

Cabinet Housing and Planning Panel  
16 March 2017

WELWYN HATFIELD COUNCIL

\* Reporting to Cabinet

Minutes of a meeting of the CABINET Housing and Planning Panel held on Thursday 16 March 2017 at 7.30pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors S.Boulton (Chairman)  
M.Perkins (Vice-Chairman)  
  
D.Bell, D.Bennett, H.Bromley, N.Chapman, M.Cowan,  
G.Hayes, M.Holloway and M.Larkins (substituting for  
P.Shah)

ALSO PRESENT: Councillors J.Beckerman, J.Cragg, J.Dean, B.Fitzsimon, H.Quenet,  
K.Thorpe, P.Zukowskyj

OFFICIALS PRESENT: Executive Director (Public Protection, Planning and Governance) (N.Long)  
Head of Planning (C.Haigh)  
Planning Policy and Implementation Manager (S.Tiley)  
Principal Planner (S.Chivers)  
Principal Planner (C.Hyland)  
Planning and Monitoring Officer (R.Webster)  
Governance Services Manager (G.R.Seal)  
Senior Communications Officer (L.Bertram)  
Governance Services Officer (M.Lowe)

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84. SUBSTITUTIONS OF MEMBERS

The following substitution of a Panel Member had been made in accordance with Council Procedure Rules 19-22.

Councillor M.Larkins for P.Shah.

85. APOLOGY

An apology for absence was received from Councillor P.Shah.

86. MINUTES

The Minutes of the meeting held on 9 February 2017 were approved as a correct record and signed by the Chairman.

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87. DECLARATIONS OF INTEREST BY MEMBERS

Councillor M Cowan declared a non-pecuniary interest in items on the Agenda as appropriate by virtue of being a Member of Hertfordshire County Council.

Councillor S.Boulton declared a non-pecuniary interest in items on the Agenda as appropriate by virtue of being a member of North Mymms Parish Council and a property consultant with BNP Paribas Real Estate.

88. PUBLIC QUESTION TIME AND PETITIONS

Notice of four questions and one petition had been received as follows:

88.1. Question and Petition from J.Lowes - Gypsy and Traveller Site on Panshanger

The question that I am asking on behalf of Panshanger Residents is:

“Will those voting tonight take into account the views of Residents who have concerns about the proposed application for a Gypsy and Traveller Site on Panshanger?”

I would like to submit our petition to the Council – which although only started on Friday last week – has already collected around 300 signatures registering concerns at the proposal to locate a site adjacent to Hillyfield, Panshanger.

Our concerns are that this is an inappropriate location for such a site which would be near to neighbouring residential properties and the local school.

We would like you to consider the issues relating to access to this site. There will be an increase in the traffic flow which will include commercial vehicles, plant, and machinery. The carrying of refuse, the burning of rubbish and large animals kept within a housing estate is inappropriate.

Another concern is that this site can only be achieved by the removal of hedgerows. Hedgerows are important to biodiversity and also provide an important foraging habitat for protected species.

We also have concerns regarding the relationship of the proposed site to the surrounding community, there will be no improvement to community cohesion because the Gypsies and Travellers have no affinity to Panshanger.

On the 'Welwyn Hatfield Needs Assessment document 2016' - Paragraph 8.6:  
"19 Traveller households on the waiting list responded that a pitch on Holwell was their first choice".

So, Gypsy and Traveller needs are not being taken into account either.

Most concerning is that very few people on Panshanger are aware of this proposal. The Consultation has closed without residents being aware that a Gypsy and Traveller site was being proposed. “

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Answer by the Chairman

“In order for the Plan to be found sound, provision needs to be made to house all our community.

Gypsy and Traveller provision on this site has been subject to consultation on three previous occasions:

- Firstly, in the Emerging Core Strategy 2012, draft policy CS15 set out a requirement for 15 pitches.

Representations to the draft policy were received from the local community.

- Subsequently, in 2013, the Council carried out a 'Call for Sites, and a number of sites were promoted for Gypsy and Traveller development (including land that forms part of this site). All the sites promoted were assessed for their suitability, availability and deliverability, and the report has been available on the Council's website since 2014.

- Secondly, the Local Plan Consultation in 2015 highlighted that Gypsy and Traveller pitch provision would form part of the delivery on this site. Representations to the draft policy were received from the local community.

