

Hertford Civic Society Objections to East Herts Pre-Submission District Plan

Objection to Paragraph 3.3.2

Modification(s) necessary to make the Pre-Submission District Plan legally compliant, compliant with the duty to co-operate or sound.

Amend Guiding Principle 7 to read “To acknowledge that the ability for the market towns and villages to grow is constrained by the existing capacity and future potential of these settlements, and that the main focus for the allocation of land for housing development within this Plan period must therefore be in large-scale new strategic locations which can continue to grow beyond the Plan period”. Redraft the Plan to accord with Guiding Principle 7 as amended, and select the optimum location for large-scale strategic development in accordance with objective criteria rather than the wishes of potential developers.

Apart from a few words in this Guiding Principle the Plan displays no long-term vision. The Guiding Principle is appropriate but insufficient. It rightly acknowledges that the capacity of the market towns and villages is constrained, but begs the question of why this issue has not been properly confronted NOW rather than whenever the next iteration of the District Plan is drawn up. The Guiding Principle does not seem to have informed the strategic direction of the Plan this time round. Rather than plan for large-scale strategic development from the start, the Council sought to meet housing needs by piecemeal developments tacked on to the edge of existing settlements, adding a more strategic element only when it proved to be impossible to meet the needs in that way. Even then, the proposed strategic element, at Gilston, is not an entirely new venture but effectively a developer-led expansion of an existing town (Harlow). There is no clear evidence trail showing that, absent the pressure from development interests, the Gilston area is the optimum location for strategic development.

Objection to Paragraph 7.2.8

Modification(s) necessary to make the Pre-Submission District Plan legally compliant, compliant with the duty to co-operate or sound.

Do not withdraw land west of Thieves Lane and south of Welwyn Road from the Green Belt, and delete the land south of Welwyn Road from HERT3.

Local Plans should be consistent with the principles and policies set out in the NPPF (NPPF para 151). This means all the policies not just some of them. The NPPF includes policies to protect the Green Belt and to conserve and enhance the natural and historic environments, as well as policies to increase housing supply and facilitate economic growth.

As NPPF policies sometimes pull in different directions a reasoned choice may sometimes have to be made between them. In making that choice, all the relevant policies must be taken into account and given proper weight. We note that the Strategic Objectives set out in para 2.5.1 of the Plan do not include an objective to protect the Green Belt as such, despite the fact that the protection of the Green Belt is one of the principles and policies of the NPPF. This is a significant omission, and we submit that, as a result, when making the decision to remove land bounded to the east by Thieves Lane and to the north by Welwyn Road from the Green Belt the Council failed to give the policy to protect the Green Belt sufficient weight.

Instead of considering the protection of the Green Belt and the meeting of housing needs on an equal footing the Council regarded the Green Belt designation of the land as a constraint to be overcome if possible. The NPPF does of course acknowledge that there may be special circumstances in which the removal of land from the Green Belt is justified, but in weighing up whether those circumstances are special enough it is the value of the land as part of the Metropolitan Green Belt as a whole which falls to be considered, not just local open space or visual considerations. Any other approach runs the risk, as Sullivan J put it in *Heath and Hampstead Society, R (on the application of) v Camden* [2007] EWHC 977 (Admin) “that Green Belt or Metropolitan Open Land will suffer the death of a thousand cuts”. The circumstances to justify the removal of this land from the Green Belt have not been clearly identified, indeed the Council concede that the Green Belt study carried out by consultants found “that the assessment of the three land areas to the West of Hertford would not in itself suggest that the land contained in these parcels would be suitable for Green Belt release” (Hertford Settlement Appraisal, presented to District Plan Executive Panel on 8/9/16, Agenda item 9, para 6.60). The Government have repeatedly stressed that the need for housing land is not by itself an exceptional circumstance. The decision to exclude this area from the Green Belt was not made in accordance with national policy and the Plan is therefore unsound in this respect.

The land bounded to the east by Thieves Lane and to the north by Welwyn Road forms part of housing allocation HERT3. It abuts Panshanger Country Park, which is identified in the Hertford Settlement Appraisal as a Grade II* Registered Park and as wildlife site no. 58/025. The development proposed in the vicinity of the Park has been the subject of a Heritage Impact Assessment carried out by consultants (Settlement Appraisal paras 3.25 – 3.27 and 6.71).

