

WELWYN HATFIELD BOROUGH COUNCIL
CABINET HOUSING AND PLANNING PANEL – 16 MARCH 2017
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING AND
GOVERNANCE)

SUBMISSION LOCAL PLAN

1 Executive Summary

- 1.1 Consultation on the Draft Local Plan Proposed Submission document, Policies Map, Sustainability Appraisal, Habitats Regulations Assessment and Draft Infrastructure Delivery Plan took place between 30 August and 24 October 2016.
- 1.2 Over 3,000 representations were received to the consultation documents and all of these are available to view at <http://consult.welhat.gov.uk/portal>.
- 1.3 The main issues arising from the responses relate to the tests of soundness and whether the Plan has been prepared in accordance with the legal requirements.
- 1.4 Appendix A contains a summary of all the representations received and a proposed response to the issues raised.
- 1.5 Appendix B sets out a schedule of minor modifications that officers propose should be made to the Plan in light of consultation representations. Minor modifications are 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 are proposed.

2 Recommendations

- 2.1 That the Panel recommends to Cabinet and Council that the Local Plan, Policies Map and associated submission documents identified in paragraph 4.59 should be submitted with minor modifications as set out in this report, to the Secretary of State for public examination.
- 2.2 That the Panel recommends to 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 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.
- 2.3 That the Panel recommends to 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, all the way up until the point of submission.

- 2.4 That the Panel recommends to 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.
- 2.5 That the Panel recommends to 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.

3 Background

- 3.1 The Local Plan has now reached an advanced stage in its preparation. Its preparation is subject to a legal framework which is set out in relevant Acts and Regulations and interpreted through case law. This is supplemented by national planning policies and guidance.
- 3.2 The preparation of the Plan has been subject several rounds of consultation and is supported by an extensive evidence base which has been put together over a number of years.
- 3.3 Whilst previous rounds of consultation have related to options the last round of consultation set out the Council's Draft Plan and consulted on its soundness and whether it had been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended. The results of the latest consultation are set out in Appendix A to this report.
- 3.4 Preceding this latest consultation there have been a number of consultation events from workshops for targeted groups to wider consultation events open to all. Statements of consultation have been produced for these events which summarise the issues raised and the Council's response.
- 3.5 Pre-Issues and Options consultation – This took place throughout 2007 and 2008 which identified the key issues the Core Strategy needs to address and the options for addressing those. In addition the Council also consulted on the implications of other key strategies and the scope of the Sustainability Appraisal. The responses informed the Issues and Options consultation document.
- 3.6 Issues and Options consultation – The consultation was undertaken in 2009 in order to establish what the main social, economic and environmental issues facing the borough were and then to identify the reasonable options to help tackle those issues. This included different distribution options and density assumption. Specific

consultation took place with the Gypsy and Traveller community on the Issues and Options relating to Gypsy and Traveller pitch provision and the criteria used for selecting sites. In response to this consultation, the Council received over 6,700 comments. The issues raised in response to consultation at this stage were first reported to this panel in October 2010. This document was subject to Sustainability Appraisal.

- 3.7 Neighbourhood Workshops – Following the introduction of the Localism agenda a series of workshops were held with community representatives. Objectives for different settlements in the borough were identified and reflected in the Emerging Core Strategy.
- 3.8 How Many New Homes? – Housing Targets consultation – Following the successful legal challenge to Welwyn Hatfield’s regionally set housing targets and the coalition government’s announcement to abolish regional spatial strategies, the Council carried out consultation on a range of alternative housing targets in 2011. There were five alternative targets. All but one target would require land to be released from the Green Belt, each of these targets was accompanied by a Sustainability Appraisal.
- 3.9 Emerging Core Strategy, Land for Housing Outside Urban Areas 2012 and Draft Infrastructure Delivery Plan – The strategy for focusing growth in and around Welwyn Garden City and Hatfield with limited infill development in village was put forward by the Council as a preferred option. The Land for Housing Outside Urban Areas document considered the options for releasing land in the Green Belt around the two towns. The Emerging Core Strategy was informed by two housing background papers relating to the housing target and options for the distribution of growth. It identified a requirement for between 6,800 and 7,200 new dwellings between 2011 and 2029. This consultation in 2012 received over 3,000 comments. The responses were considered at a meeting of this Panel on 8 August 2013. The two consultation documents and the different distribution options set out in the Housing Background Paper were subject to a Sustainability Appraisal.
- 3.10 Local Plan consultation document 2015 – Following a decision by the Council to convert the Core Strategy into a single Local Plan and the publication of a new Local Development Scheme in 2014. The Council consulted on proposed change to the strategic policies, options for sites and the nature of development management policies it intended to include in the Local Plan. It was accompanied by a Draft Infrastructure Delivery Plan and Sustainability Appraisal and the three documents attracted around 5,900 representations. The responses were considered at a meeting of this Panel on 24 September 2015.
- 3.11 Notification of New Sites events – Following the submission of new sites in response to the 2015 Local Plan consultation the Council held two events in October and November 2015 to raise awareness that these sites were being reviewed in the HELAA as potential options for inclusion in the Plan. Although not a consultation, the Council did receive correspondence and a petition relating to some of the sites.
- 3.12 Draft Local Plan Proposed Submission 2016 and supporting documents – Members received a report to the last Panel advising of the numbers of responses to this last consultation and some of the emerging main issues relating to the Plans soundness and its preparation. The Local Plan was accompanied by a Policies Map, Draft

