

WELWYN HATFIELD BOROUGH COUNCIL
CABINET HOUSING AND PLANNING PANEL – 8 SEPTEMBER 2016
REPORT OF THE DIRECTOR (GOVERNANCE)

RESPONSE TO BROXBOURNE BOROUGH COUNCIL – DRAFT LOCAL PLAN
REGULATION 18 CONSULTATION

1. Executive Summary

- 1.1 Broxbourne Borough Council is carrying out Regulation 18 consultation on its draft Local Plan (referred to hereafter as ‘the Plan’). This is a more informal stage of consultation than the more formal Regulation 19 stage at which this Council is currently consulting, and is intended to help to determine the content that an eventual Local Plan should contain. However, Broxbourne’s timetable to progress to Regulation 19 stage is extremely short and the current consultation document already takes the form of a full Draft Local Plan.
- 1.2 Much like this Council’s Draft Local Plan, the plan for Broxbourne will be a single comprehensive plan. It will combine overall strategic policies for the borough, development management policies for specific issues to help to determine planning applications, and site allocations to set out acceptable uses and designations for certain areas. The plan intends to cover a 15 year plan period, from 2016 to 2031.
- 1.3 This is Broxbourne’s first full consultation on a Development Plan Document since the 2010 Core Strategy, which Broxbourne ultimately decided not to adopt after its Examination in Public because of changes that would have needed to be made. In 2015 Broxbourne did also publish a ‘Duty to Cooperate Framework’ as part of its Local Plan preparation, but this was not a formal consultation document. The 2010 Core Strategy raised areas of significant concern for this Council, but proposals in it have now been scaled back significantly. There do however remain several strategic issues of relevance to Welwyn Hatfield, and which may have a ‘duty to cooperate’ implication – these are set out over the following pages.

2. Recommendation(s)

- 2.1 That the panel:
 - i. Approve the areas of support and concern for the proposals in Broxbourne Borough Council’s Local Plan as set out in this report, and indicate any further issues that Members wish to see included in this Council’s response;
 - ii. That the Head of Planning be given delegated authority to agree the final response to the consultation with the Executive Member for Planning.

3. Background

- 3.1 The current adopted plan for Broxbourne is the 2005 Local Plan Second Review. Following the publication of the National Planning Policy Framework, Broxbourne Council is (in common with many other authorities, including Welwyn Hatfield) now tasked with preparing an up-to-date 'NPPF-compliant' Local Plan.
- 3.2 In 2010, Broxbourne was the first authority in Hertfordshire to consult on a Core Strategy – under the previous Local Development Framework system, this would have been the central document among other support planning documents such as those dealing with site allocations. The flagship proposal within the Core Strategy was a new out-of-town shopping centre at Brookfield in Cheshunt, which would have been of a substantial scale and have attracted a new sub-regional catchment. This would have significantly altered the established retail hierarchy of Central and Eastern Hertfordshire, North London, and West Essex; and this Council was among a number of authorities surrounding Broxbourne to object to the proposal.
- 3.3 The Inspector considered that in order for the plan to be sound a number of modifications would be required. This included the deletion of all reference to the proposals for Brookfield. Ultimately Broxbourne decided not to adopt the Core Strategy because of this compromise, and has since been preparing a new Local Plan.
- 3.4 In October 2015, Broxbourne published a Duty to Cooperate Framework document. This formed the first indication since the mothballing of the Core Strategy as to the Council's intentions for what the Local Plan would contain. Whilst not a formal stage of consultation, officers of this Council were invited to comment on the Framework document. No concern was raised with the principle of the revised proposals for Brookfield, although it was noted at that stage that this Council would still need to review a revised Retail Impact Study. Officers also indicated that Broxbourne's findings on its Housing Market Area were satisfactory, although noted that housing need would remain a duty to cooperate issue, and requested an ongoing dialogue with Broxbourne on infrastructure issues (particularly primary education capacity).
- 3.5 Whilst it only forms part of the Regulation 18 stage of consultation (the stage prior to this Council's more formal current Regulation 19 consultation), Broxbourne's current consultation is nevertheless written in the style of a full draft plan. This is somewhat in contrast to this Council's approach at Regulation 18 stage, where the Local Plan Consultation Document contained much more indicative proposals and consultation responses and further evidence work have subsequently allowed these to evolve. Broxbourne Borough Council has set out an extremely ambitious intention to carry out Regulation 19 consultation by December 2016, and it can therefore be inferred that they do not anticipate making many substantive changes to the Plan between this consultation and the next.
- 3.6 Broxbourne's Draft Local Plan comprises five parts:
- **Part 1 – Introduction:** An introduction to the Plan, the sustainability context, and a spatial portrait of Broxbourne;
 - **Part 2 – The Development Strategy:** The vision and objectives for the future of the borough, and the overall development strategy covering nine topic areas;
 - **Part 3 – Places:** Chapters setting out area-specific policies and site allocations for 11 areas of the borough, plus policies for Gypsy and Traveller sites;