- Thirdly, in the Draft Local Plan Proposed Submission 2016, the reduced requirement for 6 pitches (for 6 households) was set out in Table 6 and in Policy SP18.

Consultation Statements set out how comments received at each stage of plan preparation have been taken into account.

The waiting list for a pitch on the Holwell site (or any of the other public sites in Hertfordshire) cannot be met unless additional site provision is made. The waiting list also forms only part of the assessed need.

Like any residential development Gypsy and Traveller pitches need to be located close to services and facilities such as schools.

If provision is not made at the Strategic Development Sites, on a proportionate basis to the scale of the overall development, then there will be a significant shortfall in provision and the plan would be likely to be found unsound. There are no other suitable alternative sites.

The exact position of the 6 pitches has not yet been determined. This will be explored as part of the master planning process.”

88.2. Question from A.Perkins - Local Plan

“Section 20 of the Planning and Compulsory Purchase Act 2004 requires that a Local Planning Authority must not submit a Local Plan for Examination unless it is ready for independent examination. To be ready, the Local Plan must be

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compliant with the requirements of the Planning and Compulsory Purchase Act and Regulations and, most importantly, it must be "sound".

To knowingly submit a Local Plan which is not sound would be unlawful.

Taken as a whole, the NPPF sets out the meaning of sustainable development in both plan making and decision taking. The test of soundness is explained in the overarching paragraph 182. This is not a menu to pick and choose, it must be:

Positively Prepared Justified  
Effective  
Consistent with National Policy

This Council is fully aware that the proposed submission Local Plan does not meet any of these four tests.

The following is a list of some, but not all, reasons why the Local Plan is not sound:

1. The Council is not meeting or even seeking to meet its objectively assessed housing need, as required by paragraphs 14 and 47 of the NPPF. This is admitted by the Council at paragraph 4.10 of today's Submission Local Plan Report.
2. The Council does not have a five year housing supply as required by paragraph 47 of the NPPF.
3. The Council does not have any flexibility in its housing supply, as required by paragraph 14 of the NPPF.
4. The Council is failing to identify specific deliverable sites to meet its housing requirement as required by paragraph 47 of NPPF.
5. The Council is rejecting sites which it has found to be suitable, available and achievable in highly sustainable locations, for what appear to be political rather than planning reasons.
6. The Council's housing trajectory is delaying the delivery of housing to the back end of its plan period, including sites which are not developable sites as defined in footnote 12 to paragraph 47 of NPPF. This includes HAT1 (SDS5) and Symondshyde (SDS6), both of which should be removed from the Local Plan until the Council can provide evidence of suitability and deliverability.
7. The Council is seeking to use a perceived lack of primary school capacity in the large excluded villages as a reason not to allocate sites which it has found suitable, available and achievable, in the most sustainable locations in the borough. However, this Council is now fully aware that its assessment of primary school capacity, based on a generic county wide

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pupil yield is wrong. The Council is required by paragraph 182 of the NPPF to positively and objectively assess its infrastructure needs and by paragraph 158 to base its Local Plan on the most adequate, up-to-date and relevant evidence. It is presently refusing to do so.

8. The Council's most senior and influential members appear to have controlled the preparation of this Local Plan at every stage, with the central objective not to develop any significant new housing in Brookmans Park, whilst caring little for the rest of the borough, as witnessed by the allocation of sites at Panshanger and Symondshyde, which are comparatively or totally unsuitable, particularly when compared to the highly sustainable large villages to the south of the borough.

The Good Councillor's Guide (Code of Conduct) says in Section 5:

"You should act objectively, impartially, fairly, on merit and represent the whole community, not just those in your own ward".

9. The Council is now suggesting an "early review" of the Local Plan. This is not to satisfy the government's requirement to keep the plan up to date, but because the Council is aware that its submission Local Plan is not sound.
10. The Procedural Practice in the Examination of Local Plans explains the pre-submission requirements for a Local Plan in Section 1. It says:
  - 1.1 LPAs should rigorously assess the plan before it is published to ensure that it is a plan which they think is sound. The plan should focus relentlessly on the critical issues and the strategies to address them, paying careful attention to deliverability and viability. This approach may raise uncomfortable questions but the whole point of the plan is to address critical issues as far as possible.and
  - 1.2 The Planning and Compulsory Purchase Act 2004 specifically provides that a LPA must not submit the plan unless it considers the document is ready for examination.and
  - 1.3 LPA's are urged to complete a rigorous and objective assessment of their plan in order to satisfy themselves of the legal requirement in Section 20 (2) of the 2004 Planning and Compulsory Purchase Act.
11. This Council has been formally and regularly notified of important decisions in respect of Local Plans which have been found unsound. These include Planning Inspector Reports, High Court Judgments and Court of Appeal Judgments, all of which this Council is choosing to ignore.