Infrastructure Delivery Plan, Sustainability Appraisal and Habitats Regulatory Assessment. The responses to the consultation on these documents are available to view on the Council's website <http://consult.welhat.gov.uk/portal>.

- 3.13 Evidence Base – Over the preceding years the Council has put together an extensive evidence base covering a range of topics on environmental, economic, social and infrastructure matters and has informed the levels of growth, infrastructure requirements and the approach to the selection of sites. One of the tests of soundness is that the Plan should be justified by the evidence and it has therefore shaped both the content and direction of the Plan. New evidence is discussed in section 4 below.
- 3.14 Strategic Housing Market Assessment and the Objective Assessment of Need – This evidence has needed to be constantly updated to take account of changing household and population projections and best practice. In 2010 a joint SHMA was produced with the London Arc West planning authorities in Hertfordshire. However in 2013 the Council took the decision to commission its own SHMA to update the evidence and identify an Objective Assessment of Housing Need which was published in 2014. This SHMA was subsequently updated in 2015 and 2016 and informed the Local Plan Consultation Document and the Draft Local Plan Proposed Submission document respectively. A further update to the SHMA has been commissioned to take account of the latest household projections and is discussed in section 4 below.
- 3.15 Evidence on the needs of the economy and the quantity and quality of the borough's employment land has been gathered. In 2009 this comprised a joint study with other Hertfordshire authorities, whereas the studies in 2014 and 2015 were commissioned by this authority. All these studies have concluded that the quality of employment land in the borough is good and should be retained whilst the 2015 Economy Study identified a need for additional employment land to be designated. An update to the 2015 study has been commissioned to take account of the latest forecasts and is discussed in section 4 below.
- 3.16 A new Retail Town Centres Needs Assessment was published in 2016 to update previous assessments and it is this assessment which has informed the levels of growth set out in the Plan. Sites to meet the identified need to 2026 have been allocated with provision to meet future need to be made as part of a review of the Plan following an update of the evidence.
- 3.17 The selection of sites has been informed by numerous studies. The suitability of sites on an individual basis was undertaken in the Housing and Employment Land Availability Assessment 2016. This identified the potential of sites for both housing, including Gypsy and Traveller pitches, and employment and assessed whether they were suitable, available and achievable. This study updated previous assessments as well as providing an assessment of new sites.
- 3.18 The cumulative issues associated with the distribution of sites were considered in the Housing and Employment Site Selection Background Papers and this led to some sites being dismissed because of their cumulative impacts.
- 3.19 Other studies have also informed the approach to the selection of sites and include the Green Belt Review Stages 1 and 2, the Strategic Flood Risk Assessment,

assessment of infrastructure capacity, Water Cycle Studies, the Sustainability Appraisal and strategic advantages associated with certain sites.

- 3.20 A number of responses to the latest consultation have made representations which relate to the assessment of sites in the HELAA and/or the Site Selection Background Papers and set out why their site should have been included in the Local Plan. These are considered in Appendix A.

4 Explanation

- 4.1 The Council has a duty to submit what it considers to be a sound plan. It is then a matter for the Inspector to consider whether or not the Plan has been prepared in accordance with the required legal and procedural processes, but it could also be a matter for legal challenge, which could be referred to the High Court following the examination.