- **Part 4 – Infrastructure and Delivery:** Chapters covering the delivery of infrastructure for transport, utilities, education and healthcare; and covering planning obligations and the implementation of the Plan;
- **Part 5 – Development Management Policies:** Chapters setting out detailed policies for the determination of planning applications

3.7 The following section of the report has two parts. The first sets out specific aspects of the plan which are considered appropriate to support – whilst the majority of the plan is supportable, there are duty to cooperate issues on which it is considered beneficial to explicitly state this. The second part covers topics within the Plan where it is considered that this Council should express a degree of concern to Broxbourne, and where action may need to be taken to avoid any objections on soundness at the subsequent Regulation 19 stage. However, on balance there are not considered to be any aspects of Broxbourne’s proposals which require a full objection at this stage.

4. Explanation

4.1 This borough’s main linkages are with areas to the north and south along the A1(M) and East Coast Main Line Railway, as well as to a lesser extent east-to-west along the A414. Similarly Broxbourne’s main relationships are with areas to the north and south along the A10 and West Anglia Main Line Railway, and to a lesser extent east-to-west along the M25. As a result, at a strategic level the relationship between Welwyn Hatfield and Broxbourne is not as close as with some other adjoining authorities.

4.2 Broxbourne is not within this Council’s Function Economic Market Area, and only a small part of Broxbourne falls within this Council’s defined Housing Market Area. Whilst Welwyn Hatfield has been included within Broxbourne’s Functional Economic Market Area, Welwyn Hatfield does not feature at all within Broxbourne’s Housing Market Area.

4.3 At a more local level though it is important to acknowledge the extremely close cross-boundary relationship between Cuffley and Goffs Oak. At their closest point the two villages are only around 500m apart, and each has a degree of reliance upon the other for services such as primary education, healthcare and retail. Being somewhat remote from other settlements in this borough, Cuffley also relies on the B156 through Goffs Oak and Cheshunt to access the strategic highway network, as well as higher-order facilities such as secondary schools and supermarkets. Accordingly, growth in these areas will have an impact upon Cuffley.

Areas of support for Broxbourne’s proposals

4.4 The majority of the policies and proposals across the 220 pages of Broxbourne’s Draft Local Plan are considered to be supportable. Most of those (particularly within Part 3 (Places) and Part 5 (Development Management Policies)) are of only local relevance within Broxbourne, and it is therefore neither appropriate nor necessary for this council to comment on them. However, there are parts of the plan of a strategic and cross-boundary nature where it is considered appropriate for this council to express explicit support, to aid the duty to cooperate. These are set out over the following paragraphs.

4.5 **Housing target:** Policy DS2 of the Plan proposes a housing target through to 2031 of just over 7,100 homes. This would meet the objectively assessed need for

Broxbourne for that period, although there are some concerns as to whether or not the plan period is actually long enough (see paragraph 4.20). Indeed, the accompanying table in the Plan indicates a total available supply of 7,400 homes over that period – nearly 5% in excess of supply.