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The correct procedure is to prepare an addendum to repair the errors and omissions in the Local Plan, which would then require public consultation. Whilst this might take the Council 8 to 10 weeks, it would be far more efficient than submitting a Local Plan which is not sound.

So the Councillors and the planning officers are fully aware that this Local Plan is not sound and it is not ready for submission.

To submit the Local Plan for examination in its present condition will not comply with the statutory requirements of the Planning and Compulsory Purchase Act 2004. As such the submission of this Local Plan will be unlawful and will expose the Council to the risk of legal challenge and costs.

In the light of the information I have conveyed to the CHPP, would the elected members here today please confirm to the community that they will personally pay the additional costs that might be incurred by this Council if it decides today to submit a Local Plan for Examination, which it knows or should know is unlawful?"

Answer by the Chairman

"The Officer report considers each of the tests of soundness in turn and considers that the Local Plan is capable of being found sound in its current form. This is a matter that Members are being asked to consider tonight. And ultimately this is a question which will be addressed by the Inspector.

The Audit Commission Act 1998 surcharge, which was the mechanism by which councillors could once be surcharged to recover public money, was repealed by Section 90 of the Local Government Act 2000.

88.3. Question from W.Davis - Local Plan

"The Local Plan is now almost three years behind schedule according to the Council's own timeline set out in 2012. The Council's own figures show just under 3.5 thousand responses were submitted the 2012 consultation on the subject. The 2015 consultation later yielded almost 5.5 thousand responses. But, you now state that the 2016 consultation attracted only 2,191 responses to the draft Local Plan, well under half the number for 2015. The figures speak for themselves, clearly not enough has been done to engage local residents in this process, as I've been saying for some years now. You also state there were only 1,245 individuals and groups submitting all those responses in 2016. This represents barely one percent of the Borough's population. Does such a paltry figure demonstrate community involvement in the process?"

Personally I don't think so. Your new appendices documents are also telling. In them you address every set of objections raised by that one per cent. Your written response to each objection ends with just two words: No Change. I counted 'No Change' repeated 811 times throughout the appendices, by

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comparison I saw not a single instance of 'will change' or 'change'. How can this be remotely described as listening to local communities? You achieve a very poor one per cent response rate, you then you go on to dismiss practically every one of those responses.

I would really like to hear how you justify all of this? No doubt you will vote tonight to carry on regardless, and agree to submit this flawed Local Plan to the Independent Inspector anyway. On the grounds that it's so overdue now, that you have to submit something, with collective fingers crossed. Is there anything you can say to stop me feeling that most of the borough's residents have been short-changed all along in this process? Ultimately it's us who will pay the price for this plan, long after most of the decision makers here have moved on or retired."

**(Note:** The Chairman stated that the fifteen minutes available for questions from the public had expired).

The written answer to question 3 and question 4 and the written answer are set out at the end of these Minutes.

It was subsequently agreed in the discussion of Agenda item 7 – Submission Local Plan that these two questions would be forwarded onto the Council meeting on 10 April 2017.

## 89. SUBMISSION LOCAL PLAN

Report of the Executive Director (Public Protection, Planning and Governance) and presentation by the Head of Planning on the consultation on the Draft Local Plan Proposed Submission Document, Policies Map, Sustainability Appraisal, Habitats Regulations Assessment and Draft Infrastructure Delivery Plan which took place between 30 August and 24 October 2016.

### 89.1. Introduction

Over 3,000 representations were received to the consultation documents with the main issues arising from the responses relating to the tests of soundness and whether the Plan had been prepared in accordance with the legal requirements.

A summary of all the representations received and proposed responses to the issues raised was provided, together with a schedule of minor modifications that Officers proposed should be made to the Plan in the light of consultation representations. Minor modifications were changes to typographical or grammatical errors, changes to improve clarity or changes to update facts. No main modifications that would amend the content or intent of the Plan were proposed.

The UK has a plan-led planning system and the Council has a duty to prepare a Local Plan. The draft Local Plan covers the period 2013-2032, contains a

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strategic vision, site allocations, and development management policies and is accompanied by a Policies Map showing allocations and designations.