- 4.2 The legal and procedural tests which will be considered at the examination are as follows:

- Has consultation taken place in accordance with the Statement of Community Involvement (SCI)
- Have the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended been met.
- Has a proper Sustainability Appraisal and Habitat Regulations Assessment been carried out
- Has the Duty to Co-operate been carried out
- Is the document identified in the Local Development Scheme and has the programme been met

- 4.3 It is considered that the Plan has been prepared in accordance with the requirements of the Statement of Community Involvement (SCI) and the Regulations. Section 3 above sets out the engagement that has taken place upon what the Plan should contain (Regulation 18) and the Draft Proposed Submission Plan (Regulation 19).

- 4.4 Appendix C to this report sets out the monitoring of the consultation to indicate how representative it is of the borough's population. It judges that some groups remain hard-to-reach, as the average respondent was disproportionately likely to be older, white, and British. Given that respondents to the consultation have on average been even older than for previous consultations, the lack of responses from age groups who the Plan would ultimately benefit through increased housing supply is of some concern. However, given that measures set out in the SCI to increase engagement (holding consultation events, producing user-friendly summaries of the proposals, publicising the proposals through a variety of media including social media, etc) have been carried out, there is not considered to be any issue in terms of compliance with the SCI.

- 4.5 Appendix C also provides an analysis of another particular dynamic of this consultation – the very large number of responses from outside of the borough. At

the 2015 Local Plan consultation 94% of respondents lived in Welwyn Hatfield, whereas at this consultation only 46% did. The remaining 54% broadly comprised two groups of respondents: those living in a variety of locations around St Albans district objecting to the proposed development at Symondshyde and those living in the UK and abroad supporting the potential provision of a runway at Panshanger.

- 4.6 Each consultation document has been accompanied by a Sustainability Appraisal which has considered the reasonable alternatives. A Habitats Regulations Assessment has also been carried out which considers the environmental impacts on sites of international importance. The statutory consultees have not raised any objections to either of these appraisals/assessments.
- 4.7 In the light of comments received to the latest consultation exercise, it is proposed that three minor modifications are made to the Sustainability Appraisal. Site SDS1 (WGC4) should be defined as partly previously developed land instead of all previously developed land, which reduces the score for objective 4.4. from a significant positive (++?) to a minor positive (+?). Secondly, the assessment of SDS5 (Hat 1) should be amended to refer to two areas of archaeological significance, not one. However, this does not change the appraisal score, which is already scored as a significant negative. Finally, site HS22 (BrP4) has given the wrong site reference (HS23) in some paragraphs, which needs to be amended. Officers do not consider that any of these changes alter any of the conclusions in the Site Selection Background Paper.
- 4.8 The Local Plan is identified in the Local Development Scheme as a document that the Council is preparing. The Scheme has been regularly updated to reflect changes in the programme and the switch from a Core Strategy to a Local Plan. It is recommended that the timetable is amended to reflect the revised submission date and the subsequently revised timetable for the CIL Charging Schedule.
- 4.9 The Council will need to demonstrate that at the point of submission the Duty to Co-operate test has been met. This means that it is appropriate to continue with Duty to Co-operate meetings and other activities to secure agreed statements with adjoining authorities and other relevant Duty to Co-operate bodies on the content of the Plan and in response to representations received, all the way up until submission.
- 4.10 Because there is a shortfall in housing against the Objective Assessment of Housing Need (OAN) the Council will need to demonstrate that it has left “no stone unturned” in attempting to meet that need and that includes through Duty to Co-operate. To date no authority within the Welwyn Hatfield Housing Market Area has agreed to meet that shortfall and therefore the Duty to Co-operate meetings will need to continue right up to the point of submission in order for the Council to demonstrate that it has made every effort to address the need. Wherever possible Memorandums of Understanding or Statements of Common Ground will be agreed with relevant Duty to Co-operate bodies. This will include meetings with transport bodies such as Highways England and Hertfordshire County Council as highways authority. Officers will prepare a Duty to Co-operate Statement to be submitted to the Secretary of State with the Local Plan setting out the Duty to Co-operate activity that has taken place.

- 4.11 Officers and Members will seek to continue to seek to secure a commitment from adjoining authorities to consider meeting some of Welwyn's Hatfield's shortfall as part of the review of plans for those authorities within the Housing Market Area. It is likely that Welwyn Hatfield will need to make a similar commitment for an early review to address infrastructure issues which currently prevent the borough from meeting the OAN. As part of the review of other authorities' plans, Members should be aware that a similar request is very likely to be made of this authority.
- 4.12 Members will be aware that if the Council fails to meet the Duty to Co-operate it will not be possible for the Plan to be examined against the Tests of Soundness.
- 4.13 In deciding whether or not to submit the Local Plan for examination the Council has to consider whether it is sound or whether any main modification are required to make it sound. The soundness tests as set out in Paragraph 182 of the NPPF are as follows:
- **Positively prepared** – be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - **Justified** – be the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective** – be deliverable over the plan period and based on effective joint working on cross boundary strategic priorities;
 - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.
- 4.14 The Council may also identify minor or additional modifications which do not alter the substance of the Plan but which address typographical or grammatical errors, improve the clarity or update facts.