- 4.6 This supply figure has been made possible by proposing to release significant areas of land from the Green Belt within Broxbourne, and whilst it is not for this Council to comment on the site selection process undertaken by Broxbourne, it is clear that nearly all suitable and deliverable development options are being taken forward. Broxbourne have also sought to maximise the density of new homes on certain sites, for example the former Tesco headquarters in Cheshunt which now form a key housing site.
- 4.7 By setting a housing target which meets the identified needs of Broxbourne, any detrimental impacts upon Welwyn Hatfield that would result from an undersupply of homes in neighbouring areas should be minimised. In addition, given that this Council's current consultation identifies a small undersupply of homes against the full Objectively Assessed Need for Welwyn Hatfield it is considered that Broxbourne should be asked to consider whether they can meet any undersupply prior to their Regulation 19 consultation.
- 4.8 **New housing provision in Goffs Oak:** Broxbourne Council has considered options to deliver new housing growth around the village of Goffs Oak through its Goffs Oak Development Options Report. This is presented as being a part of the borough with a somewhat dispersed and 'patchy' settlement pattern, as a result of piecemeal new development in recent years. This has resulted in a number of relatively fragile Green Belt gaps where there is a risk of coalescence and urban sprawl, as well as creating areas which lack facilities and necessary community infrastructure. Partly for this reason, the Goffs Oak Development Options Report indicates that there would be several strategic advantages in **not** planning for any further development in that area.
- 4.9 It is therefore considered beneficial for this Council to express support for the fact that the Plan does propose development around Goffs Oak, with sites to deliver 300 new homes proposed to be allocated. Goffs Oak is the only part of Broxbourne which falls into this Council's Strategic Housing Market Area by virtue of its close links to Cuffley, and a failure to provide new homes in Goffs Oak could create additional housing need within Welwyn Hatfield.
- 4.10 Furthermore, the allocation of this number of homes in Goffs Oak creates a critical mass, and allows necessary site assembly to bring forward Hertfordshire County Council's planned extension of Woodside Primary School from 1 to 2 forms of entry. Currently a number of children have to travel from the Goffs Oak area to Cuffley to go to school, and such an extension therefore facilitates a 'rebalancing' of this flow. In addition to the benefit of reduced vehicular trips along Cuffley Hill between the two villages this in turn creates the capacity within Cuffley Primary School needed to support this Council's own proposed growth. It is therefore considered that the housing allocations within Goffs Oak and reference to the extension of Woodside School in Policy INF10 of the Plan should be supported.
- 4.11 **Countryside protection:** As noted above, the Goffs Oak area is characterised by a dispersed and patchy settlement pattern. This is partly a legacy of the horticultural glasshouse industry, which sprawled across the area in the first half of the 20th century but has since largely died out, and whose dereliction has often been addressed by housing redevelopment. This redevelopment has resulted in Goffs

Oak coming very close to coalescing with Cheshunt, a process which in turn could result in Cuffley only being separated by a few hundred metres from the edge of the London Urban Area.

- 4.12 In recognition of this, Policy CS2 sets out intentions to protect and enhance Green Belt land in the Goffs Oak area, including by providing public access to it and enhancing habitats for wildlife. This will aid the value and in turn the defensibility of this Green Belt land and it is considered that this should be welcomed. Policy GB2 of the Plan then sets out Broxbourne's approach to dealing with further derelict glasshouse sites, notably the allowance of self-build development at low density where it does not reduce Green Belt openness. This allows dereliction to be dealt with, but without resulting in the increased sprawl of Cheshunt towards Cuffley. Again, it is considered that this approach should be supported.

