to this report. This recognises the work undertaken to date but highlights a number of issues to be addressed to ensure the Plan meets relevant tests going forward.

8.5 Government Announcements

8.5.1 As set out in the background to this report, the Government issued its response to the consultation on the future of developer contributions alongside the Budget. This informs the decision on developer contributions set out in Section 8.1 of this report.

8.5.2 Further consultations on changes to planning guidance and further planning reforms were issued in October 2018, running to December 2018 and January 2019 respectively. Officers are reviewing the consultations to determine the implications for the District. Any responses will be prepared under delegated powers and reported to a future meeting.

- 8.5.3 The results of a new 'Housing Delivery Test', as set out in the National Planning Policy Framework, were due to be released by the end of November 2018. This is a further measure aimed at boosting housing supply. At the time of writing, the results have not been published.
- 8.5.4 A consultation seeking views on the principle of whether certain fracking activities should be granted planning permission through a permitted development right was held between July and October 2018. A response was prepared and approved under delegated powers and is attached as Appendix E to this report.
- 8.5.5 Following the resolution passed by Full Council on 12 February 2015 which required officers to explore the potential for a new settlement in the area to address long term housing needs. Members will remember that officers have been successful in securing two grants to progress this work, the latest grant (£250k) was under the Planning Delivery Fund, the bid led by NHDC was on behalf of Stevenage, Welwyn Hatfield and East Herts Councils. Work on the project streams is underway and the outcomes will be reported through future Strategic Planning reports.
- 8.5.6 A further bid (£525k) was submitted in early November 2018 under the latest Garden Communities Prospectus, led again by NHDC on behalf of Stevenage, Welwyn Hatfield, East Herts and Broxbourne Councils. This seeks funding to continue the work on a future new settlement into 2019/20. Whilst the prospectus was seeking applications regarding specific sites rather than capacity funding, it was felt important to submit an application to keep officers of Homes England and the Ministry of Homes, Communities and Local Government as well as Ministers aware of our aspirations.

8.6 London Luton Airport

- 8.6.1 London Luton Airport Limited (LLAL) are continuing to work towards a submission to the Planning Inspectorate of a Development Consent Order (DCO) for the proposed expansion of the airport.
- 8.6.2 Members will be aware that a response was submitted to the non-statutory consultation on the four airport options. It is anticipated that feedback from the consultation will be made available early in the new year and the preferred option identified.
- 8.6.3 Officers are meeting regularly with the LLAL together with the other affected authorities. Work is on-going in seeking to secure a Planning Performance Agreement (PPA) so that costs associated with the Council's representations on the scheme can be reimbursed in total or part.
- 8.6.4 Current timescales offered by LLAL indicate a statutory consultation on the preferred option will occur in the last quarter of 2019 with a DCO submitted at the end of quarter 2 in 2020.

8.7 Other transport and infrastructure matters

- 8.7.1 **A505 Transport Corridor Joint Study** - North Hertfordshire is working together with Luton, Central Bedfordshire and Hertfordshire County Council in commissioning a study to investigate and understand the transport infrastructure implications of the significant planned and future housing and economic growth within Bedfordshire and Hertfordshire and in particular along the A505 corridor. The study area runs broadly from Leighton Buzzard in the west to Royston / A10 in the in the east.
- 8.7.2 This is a joint funded project by all four authorities. North Hertfordshire's contribution is to be funded from an earmarked reserve in approved revenue budgets established following the over-achievement of planning income.
- 8.7.3 A Steering Group comprising senior officers and executive members from each authority and an officer working group has been set up to oversee the project. AECOM have been appointed to undertake the study. The study will be split into various stages and will take a year to complete. The first stage of the project is near completion, which includes agreement by the Steering Group on the objectives and expected outcomes of the study, scope of the work, timescales and governance arrangements. It is anticipated that this first stage will be signed off in late December. Updates on the next stages of the project will be reported to future meetings of Cabinet.