Is the Plan positively prepared?

- 4.15 Paragraph 14 of the NPPF qualifies the requirement to meet the OAN by making reference to:
- Whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
 - Specific policies in the NPPF indicate that development should be restricted. The footnote to this criterion lists a number of examples where this might apply and includes land designated as Green Belt.
- 4.16 In this respect the Council needs to consider the updated evidence on the Economy Study and the SHMA. This has been reviewed to take account of the 2014 Sub National Population and Household projections and changing economic forecasts.

- 4.17 The SHMA 2017 is informed by demographic modelling from Edge Analytics and considers economic forecasts, market indicators, affordability, younger household formation, the effect of London and signals from recent appeals or public examinations. It is still to be finalised but the draft conclusion is an OAN of around 800 dwellings per year, equivalent to 15,200 dwellings over a 19 year period. Officers consider that this would result in considerable infrastructure delivery challenges for which they are no identified solutions at the current time.
- 4.18 The latest economic forecasts have been reviewed and a revised assessment of the number of jobs likely to be delivered which is broadly equivalent to that set out in the Plan, but with a greater requirement for employment land.
- 4.19 The Council needs to consider whether or not the updated evidence should result in a main modification to increase the housing target in order to make the Plan sound. The main issues raised by respondents is set out in Appendix A to this report.
- 4.20 It should be noted that Hertfordshire County Council has updated its position on school capacity in the northern villages. Initial feasibility work shows that St Mary's Welwyn may have the potential to expand by 1 form of entry. This in theory means that there is primary school capacity to support another 500 dwellings in the northern villages. A proposal for a new secondary school adjoining sites promoted around Welwyn has also been submitted by the site promoters. However the County Council does not favour a secondary school in this location and advise that it is also likely to raise highway capacity and sustainable transport issues.
- 4.21 In response to concerns about the lack of primary school capacity in Welham Green, promoters of sites in the village have identified a number of sites which could make provision for either a one or two form of entry school. However the County Council has concerns about the deliverability of a two form of entry primary school and is not supportive of single form of entry schools as the educational outcomes are in general not as good as for two forms of entry schools. Whilst the specific proposals for a new primary school in combination with all of the suitable sites promoted for Welham Green has not been subject to a detailed assessment by the Council, in theory, around 500 dwellings could potentially be accommodated along with a single form of entry primary school in Welham Green. As with the northern villages however there would be insufficient secondary school capacity to meet this level of additional growth.
- 4.22 Evidence on educational capacity and future need has been submitted by a promoter of sites around Brookmans Park. It challenges the County Council's stated position that 500 dwellings equates to 1 form of entry at both primary and secondary level and is the appropriate basis for infrastructure planning in local plans. The evidence focuses on Brookmans Park and the likely child yield arising from new development based on the age profile and child yield of households in the village at the 2011 census, an assumption of child yield for a proportion of affordable housing and taking into account births in the area. The County Council was asked to review this evidence but has responded on the basis that its position is based on the research they have already carried out and reviewed, that 500 dwellings equates to 1 form of entry and this is appropriate for strategic purposes associated with local plan preparation. The evidence submitted by the promoter does not consider secondary school provision. The evidence also indicates that if a Welwyn Hatfield average were to be used, 500 dwellings would equate to 1.13 forms of entry.