Areas of concern with Broxbourne's proposals

- 4.13 It is not considered that any of the proposals in the Plan require an objection to be made at this stage. However, there are some aspects of the Plan on which further assurance would be welcomed, particularly where it relates to duty to cooperate issues. Resolving these will further aid Broxbourne in producing a sound plan.
- 4.14 **Brookfield Riverside:** In 2010, this Council was among a number of authorities surrounding Broxbourne to object to proposed out-of-town retail development at Brookfield in Cheshunt. This was on the basis of the impact on trade in Welwyn Garden City in particular, which was forecast to drop by 5.2% if Brookfield were implemented. Whilst proposals for new retail development at Brookfield remain a key part of Broxbourne's Draft Local Plan, the quantity of new comparison retail floorspace has reduced significantly to 30,000m², from 50,000m² before.
- 4.15 Broxbourne's evidence base indicates that there is significant suppressed demand for comparison retail within the borough. By comparison to a forecast need for Broxbourne by 2025 of 24,800m² for a population around 20% smaller than Welwyn Hatfield, this Council's Retail and Town Centre Needs Assessment indicates a boroughwide need of only 12,500m² through to 2026 (it should be noted that the 30,000m² figure for Brookfield is justified on the basis of need to 2030 of up to 45,000m²). Furthermore the plan proposes to amend the retail hierarchy by designating Brookfield as a 'town centre'. On the basis that development opportunities within the borough's two other main town centres are evidently being maximised, Broxbourne's conclusion that Brookfield is the only real opportunity to deliver this scale of retail growth is not considered to be unreasonable.
- 4.16 However, whilst a 30,000m² scheme at Brookfield will presumably have a lesser impact on Welwyn Hatfield than that forecast previously, Broxbourne has not yet produced any revised evidence on retail impact. It is therefore not yet possible to conclude that proposals at Brookfield will be acceptable. Paragraph 12.2 of this report highlights that the provision of retail floorspace is a duty to cooperate issue, and it therefore also cannot yet be concluded that Broxbourne have met the duty to cooperate in this regard. Accordingly, it is considered that this Council should reserve its position and express concern at this stage.
- 4.17 **Employment land needs:** Whilst this Council's Economy Study has not placed Broxbourne within Welwyn Hatfield's Functional Economic Market Area (FEMA), Broxbourne's Study does identify FEMA linkages with Welwyn Hatfield. There is no single methodology for establishing a FEMA, and this is not in itself considered to

be a significant issue, although it is noted that Broxbourne's Employment Land Study provides little detail on how the FEMA has been established.

- 4.18 The Employment Land Study indicates that Broxbourne has relatively limited needs for new Use Class B1 office floorspace, somewhat larger needs for new Use Class B2 manufacturing floorspace, and then substantial needs for new Use Class B8 warehouse floorspace. This translates to an overall employment land need of around 45 hectares – this is vast, and even the Employment Land Study concludes that it is unlikely that this need could be met.
- 4.19 Broxbourne's Plan is highly aspirational. Despite a relatively low forecast need for office floorspace of 17,500m², the plan proposes new allocations for around 150,000m² of new floorspace at land adjacent to M25 J25, and at Brookfield. Whilst it is not for this Council to comment on what Broxbourne's strategic policies should be, such an approach would mean that Broxbourne would effectively be turning its back on the forecast need for new B8 warehousing floorspace and attempting to meet a need which does not exist in their own evidence. This might be acceptable if evidence were to be provided that the forecast warehouse need was to be provided elsewhere, but this is not contained within the Plan at present. Certainly there are no promoted sites in Welwyn Hatfield for new B8 floorspace, and the risk of Broxbourne not addressing this market demand is that planning applications emerge for warehouse proposals on unsuitable sites elsewhere in the FEMA.
- 4.20 **Plan period length:** As currently written, the Plan envisages an end date of 2031. Even with Broxbourne's extremely ambitious production deadline it is unlikely that a plan could be adopted before 2018, meaning a plan period length on adoption of potentially only 13 years. The Government's Planning Practice Guidance (para 157) advises a minimum plan period length of 15 years from adoption in order for longer term requirements to be sufficiently accounted for – and whilst this leaves scope to justify a shorter plan period, Broxbourne have not done so. If a shorter plan period cannot be justified and a plan period through to 2032/2033 is required, housing need will in turn be higher. Given that this would likely exceed Broxbourne's available supply of sites, this would be of further concern.
- 4.21 **Deliverability of SLAA Sites:** In order to assess potential housing supply in the borough, Broxbourne has prepared a Strategic Land Availability Assessment (SLAA). This is equivalent to this Council's Housing and Employment Land Availability Assessment (HELAA), which has been a factor in the selection of sites for allocation in the Local Plan. However, whilst Broxbourne has included these SLAA sites in its housing supply figure of 7,400 (see paragraph 10.5), it has only allocated some of them and there is no particularly clear logic for why this is.
- 4.22 It is considered that reassurance should be sought on this point – if for example there are issues around the deliverability of these sites preventing them from being allocated, it would not be appropriate for them to be included in the housing supply. If there are no such issues, then if these sites are not allocated there would be no means to prevent them being redeveloped for other uses. In either case, this would have significant implications for Broxbourne's ability to meet its housing target.
- 4.23 **Provision for the Gypsy and Traveller community:** Broxbourne proposes to meet the need it has identified for new Gypsy and Traveller pitches in full, which is welcomed. This will be achieved through extensions to three existing sites. However, Policy GT1 of the Plan states that new pitches *'are not to meet the needs of extended family members not currently resident within the Borough of*