It is supported by a Sustainability Appraisal and Infrastructure Delivery Plan and once adopted, planning applications must be determined in accordance with Local Plan policies, unless material considerations indicated otherwise.

#### 89.2. Legal Tests

The Local Plan must pass the following legal tests in order to proceed to examination:-

- prepared in accordance with the Local Development Scheme;
- prepared in accordance with the Statement of Community Involvement;
- prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012;
- that a Sustainability Appraisal and Habitats Regulations Assessment has been carried out of the proposals of the Plan;
- is in compliance with the Duty to Co-operate

#### 89.3. Soundness Tests

The Inspector would then consider whether the plan was sound based on:-

- Positively prepared – sought to meet objectively assessed needs
- Justified – most appropriate strategy against reasonable alternatives
- Effective – deliverable and based on effective joint Duty to Co-operate working
- Consistent with the National Planning Policy Framework – enabling delivery of sustainable development

#### 89.4. Proposed Submission Consultation

The majority of representations considered that the Plan met the legal tests. Some considered that the Plan had failed the duty to co-operate test, but of these only St Albans City and District Council was a duty to co-operate body and was willing to work with this Council to resolve its concerns.

Some considered that newly added sites were not properly consulted on and some considered that appraisals/assessments had not been properly prepared, but none of these were statutory consultees. The majority of representations considered that the Plan was unsound and proposed that changes be made and it was impossible to respond positively to every representation:-

- Housing target was too high
- Housing target was too low
- Use brownfield land – protect the green belt
- Sites should be removed



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- Sites should be added
- Too much reliance on strategic sites
- Towns were taking too much – more to the villages
- Villages were taking too much – more to the towns
- Further evidence for sites including Woolmer Green, Welwyn, Stanborough, HAT2, Wenham Green and Brookman's Park

89.5. New Evidence

The Draft Plan selected a 12,000 housing target, whereas objective need at that time was 12,600 - 13,400 homes to 2032 and the updated Strategic Housing Market Assessment which used 2014 household projections (published in 2016) indicated that objective need was now over 15,000 homes to 2032.

It remained the case, however, that significant infrastructure and green belt issues stood in the way of building more than 12,000 homes at this point.

There was an updated Economy Study and Herts Water Study which indicated there were no major problems to the early 2030s.

89.6. Infrastructure Issues

Hertfordshire County Council Highways observed that mitigation of schemes would relieve congestion as a result of development, but highlighted that longer-term solutions were needed for key junctions on the A1 (M) and A414.

Primary and secondary school provision was a key reason for not being able to select some sites or meet objective housing need and the Officer report indicated that some site promoters had done further work to seek to address primary school and highways issues. It also advised that the County Council's position on the need for school places had been challenged by evidence submitted for Brookman's Park.

Hertfordshire County Council Education advised that further development would necessitate the need for extra secondary school provision, either by providing a ten form of entry school on HAT1 or identifying a location for a third secondary school which had not yet been done.

89.7. Before Submission

The Council had the option to make changes before submission:-

- Minor modifications which did not alter the intent of the Plan i.e. spelling or grammatical mistakes, factual errors, points of clarification, etc.
- Main modifications such as removing existing sites, adding new sites, changing green belt boundaries, changing housing/jobs targets etc. , but these would need to be re-appraised and re-consulted on which would take at least six months

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89.8. Development Strategy

The Local Plan as currently drafted seeks to

- Maximise opportunities on brownfield sites in towns and villages
- Release of green belt to help meet development needs
- Urban extensions capable of providing infrastructure and facilities
- More limited growth in and around villages to protect character and identity
- Reinforce the unique garden city heritage of Welwyn Garden City
- Pioneering and entrepreneurial spirit to renew Hatfield
- Protect urban open land within towns and villages
- Green corridor between WGC and Hatfield to link various green spaces
- Protect land retained as green belt
- Deliver supporting infrastructure, transport and services/facilities

Provide 12,000 homes (498 per year 2013-2022 then 752 per year 2023-2032).