- 4.23 The County Council has raised a soundness objection on the basis that insufficient provision has been made in the Plan for secondary school provision. They consider that either the secondary school at SDS5 (HAT1) should make provision for 10 forms of entry or a site for a third school should be identified. They had initially expressed reservations to the policy in the infrastructure section setting out the sequential approach for the identification of a site for third secondary school as it lacks sufficient certainty. They consider that there will be a need for a third secondary school to serve the Welwyn Garden City area but as the shortfall is only 2 forms of entry they are now prepared to accept the approach set out in the Plan.
- 4.24 The County Council has carried out a search for sites but have not identified a suitable site which could be allocated in the Plan. The future use of New Barnfield remains unclear although they have stated that the site should be removed from the Green Belt in accordance with its Waste Local Plan allocation. However they have also indicated that the Waste Local Plan is to be reviewed with a new Plan scheduled to be in place by 2021, which could result in New Barnfield no longer being required for waste management facilities, at which point they have suggested the site could come forward for housing, employment, household waste recycling centre and/or a primary school (either on the site or through the re-use of Southfield). They have not referred to it reverting to its former use as a secondary school. It is considered that the Council should explore with the County Council the option for New Barnfield to revert to its former educational use to help meet future needs for a secondary school after 2021.
- 4.25 The Hertfordshire Water Study is in the process of being finalised. This has been jointly commissioned by Hertfordshire County Council, Hertfordshire planning authorities, the Environment Agency and the relevant water bodies. It indicates that significant infrastructure issues do not occur until after 2031 and that the levels of growth currently being planned around the county can be accommodated.
- 4.26 As part of the 2017 SHMA Update, the Council's specialist demographic and housing consultants have carried out a technical review of the implications of the proposed housing target. The role of the review is not to justify the target, as this has been determined through the plan-making process. The review serves to illustrate what the implications may be for the borough's population, newly forming households, affordable housing and the availability of a labour-force to support jobs growth.
- 4.27 Analysis of the 2014-based household projections identifies a continuation of trends of reduced levels of household formation amongst younger people. Demographic modelling therefore examines the implications of continuing this trend (unadjusted) or making an adjustment to increase household formation for younger people. In this context, a housing target of 12,000 would result in population growth of between 19.8% and 21.8%, compared to the latest sub-national population projections of 23.5%. Both scenarios would exceed the national rate of population growth over the same period (13.6%).
- 4.28 The proposed housing target of 12,000 is likely to constrain population growth within younger age groups (the group most likely to migrate from one area to another) whereas population growth in older age groups is mainly driven by the natural ageing of the population.

- 4.29 This would result in more limited growth in the working age population (16-64) relative to the SNPP, which could constrain labour supply. 12,000 more homes however will provide the labour force to support between 15,730 and 17,360 additional jobs over the plan period although there is a modest risk that jobs growth may not be supported by the level of housing planned should household formation rates for younger households improve.
- 4.30 The planned approach to affordable housing would facilitate continuing historic completion rates, boosting more recent levels.
- 4.31 The housing target of 12,000 falls below the previous (2015 and 2016) and the latest updated OAN (2017) but it is evident that the level of growth will continue to support a sustained growth in the borough's population and a continuing level of affordable housing provision when compared to historic trends.
- 4.32 The Housing White Paper proposes that Local Plans should be reviewed every five years. Given the infrastructure issues and the need for joint work to address the secondary school issue which is currently a constraint on further housing growth, it is proposed that the Council should commit to working with Hertfordshire County Council to resolve this issue and to work with adjoining authorities to consider options for meeting the need for housing. In addition a call-for-sites and a consideration of higher densities will need to form part of plan review. However to delay the Plan until this work has been completed would have significant implications for housing delivery over the next five years and the ability of the Council to have an up-to-date plan in place.
- 4.33 In light of all of the above, officers consider that it is a sound approach to retain a target for 12,000 dwellings over the plan period. Also in light of the above, officers do not consider that the borough currently has the capacity to meet the housing or other development needs of neighbouring authorities.
- 4.34 The Council has the option of:
- Delaying the submission of the Local Plan to consider if the infrastructure issues can be overcome and consult on main modifications once this work has been completed. This may also need to take account of any new requirements the Government might have to calculating the OAN. In addition any main modification would need to be accompanied by an updated Sustainability Appraisal and Habitats Regulatory Assessment as appropriate. The Council would also run the risk of not having a five year land supply when the calculation would be based upon the OAN rather than the housing target as there would not be an up-to-date adopted Plan by April 2018
- or
- Submit the Plan with minor modifications but commit to work with adjoining authorities and other bodies to review how the housing shortfall and associated infrastructure constraints such as education can best be accommodated. There is a risk that the Plan might be found unsound where there is no firm commitment from another authority at the point of submission that they would be able to meet the shortfall. However given that this option would increase housing land supply more quickly than not

having an up-to-date plan it is considered that an Inspector may be more supportive of an early plan review given the approach taken elsewhere.

Can the Plan be justified as the most appropriate strategy?