9. LEGAL IMPLICATIONS

- 9.1 Under the Terms of Reference for Cabinet Paragraph 5.6.18 of the Constitution states that the Cabinet may exercise the Council's functions as Local Planning Authority and receive reports on: 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 plans, up to and including the approval of the proposed submission documents are Cabinet matters. Submission of the draft Local Plan to the Secretary of State for Examination and final adoption of Local Plan documents shall be a matter for Full Council.
- 9.3 Section 110 of the Localism Act 2011 sets out (by amendment to the Planning & Compulsory Purchase Act 2004) the duty to co-operate between local planning authorities and other prescribed bodies, to maximise the effectiveness in the preparation of development plan and other local development plan documents, so far as they relate to a strategic nature. These bodies should consider if they are able to work together jointly on such matters and must have due regard to any guidance given by the Secretary of State.
- 9.4 The Localism Act 2011 provided a new statutory regime for neighbourhood planning. The Neighbourhood Planning (General) Regulations 2012 (as amended) make provisions in relation to that new regime. It does amongst other things set out the Council's responsibility (as the Local Planning Authority) in assisting communities in the preparation of neighbourhood development areas, plans and order and to take plans through a process of examination and referendum.

- 9.5 The provisions for planning obligations are set out under Section 106 of the Town and Country Planning Act 1990 (as amended).

10. FINANCIAL IMPLICATIONS

- 10.1 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. The Quarter 2 monitor (on the agenda at this meeting) shows forecast spend of £306k in 2018/19, an overspend of £115k against the working budget.
- 10.2 The general costs of preparing Supplementary Planning Documents and responding to consultations on neighbouring authorities' Plans, neighbourhood plans and Government consultations are met through existing revenue budgets. Any specific costs in relation to the production of a draft Planning Obligations SPD can be met through an existing revenue budget for CIL/Planning Obligations. A financial risk has been included for 2018/19 for any further work on Neighbourhood Planning that is not covered by the current reserve or future grants.
- 10.3 The earmarked reserve referred to in 8.7.2 resulted from achieving more planning application income than budgeted in 2017/18, as reported to Cabinet in January 2018. The reserve will be used to fund the LLAL DCO application response should a PPA not be forthcoming, as well as for response to other plans/policies etc. that will affect the District such as the A505 study. The current balance on the reserve is £465k.

11. RISK IMPLICATIONS

- 11.1 No direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Cabinet Top Risks. 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 As the recommendations made in this report do not constitute a public service contract, the measurement of ‘social value’ as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

14. HUMAN RESOURCE IMPLICATIONS

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

15. APPENDICES

- 15.1 Appendix A – Memorandum of Understanding with Central Bedfordshire Council.
- 15.2 Appendix B – Stevenage Borough Council Community Infrastructure Levy consultation response
- 15.3 Appendix C – St Albans Local Plan response
- 15.4 Appendix D – Ashwell Neighbourhood Plan response
- 15.5 Appendix E – Permitted Development for Shale Gas Exploration consultation response

16. CONTACT OFFICERS

- 16.1 Ian Fullstone, Service Director of Regulatory
01462 474480 ian.fullstone@north-herts.gov.uk

Contributors

- 16.2 Nigel Smith, Strategic Planning Manager
01462 474847 nigel.smith@north-herts.gov.uk
- 16.3 Louise Symes, Strategic Transport & Infrastructure Manager
01462 474359 louise.symes@north-herts.gov.uk
- 16.4 Laura Allen, Senior Planning Officer
01462 474826 laura.allen@north-herts.gov.uk
- 16.5 Clare Skeels, Senior Planning Officer
01462 474424 clare.skeels@north-herts.gov.uk
- 16.6 Jamie Alderson, Graduate Planning Officer
01462 474366 jamie.alderson@north-herts.gov.uk
- 16.7 Nurainatta Katevu, Property & Planning Lawyer
01462 474364 nurainatta.katevu@north-herts.gov.uk

16.8 Ian Couper, Service Director of Resources
01462 474243 ian.couper@north-herts.gov.uk

16.9 Kerry Shorrocks, Corporate Human Resources Manager
01462 474224 kerry.shorrocks@north-herts.gov.uk

17. BACKGROUND PAPERS

17.1 Reports to Cabinet on [Community Infrastructure Levy](#) (30 July 2013), [Strategic Planning Matters](#) (22 November 2016) and [North Hertfordshire Planning Guidance](#) (25 July 2017)