Existing and new employment land sufficient for 16,900 jobs and 12,500 sum new retail floor space to 2026 Strategic sites:-

- Broad water Road West (850)
- HAT1 Stanboroughbury (1,650)
- Symondshyde (1,130)
- Panshanger Aerodrome (650)
- Birchall Garden Suburb (1,200) + 1,350 in East Herts
- Marshmoor business park

89.9. Risks

Housing White Paper:-

- reinforces importance that Councils should have an up-to-date Local Plan
- expects local authorities to meet their housing needs
- proposes standardised methodology for calculating housing need using sub national household projections
- proposes housing delivery test to hold local authorities accountable for housing delivery, with actions and consequences if targets not achieved
- states that local plans should be reviewed at least every five years
  
- Failure to pass duty to co-operate test
- Failure to pass soundness tests
- Lack of up-to-date plan means Borough would not have five year land supply
- Risk of rogue planning applications being won on appeal
- Risk that development will take place without supporting infrastructure
- Risk that some enforcement actions will be unsuccessful, as lack of provision

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- Inspector may consider it necessary to propose main modifications, that will need to be consulted upon and re-appraised before plan can be adopted
- Recent experience indicates that most authorities are instructed to make some main modifications following their examination

89.10. Timetable 2017

Cabinet Housing and Planning Panel	16 March
Cabinet	4 April
Council	10 April
Submission	Early May

Once the Local Plan was submitted to the Secretary of State, it would be a matter for the Planning Inspectorate to establish a timetable for Examination and reporting

Public Examination	Summer/Autumn 2017
Inspector's Report	Late 2017

Adoption	Early 2018
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89.11. Consideration by the Panel

Discussion by Members and points raised:-

This was entirely the wrong strategy of urban expansions. Should provision have been made for a new development not in the Green Belt in a new settlement outside the Borough.

The Stanborough Road/Gosling site proposed 250 homes at the site of the fourth highest rush hour congestion in the whole County.

The proposals for Panshanger represented classic sprawl.

Birchall Garden Suburb was the site of uncontrolled dumping of waste and there was noxious waste on the site.

It was unacceptable that there was not enough infrastructure and this needed to be looked at again.

There was concern at the sites in Hatfield, but this was the least bad position and a Plan had to be submitted. This was a good as could be achieved for housing and if the Plan was not submitted the Council would lose control of the process.

Proposed gypsy and traveller sites in large scale residential development was far from ideal and care would have to be exercised to integrate these elements in strategic sites.

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There was not enough secondary school provision in the Plan and this needed clarification by Hertfordshire County Council. There would be pressure on places at Applecroft School.

The Symondshyde consultation was developer led and the Council should not be relying on this. Symondshyde would be a new village in the middle of nowhere. The site should be moved and replaced with another site.

It had been agreed to allow for the re-provision of a new runway even though that would entail it being moved.

Northaw and Cuffley had independently commissioned their own highways consultation because of concerns and the Council should explore putting forward its own highways assessment.

Northaw and Cuffley's transport assessment was reviewed by Hertfordshire County Council against its own modelling and other transport assessments carried out for the Cuffley area. Some of the assumptions made in the Northaw and Cuffley assessment were found to be not realistic and therefore it was not considered to be robust so no changes were made to the quantum of development as the proposal felt comfortable.

The Council had to look at fulfilling the housing need and how it could work towards infrastructure being delivered.

The Head of Planning stated that Section 106 obligations, the Community Infrastructure Levy on developers where viable to do so and working with statutory bodies to secure third party investment would all raise funds for infrastructure.

The Head of Planning clarified that the Estate Management Scheme was not a planning mechanism. It was a separate process and not appropriate to the Local Plan.

The problem of viability of bus services and traffic congestion needed to be addressed and this element was not sound.

There would be an opportunity for a process of review after approving the Local Plan for submission.

The Council had to be satisfied that the Plan met objective needs and would satisfy the Inspector.

There had been no attempt to increase the provision of social/affordable housing. There was no intention to have a reduced level of affordable housing, but different levels were proposed depending on the site.

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In response to queries, about the delegation of authority, it was clarified that reports would be made back to the Panel, but that as part of the process delegation was needed for minor amendments only, not changes to the Plan and for decisions that would need to be made during the Public Examination. Any main modifications required to be made by the Inspector would be brought back to the Council for review

89.12. Statement from Councillor M.Perkins, Executive Member (Planning, Housing and Community) and Points Raised

The Council had taken its responsibility to plan for the future of the Borough very seriously and this Plan was the culmination of many years of hard work.

An exhaustive evidence base, on housing, the economy, infrastructure, the built and natural environment had been commissioned and updated to ensure that decisions were based on objective knowledge and facts.