- 4.35 It is the approach to the distribution of housing which has generated the most representations in response to previous rounds of consultation. Different options for distributing growth were considered at the issues and options stage. At the Emerging Core Strategy stage the Council put forward a preferred option for the towns to take the majority of growth with growth in the villages limited to urban capacity only.
- 4.36 Because of the limited amount of urban capacity in the villages the Sustainability Appraisal considered there were sustainability benefits in allowing further limited housing growth by releasing land from the green belt, as this would help to sustain service and facilities in these communities. Furthermore, a large number of respondents considered a more proportionate approach to distributing growth to both towns and villages across the borough was preferable. Respondents also proposed that consideration should be given to the merits of a new settlement.
- 4.37 Following consultation in 2015 the option of adding a new village into the mix of sites presented itself and was incorporated into the Draft Proposed Submission Local Plan. This proposal has generated a significant number of representations from those who consider the site to be unsustainable as it is considered to be remote from services and facilities, will have an unacceptable impact on the Green Belt and has not been assessed on the same basis as other sites. The Council's assessment has drawn a different conclusion and there is no new evidence that has been submitted which alters this assessment.
- 4.38 The distribution of dwellings reflects the size and level of facilities as well as infrastructure capacity issues and the promotion and availability of sites. Oaklands & Mardley Heath, Digswell and Welham Green in particular could be considered to be under-provided for in terms of dwelling numbers.
- 4.39 Representations relating to the potential for main modification to add in additional sites are considered in Appendix A. However of these villages only the Welham Green sites can be said to have overcome a capacity constraint. As overall numbers cannot be increased (due to infrastructure constraints) and no sites in the Plan are considered to be undeliverable, the additional sites would not present a more appropriate distribution strategy and would need to be considered alongside infrastructure constraints as part of a future review of a plan.
- 4.40 Similarly other sites around other villages do not present a better distribution of sites compared to those proposed for allocation in the draft plan.
- 4.41 The argument has been made that the Plan places too much emphasis on the delivery of strategic development sites. It is considered that the Plan delivers a balanced approach to delivery with sites of varying scales. The strategic sites bring forward strategic infrastructure such as secondary schools which are essential to support delivery of smaller sites as well.

- 4.42 There are objections from Historic England and others expressing concern at the extent of SDS2 (WGC5) Birchall Garden Suburb and its impact on the historic environment, most notably the setting of Hatfield House. The Heritage Impact Assessment considers that this impact can be mitigated and it is officers' view that this can best be addressed in the masterplan for the site and that the estimates for dwelling capacity remain appropriate. Objections also consider that a wider green corridor should be incorporated into the strategy in particular through this site.
- 4.43 It has been argued by respondents that the Plan could be based on higher densities or that more urban sites in the employment areas could be released. The site capacities are based on a consistent methodology which takes account of best practice and any site specific constraints. The assessments are updated when planning permission is given for either a higher or lower number of dwellings. Higher densities are used for sites such as Broadwater Road West but such high densities would not be appropriate across the borough and would not deliver the range and type of housing required to meet future needs. In respect of employment land, economy evidence also indicates that it should be protected in order to provide sufficient jobs commensurate with the housing target and population growth. Indeed there is a need to allocate additional employment land to meet future needs. Furthermore the employment areas are not well served by the social infrastructure required to meet the needs of residents.
- 4.44 Cuffley and Northaw Parish Council commissioned a transport assessment of the growth proposals for Cuffley which was submitted as part of their response to the consultation. The assessment has been reviewed by Hertfordshire County Council who considers that the assessment is flawed on a number of counts. They have compared its results to other transport assessments and the results of the Comet modelling and do not consider that its conclusion that additional demand in this location would lead to a severe impact. It does not therefore change the highway authority's position relating to their representation to the Draft Local Plan.
- 4.45 The Council has the option of:
- Delaying the submission of the Local Plan to amend the spatial distribution of sites but retaining the same housing target and prepare a new Infrastructure Delivery Plan, Sustainability Appraisal and Habitats Regulatory Assessment reflecting a revised distribution. This may also need to take account of any new requirements the Government might have to calculating the OAN. The Council would also run the risk of not having a five year land supply when the calculation would be based upon the OAN rather than the housing target as there would not be an up-to-date adopted Plan by April 2018
- or
- Submit the Plan with minor modifications as it represents the most appropriate strategy for the distribution of sites.

Can the plan be considered to be effective?

- 4.46 The spatial strategy and levels of growth in the Plan have been arrived at following extensive joint working with a number of bodies most notably Hertfordshire County Council as highway authority, education authority and minerals and waste planning

authority, Thames Water and East Herts District Council. Collaboration has also taken place with adjoining planning authorities on the evidence base, infrastructure issues and the appropriate levels of growth. Duty to Co-operate activity has also taken place with St Albans Council most notably on Ellenbrook Park, the strategic Green Belt Review and the appropriate levels of growth. Duty to Co-operate does not mean a duty to agree and throughout the preparation of the Plan St Albans Council have raised concerns relating to a number of sites to the west of Hatfield.