Broxbourne'. By definition in the Government's 2015 Planning Policy for Traveller Sites, Gypsies and Travellers must lead a 'nomadic habit of life'.

- 4.24 Any restriction of new Gypsy and Traveller pitches to people already living within Broxbourne would run counter to this definition, and mean that neighbouring authorities would find themselves having to meet the need of those who actually travel. In order for Policy GT1 to be sound, it is considered that Broxbourne should be asked to remove the sentence relating to local residency.
- 4.25 In the same way as for the 'settled' population, migration (and not just natural change in the population) must be a factor in establishing the need for Gypsy and Traveller pitches. Broxbourne should have also considered whether an uplift needs to be made for needs emerging from the county's transit site at South Mimms. Whilst nominally this is for the use of Gypsies and Travellers stopping-over on the way from one place to another, it is known that a number of families on the site are actually there whilst waiting for a permanent pitch elsewhere.
- 4.26 As a result, Broxbourne's established need for new pitches may have been underestimated and the full need may therefore not be being met. It may therefore be necessary for the Broxbourne to review its evidence on need.
- 4.27 **Infrastructure delivery:** It is noted that the Plan is not currently accompanied by an Infrastructure Delivery Plan, nor any real detail on the schemes that will support the growth proposed in the Plan other than the naming of certain locations where improvements may come forward. Equally there is no indication of cost for the schemes listed, some of which appear to be relatively ambitious. Of particular relevance to Cuffley and this borough is the intention to improve traffic flow through the junction of the A10 and B198 north of M25 J25, which can queue significantly in peak times. Any scheme to improve traffic flow at this junction should reduce rat-running through Cuffley, and would therefore be welcomed. Indeed, it may well be necessary to support the proposed growth in Goffs Oak and elsewhere in Cheshunt. It is considered that this Council should reserve judgement until it has been able to view Broxbourne's Infrastructure Delivery Plan, but offer to work proactively with Broxbourne on these issues which are of mutual importance.
- 4.28 **Local Plan Monitoring:** The Plan currently includes no information on how it will be monitored, nor the review mechanisms for how Broxbourne will respond if monitoring identifies a significant issue (such as housing need not being adequately met). This is of concern, given the potential issues set out at paragraph 10.16 around the deliverability of SLAA sites in Broxbourne's housing supply. The final Plan at Regulation 19 stage will need to set out the monitoring of the plan in detail, and it is considered that this Council should encourage Broxbourne to do so having highlighted the issues above as an example.

5. Link to Corporate Priorities

- 5.1 The Council's Business Plan 2015-2018 contains corporate priorities to meet the borough's housing need, help build a strong local economy, protect and enhance the environment and maintain a safe and healthy community. Responding to other authorities' consultations enables this Council to meet these priorities effectively.