Many rounds of public consultation, exhibitions, drop-in events and public meetings had been hosted to ensure that residents, businesses, community groups, town and parish councils, landowners and statutory bodies were fully aware of the issues and options and the preferred options selected with the Planning Policy team being available to answer questions throughout the process. Everyone who had made representations helped the Council to understand the views of the community.

Numerous appraisals and assessments had been carried out to ensure that the preferred options and policies were sustainable to make the best contribution to the social, economic and environmental well-being of communities.

The Council had worked closely with partners such as Hertfordshire County Council to model the impact of development options on the highway network and to ensure that sufficient school places would be made available for the growing population.

The Council had sought to work productively with adjoining authorities and other bodies to consider and resolve cross-boundary issues. This had been particularly challenging given that the issues faced by this Borough were remarkably similar to those faced by all those areas that surrounded it, North Herts, Stevenage, East Herts, Broxbourne, Enfield, Hertsmere and St Albans. All of these authorities had growth pressure, but were constrained by the same green belt and infrastructure limitations as Welwyn Hatfield.

In many cases the Plan had been amended in the light of consultation responses.

The Council had sought to distribute growth as proportionately as possible to towns and villages throughout the Borough, to ensure that all took their fair share.

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The Council was asked to consider a new settlement, as opposed to extending existing settlements and had selected the site at Symondshyde for 1,130 new homes.

Just prior to consultation on the draft Plan the boundary of the Panshanger housing site was amended to create scope for a new runway to be provided.

Policies to help renew Hatfield as a pioneering and entrepreneurial New Town and policies to protect and enhance the garden city characteristics of Welwyn Garden City, together with policies to protect the character and identify of villages and rural areas were included.

The Council had worked hard to ensure that new development had to pay its way to mitigate its impact and provide new services and facilities, through Section 106 contributions and through the Community Infrastructure Levy once a charging schedule was in place.

Unfortunately it was not possible to satisfy all of the 3,000 plus representations received to the draft plan. Some say the housing target was too high and others say it was too low. Some want more homes to be built in the towns and others say more homes should be built in the villages. People were concerned about development in the green belt, but did not want to see town cramming taking place in existing settlements.

All of these views had been taken into account, in order to prepare a Plan which did its very best to balance all of these issues, whilst recognising that if it did not make as much provision as sustainably possible for new development it would be found unsound.

The Council was extremely aware of the very real and tangible risk that faced the Borough if it did not submit the Local Plan for public examination. The Government had made it clear in its recent Housing White Paper that the housing market was broken and that Councils should do everything they could to meet their local housing needs and would be penalised for not doing so.

There was a risk that rogue planning applications would be submitted for urban and green belt sites that had not been selected in the Plan. The lack of an up-to-date Local Plan would mean that either the Council had to grant them permission or refuse permission, but then expect them to be won on appeal and for associated costs to be awarded against the Council. This would mean that the community would lose the ability to plan for the Borough taking into account the needs and aspirations of residents.

The lack of an up-to-date Plan would also make it exceptionally difficult to plan for and fund the services, facilities and infrastructure that were needed to support development.

The Council would work with developers, especially on the six strategic sites, to ensure that their developments were built to the highest possible standard so

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that the resulting housing and communities were places where people wanted to live.

The Panel was asked therefore to support the recommendation to submit the Local Plan with only minor modifications and make the case at examination that the document be adopted in order that development could start on the allocated sites.

89.13. Amendment to Recommendations - Panshanger and Symondshyde

It was moved by Councillor M.Cowan and seconded by Councillor G.Hayes:-

“That the Panshanger and Symondshyde sites be removed from the Plan.”

On being put to the meeting the amendment was lost:-  
**– 4 voting FOR and 6 AGAINST.**

89.14. Amendment to Recommendations - Highways Assessment

It was moved by Councillor G.Hayes and seconded by Councillor M.Holloway:-

“That the Council carry out its own highways assessment in Northaw and Cuffley independently of Hertfordshire County Council and if the results do not coincide with it the County Council assessment be disregarded and the Council’s own assessments be carried out for this and other sites.”