- 4.47 The promoters of HAT2 and Roehyde HAT8, HAT9 and HAT10 consider that there has been a failure of duty to co-operate activity with St Albans Council with regards to the delivery of these two sites. They consider that a meaningful country park can be provided whilst mineral excavation takes place and the legal advice which they have submitted indicates that St Albans Council would not need to be a signatory to the variation. They also consider that more significant collaboration should have taken place on assessing the suitability of Roehyde HAT8, HAT9 and HAT10 which they consider to be a more suitable alternative to Roehyde. However the Welwyn Hatfield HELAA has considered the suitability, availability and achievability of these sites and concluded that they are not suitable for allocation. It is not considered that the representation submitted by the promoter alters this position although there may be areas of common ground.
- 4.48 The policies in the Draft Proposed Submission Local Plan have been found to be generally viable. In addition the assessment of the viability of the strategic sites has found that they are viable with CIL. In the case of site SDS 5 (HAT1), the viability work conducted by BNP Paribas has shown that the development of the site is viable with a proportion of affordable housing between 20% and 25%. This is on the basis that the site would not have to pay a CIL charge due to the relatively high level of Section 106 contributions which would fund infrastructure such as the secondary school that the development would have to sustain. It is possible to say with reasonable confidence that the site could sustain a policy-compliant level of 25% affordable housing once the potential income from mineral extraction prior to housing development is factored in. The landowners have indicated that they are comfortable with this approach at this stage.
- 4.49 It is considered that the combination of sites and associated infrastructure are deliverable and viable and that the Plan can be considered to be effective.

Is the Local Plan consistent with national policy?

- 4.50 A large number of representations have made the case that they do not consider that the Plan conforms to national policy most notably Green Belt policy. As part of positively planning for growth the Council has to consider whether there are any exceptional circumstances that warrant a limited alteration to the Green Belt boundary.
- 4.51 The case for exceptional circumstances was considered by the Council in July 2016 when the Proposed Submission version of the Local Plan was approved for public consultation. It should be noted that simply meeting Objective Assessment of Housing or Employment Need is not in itself an exceptional circumstance. Regard has to be had to the impact of not meeting that level of need.

- 4.52 It was considered that the target would limit the nature and extent of harm to the Green Belt to the lowest reasonable extent whilst providing sufficient land for employment. The technical implications of the target have been assessed by our consultants and are set out above. It can be seen that in spite of not meeting the full need the Plan would improve the provision of affordable housing, would ensure that there is a large enough economically active population to fill the forecast level of jobs and would boost the supply of affordable housing.
- 4.53 The Housing White Paper suggests that exceptional circumstances could be clarified in national policy although this is subject to public consultation. This would require Councils to consider raising density. Appropriate density levels for the Plan were consulted upon at the Issues and Options stage and the average density calculations used in the HELAA are higher than the average density in the borough but consistent with maintaining the character of the borough's settlements and the level of infrastructure. In suitable locations which are accessible by public transport opportunities have been taken to increase densities.
- 4.54 Other sections of the Plan have also received objections asking for changes to be made and these are considered in Appendix A to this report.

Infrastructure Delivery Plan

- 4.55 Representations also commented on the draft Infrastructure Delivery Plan and a summary of the main issues raised is also included in Appendix A.
- 4.56 The Infrastructure Delivery Plan has been updated to include a reference to the CIL review and the Housing White Paper, the Transport Vision 2050, the Govia Thameslink timetable consultation, updated information on transport mitigation measures and updated information on school capacity. It is contained in Appendix
- 4.53 The revised Infrastructure Delivery Plan is attached as Appendix F to this report.

Next Steps

- 4.57 Members need to consider whether any main modifications should be made to the Plan or whether they consider the Plan is sound and suitable for submission to the Secretary of State.
- 4.58 It should be noted that the Inspector may suggest main modifications required to make the Plan sound if s/he considers it is not as currently drafted, but that main modifications not required for soundness purposes cannot be added at this stage.
- 4.59 The analysis of the Plan's soundness as set out above and in Appendix A demonstrates that the Plan can be submitted to the Secretary of State, with a commitment to a future review. The Housing White Paper in any event proposes that local plans should be reviewed at least every five years.
- 4.60 Regulation 22 of the Local Planning Regulations set out what has to be submitted to the Secretary of State in both paper and electronic form. This includes the Policies Map, Sustainability Appraisal Report, a consultation statement setting out who has been invited to make representations, how they were invited to make representations, a summary of the main issues they raised and how these have been taken into account and copies of any representation made in response to the consultation on the Draft Proposed Submission Local Plan and any supporting

documents that are relevant to the preparation of the Local Plan. It is proposed that the supporting documents will include relevant parts of the evidence base and key topic papers explaining how the policies were arrived at and their relationship to the evidence base. A Duty to Co-operate statement will also be submitted.