6. Legal Implication(s)

- 6.1 The 'duty to cooperate' is a legal requirement, which is taken into account in the examination of Local Plans. Public bodies have a duty under the Planning and

Compulsory Purchase Act 2004; as amended by the Localism Act 2011, to cooperate on the preparation of planning documents so far as they relate to a strategic matter. Strategic matters are defined as those that would have a significant impact on at least two planning areas – further detail is set out at 12.2.

6.2 Local planning authorities that are unwilling to cooperate, and/or unable to provide robust evidence in support a strategy that does not then plan for the unmet requirements of another local planning authority, may fail the test of compliance with the duty to cooperate or their plan may be found unsound.

6.3 The nature and requirements of the duty to cooperate are a key consideration in responding to Broxbourne's current proposals.

7. Financial Implication(s)

7.1 There are no specific financial implications arising from this report.

8. Risk Management Implications

8.1 There is a risk in not responding to Broxbourne's consultation plan as it raises several areas of possible concern, and its proposals could have both direct and indirect implications for Welwyn Hatfield and other planning authorities in Hertfordshire.

9. Security and Terrorism Implication(s)

9.1 There are no security and terrorism implications arising directly as a result of this report.

10. Procurement Implication(s)

10.1 There are no procurement implications arising directly as a result of this report.

11. Climate Change Implication(s)

11.1 No climate change implications have been identified resulting from this report. Although proposals for new development will clearly have an impact on climate change, this will be assessed as part of the Sustainability Appraisal report produced to accompany the Broxbourne Local Plan.

12. Policy Implications

12.1 The policies in a Local Plan need to be justified by evidence. In accordance with the NPPF, a local planning authority should submit a plan for examination by an independent inspector which it considers to be 'sound'. Whilst responses to emerging policy at the more informal 'Regulation 18' stage are not required to formally address soundness, the NPPF's four criteria for soundness should still be borne in mind at this stage:

- **Positively Prepared** – The plan should seek to meet all objectively assessed development requirements, including unmet requirements from neighbouring authorities, as long as it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – The plan should comprise the most appropriate strategy when considered against alternatives, based on proportionate evidence;

- **Effective** – The plan should have no significant barriers to delivery, and be based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with national policy** – The plan should deliver sustainable development, in accordance with the NPPF.

12.2 As highlighted at paragraph 6.1 above, public bodies have a ‘duty to cooperate’ on planning issues that cross administrative boundaries. This is particularly crucial where it relates to the strategic priorities set out in paragraph 156 of the NPPF:

- The need for homes and jobs in an area;
- The provision of retail, leisure and other commercial development;
- The provision of infrastructure for transport, telecommunications, waste management, water supply and waste water; the management of flood risk; and the provision of minerals and energy (including heat);
- The provision of health, security, community and cultural infrastructure; and
- Climate change mitigation and adaptation, and the conservation and enhancement of natural and historic environments and landscapes.

13. Equality and Diversity

13.1 I confirm that an Equalities Impact Assessment has not been carried out, as this report refers solely to the emerging policy and proposals of another authority.

Rob Webster
 Strategy and Development
 30 August 2016

Background Papers

- [Broxbourne Regulation 18 Draft Local Plan Document](#) (July 2016)
- [Broxbourne Regulation 18 Draft Local Plan Policies Map](#)
- [Review of Broxbourne’s Objectively Assessed Housing Need](#) (2016)
- [Broxbourne Gypsy and Traveller Study](#) (2014)
- [Broxbourne Strategic Land Availability Assessment](#) (2016)
- [Goffs Oak Development Options Report](#) (2016)
- [Broxbourne Employment Land Study](#) (2016)
- [Broxbourne Retail and Leisure Study](#) (2015)
- [Broxbourne Retail Need and Impact Study](#) (2010)
- [National Planning Policy Framework](#)
- [National Planning Practice Guidance](#)
- [National Planning Policy for Traveller Sites](#)