On being put to the meeting the amendment was lost:-  
**– 3 voting FOR and 7 AGAINST.**

89.15. Recommendations

The recommendations in the Officer report were then put to the meeting and it was:-

**RESOLVED:**  
**(6 voting For and 4 Against)**

- (1) That the Panel agrees and recommends to the Cabinet and Council that the Local Plan, Policies Map and associated submission documents identified in paragraph 4.59 of the Executive Director (Public Protection, Planning and Governance) should be submitted with minor modifications as set out in the report, to the Secretary of State for public examination.
- (2) That the Panel agrees and recommends to the Cabinet that the Head of Planning in consultation with the Executive Director (Public Protection, Planning and Governance) and the Executive Member (Planning, Housing and Community), be given delegated powers to continue to agree Memorandums of Understanding and Statements

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of Common Ground with adjoining authorities and other duty to co-operate bodies as appropriate all the way up until submission in order to secure the best outcome for the public examination.

- (3) That the Panel agrees and recommends to the Cabinet and Council that the Head of Planning in consultation with the Executive Director (Public Protection, Planning and Governance) and the Executive Member (Planning, Housing and Community), be given delegated authority to add to, amend and/or delete items from the Schedule of Minor Modifications that may arise as a result of on-going meetings with adjoining authorities and other duty to co-operate bodies and to update the Infrastructure Delivery Plan, all the way up until the point of submission.
- (4) That the Panel agrees and recommends to the Cabinet that the Head of Planning, in consultation with the Executive Director (Public Protection, Planning and Governance) and the Executive Member (Planning, Housing and Community), be given delegated authority to prepare a Statement of Duty to Co-operate which explains the outcome of on-going duty to co-operate meetings with adjoining authorities and other duty to co-operate bodies, to be submitted to the Secretary of State alongside the Submission Local Plan.
- (5) That the Panel agrees and recommends to the Cabinet and Council that the Head of Planning and Planning Policy and Implementation Manager, in consultation with the Executive Director (Public Protection, Planning and Governance) and the Executive Member (Planning, Housing and Community) and with regular reporting back to this Panel, be authorised to advocate the Submission Local Plan at the public examination and seek to secure the best outcome for the Borough if the Inspector wishes to discuss possible changes, additions or deletions to the Plan.

90. COMMUNITY INFRASTRUCTURE LEVY (CIL) PRELIMINARY DRAFT CHARGING SCHEDULE CONSULTATION

Report of the Executive Director (Public Protection, Planning and Governance) and presentation by the Head of Planning explaining the locally set planning charge which local authorities could choose to implement to raise contributions from new housing and other development towards the delivery of supporting infrastructure.

In accordance with the Council's Local Development Scheme, which set out a work programme relating to the preparation of the Local Plan, a CIL Preliminary Draft Charging Schedule had been prepared for public consultation.

The Schedule was the first statutory stage of consultation required in respect of CIL. The consultation would set out the type of development which would be



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liable for the levy, the proposed charging rates and the types of infrastructure that the levy would contribute to.

90.1. What is Community Infrastructure Levy (CIL)?

The levy must strike an appropriate balance between the desirability of funding infrastructure and potential effects on the economic viability of development.

It is different from Section 106 planning and Section 278 highway obligations which exist to make individual developments acceptable in planning terms.

It can be used to fund strategic infrastructure items (i.e. road improvements) that were difficult to fund through multiple Section 106 contributions.

The Government has introduced restrictions to ensure that planning obligations and CIL could work together.

90.2. Justification for CIL

The Council must have evidence of the infrastructure funding gap.

The infrastructure Delivery Plan identified the total cost of required infrastructure to support the Local Plan as at least £310M.

The Council had identified that some £154M of infrastructure would be funded from Section 106 planning obligations.

There is therefore an infrastructure funding gap of some £156M to justify CIL.

90.3. CIL Rates

Rates are based on the general viability of development and the Council had commissioned evidence to show that the proposed rates for the Borough were viable.

A CIL Viability Study tested the ability of a range of types of development to yield CIL contribution, in combination with other policies such as affordable housing.

Assessment is based on a 'residual land valuation model' to calculate the gross value of development and the costs of development (build costs, professional fees, profit, etc) to establish what money was left to buy land.

A scheme is considered viable if there is sufficient value to purchase land and if any value is left after the land purchase, the Council could then reasonably apply and secure a CIL levy.

The viability of strategic sites is different because of the cost of infrastructure needed to make them acceptable in planning terms through Section 106.