5 Link to Corporate Priorities

- 5.1 The subject of this report is linked to the Council's Business Plan 2015-2018, particularly Priority 3 to meet the borough's housing needs by preparing a new Local Plan and also other priorities to maintain a safe and healthy community, protect and enhance the environment, help to build a strong local economy and engage with our communities.

6 Legal Implications

- 6.1 The preparation of Local Plan is governed by legislation most notably the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011, case law and secondary legislation set out in regulations.
- 6.2 A Local Plan is judged to be legally compliant if it complies with the requirements set out in Section 20(5)(a) of the Planning and Compulsory Purchase Act 2004. It also has to comply relevant legislation relating the preparation of Sustainability Appraisal and Habitats Regulatory Assessment
- 6.3 The legislation requires that it is prepared in accordance with the Local Development Scheme (LDS) and Statement of Community Involvement (SCI).

7 Financial Implications

- 7.1 There are no financial implications arising directly from this report. If the Local Plan is agreed for submission then it will be necessary to fund the cost of the examination including Inspector's fees and expenses, a Programme Officer, legal advice, support from technical consultants, venue hire, etc. A one-off budget of up to £255,000 has been identified in the 2017/2018 budget for this purpose.

8 Risk Management Implications

- 8.1 The report sets out the risks of failing the legal and soundness tests. Failure to comply with the Duty to Co-operate will mean that the Plan will not progress to be examined and would instead be returned to the Council for further work. Failure to meet the tests of soundness may result in the Council being instructed by the Inspector to consider and consult on a number of main modifications. If the number of main modifications that are required to make it sound are so great the Plan is fundamentally different from the submitted version, the Inspector may refer it back to the Council for further work.
- 8.2 The Plan could also be subject to legal challenge either through the processes for its preparation or as a result of the conclusions that the Inspector has drawn.
- 8.3 The Housing White Paper sets out future proposed changes to the planning system which will have to be taken into account should there be any delay in submitting.

9 Security and Terrorism Implications

9.1 There are no security or terrorism implications arising from this report.

10 Procurement Implications

10.1 There are no procurement implications arising directly from this report. If the Local Plan is agreed for submission the Council must appoint a Programme Officer to administer the examination process, maintain the document library and otherwise assist the Inspector during the examination process.

11 Climate Change Implications

11.1 The selection of growth targets and development sites will have implications for climate change. These have been assessed as part of the site appraisal process and are considered in the Sustainability Appraisal. Sites which are well located to public transport and close to services/facilities will have less impact on climate change than those sites which are more remote.

12 Policy Implications

12.1 In accordance with Paragraph 216 of the National Planning Policy Framework, it is considered that the agreement to submit the Local Plan will add weight to its policies. This is because decision-makers may give weight to policies according to their stage of preparation, the extent to which there are unresolved objections (or not) and their degree of consistency with policies in the NPPF. As a result it may be appropriate to take account of Submission Local Plan policies in the determination of future planning applications.

12.2 If the Local Plan is found sound at public examination, the Council will be able to formally adopt it as part of the Development Plan for the borough.

13 Equalities and Diversity

13.1 Equalities Impact Assessments (EIAs) were carried out on the strategic policies, site allocation and development management policies contained in the Draft Local Plan Proposed Submission document. None of the policies went beyond the screening stage as no unjustified negative impacts were identified. There are no main modifications proposed to the Plan and hence the EIA conclusions remain valid.

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Appendices:

Appendix A Summary of main issues and proposed response (parts 1-6)

Appendix B Schedule of minor modifications

Appendix C Monitoring of consultation responses

Appendix D Proposed Submission Plan

Appendix E Proposed Submission Policies Map

Appendix F Infrastructure Delivery Plan

Appendix G Sustainability Appraisal

Appendix H Habitats Regulation Assessment

The evidence studies that have informed the Local Plan can be viewed at

<http://www.welhat.gov.uk/evidencebase>