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The ability of non-residential uses to viably contribute to CIL is limited and the only uses with evidence to have viability are supermarkets/superstores/retail warehousing, other retail development in Welwyn Garden City only and retirement/care homes

The Council must prepare an Infrastructure List (known as a Regulation 123 list) which indicated what it intended to spend CIL monies on.

The bodies that can request infrastructure schemes to be added to the list are:-

- Hertfordshire County Council Highways and Education
- NHS/Clinical Commissioning Groups
- Town and Parish Councils
- Community Groups
- Sports Clubs

#### 90.4. Risk of Not Having CIL

The Council could only seek Section 106 planning obligations from developments to make them acceptable in planning terms and Section 106 must be spent on specified infrastructure types/projects.

The Council could no longer use Section 106 to fund wider strategic infrastructure improvements i.e. A1(M), A414, green infrastructure as this could only be CIL which could be spent on whatever infrastructure the Council judged to be the greatest priority.

The recommended CIL rates would generate about £30M over the Plan period.

#### 90.5. Discussion by Members

Members expressed concern that comparative information had not been provided for other Districts in the County which appeared to be charging higher rates than those proposed for this Borough and it was important that rates were competitive.

It was noted that the Council had carried out research based on local viability and the Officers had spent time looking at this to ensure that the rates would not adversely affect viability.

It was agreed that comparative information would be reported back for information after the consultation on the Preliminary Draft Charging Schedule when it is reported back to the Panel.

The consultation would set out the type of development which would be liable for the levy, the proposed charging rates and the types of infrastructure that the levy would contribute to.

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90.6. Recommendation

Following discussion it was:-

RESOLVED:  
**(9 voting FOR with 1 Abstention)**

That the Panel recommends to the Cabinet that the Community Infrastructure Levy Preliminary Draft Charging Schedule and Initial Draft Regulation 123 List be agreed for six weeks of public consultation.

91. LOCAL DEVELOPMENT SCHEME (LDS)

LOCAL DEVELOPMENT SCHEME (LDS)

Report of the Executive Director (Public Protection, Planning and Governance) proposing a revised Local Development Scheme (LDS) timetable for the preparation of the Welwyn Hatfield Local Plan. The LDS was the Council's official timetable for the preparation and adoption of the Local Plan and other planning documents for the Borough.

The revised timetable reflected that it had taken longer than originally anticipated to analyse some 3,000 representations received to the Proposed Submission Local Plan consultation exercise.

RESOLVED:  
**(unanimous)**

That the Panel agrees and recommends to the Cabinet that the revised Local Development Scheme be adopted.

Meeting ended 9.45pm  
GS

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92. QUESTIONS

Question from W.Davis - Written Answer

“The Local Plan has over the course of its preparation been subject to a number of consultation events. Each of those consultations has demonstrated that there is a lack of consensus on what the plan should contain in particular with regard to the allocation of housing sites. The overriding requirement for the Local Plan is that it is sound. This means that it has to above all be justified by evidence, be effective in delivering a strategy, be consistent with national policy, and be ‘positively prepared’ and meet identified needs for development. Responses to each consultation have been carefully considered and changes have been made where possible as for example in response to the large numbers of people who wished to see a more even distribution of development around the borough.

Consultation on the Local Plan is not a referendum. Nevertheless it is worth noting that the number of respondents to the latest consultation has in fact increased from the number in 2015 (1,964 vs 1,603). This compares to around 320 respondents to St Albans’ 2015 Local Plan consultation, 2,472 respondents to the East Herts 2016 Local Plan consultation and 330 respondents to Broxbourne Borough Council’s 2016 Local Plan consultation.

Finally, it is not correct to say that no changes are proposed following the most recent consultation. The schedule of modifications (Appendix B) recommends 148 minor amendments to the Local Plan, many of which have been suggested by respondents to the consultation.”

Question from T. Darwall-Smith

“Currently, your Officers admit that no alternatives to Symondshyde village were assessed even though this is a legal requirement. Therefore, isn’t the only option open to the Council to delay the submission of the Local Plan to make it legally compliant by issuing main modifications that assess reasonable alternatives to the new Symondshyde village?”

Written Answer

“The legal requirement is for reasonable alternatives to be assessed. The Council has only received one proposal for a new village. As a result this is the only new village proposal that it has been possible to assess. However para 6.405 of the Sustainability Report considers that other sites around Welwyn Garden City, Hatfield and the villages could be reasonable alternatives to a new village. These sites have all been appraised. It is therefore considered that the legal requirement has been met.”