The protection and enhancement of the historic environment and of biodiversity are included in the Plan's Strategic Objectives, but in our submission the decision to allocate this part of HERT3 for residential development runs counter to those objectives. The Hertford Settlement Appraisal (para 6.56) acknowledges that, taking into account the characteristics of Panshanger itself and the surrounding landscape, the overall findings of the Heritage Impact Assessment are that "the potential development of parts of this rural area, especially in close proximity to the eastern boundaries of the Park which the outer suburbs of Hertford already partially meet, has the potential to cause harm to the heritage significance of the Registered Park and Garden". Policy HERT3 itself sets out a number of mitigatory measures which the development would be expected to achieve; these are aspirational, but in our view unrealistic and unlikely to be effective. The proposed development, by virtue of its location abutting the Park, from which it would not be separated by any road or other significant barrier, would seriously and adversely affect the flora, fauna, appearance, tranquillity and historic interest of Panshanger Park. Since the historic environment and biodiversity are not adequately protected the Plan is not positively prepared and the proposed development is unjustified.

Objection to Paragraph 7.2.9

Modification(s) necessary to make the Pre-Submission District Plan legally compliant, compliant with the duty to co-operate or sound.

Do not withdraw land north of Sacombe Road and west of B158 Wadesmill Road from the Green Belt, and delete HERT4.

Local Plans should be consistent with the principles and policies set out in the NPPF (NPPF para 151). This means all the policies not just some of them. The NPPF includes policies to protect the Green Belt as well as policies to increase housing supply and facilitate economic growth.

As NPPF policies sometimes pull in different directions a reasoned choice may sometimes have to be made between them. In making that choice, all the relevant policies must be taken into account and given proper weight. We note that the Strategic Objectives set out in para 2.5.1 of the Plan do not include an objective to protect the Green Belt as such, despite the fact that the protection of the Green Belt is one of the principles and policies of the NPPF. This is a significant omission, and we submit that, as a result, when making the decision to remove land north of Sacombe Road and west of B158 Wadesmill Road from the Green Belt the Council failed to give the policy to protect the Green Belt sufficient weight.

Instead of considering the protection of the Green Belt and the meeting of housing needs on an equal footing the Council regarded the Green Belt designation of the land as a constraint to be overcome if possible. The NPPF does of course acknowledge that there may be special circumstances in which the removal of land from the Green Belt is justified, but in weighing up whether those circumstances are special enough it is the value of the land as part of the Metropolitan Green Belt, as a whole, which falls to be considered, not just local open space or visual considerations. Any other approach runs the risk, as Sullivan J put it in *Heath and Hampstead Society, R (on the application of) v Camden* [2007] EWHC 977 (Admin) "that Green Belt or Metropolitan Open Land will suffer the death of a thousand cuts". The circumstances to justify the removal of this land from the Green Belt have not been clearly identified, indeed the "Council Officers acknowledge that the assessment of the land parcel to the North of Hertford would not in itself suggest that, beyond the nursery site, the land contained in this parcel would be suitable for Green Belt release." (Para. 6.104 Hertford Settlement Appraisal).

The misleading qualification ("beyond the nursery site") in the Officer's acknowledgement is examined in Appendix 1 (below).

The Government have repeatedly stressed that the need for housing land is not by itself an exceptional circumstance. The decision to exclude this area from the Green Belt was not made in accordance with national policy and the Plan is therefore unsound in this respect.

Paragraph 85 of the NPPF states that, when Green Belt defining boundaries Local Planning Authorities should inter alia define boundaries clearly, using physical features that are recognisable and likely to be permanent.

The proposed new Green Belt boundary on the northern edge of the proposed residential allocation subject of Policy HERT4 does not follow an existing recognisable physical feature. Indeed, the line of the proposed Green Belt boundary indicated on the proposed Policies Map literally wanders across an open field.

The Hertford Settlement Appraisal refers to a (then) current planning application for the extraction of minerals to the north of the area subject of Policy HERT 4 which was due to be determined by Hertfordshire County Council, as Minerals Planning Authority

The Hertford Settlement Appraisal notes that, "should permission be granted for extraction, then the landform of the application area would be subject to significant alteration as part of the process of extraction. This would not only result in a change in the landscape from its existing appearance during extraction, but restoration could

potentially lead to a differing profile with lower related land levels in this location. The opportunity would then present itself to better minimise the impact of development over that which would occur at current land levels. This would also allow for significant appropriate screening of any development to occur as part of this approach with a strong Green Belt boundary then being created in this location."

There is no certainty that the mineral extraction application will be approved. Indeed, the proposal is extremely controversial in the local area. Although the Appraisal states that there "would" be a change in the landscape, restoration only "could" lead to a differing profile. Thus, the possibilities that an opportunity "would" present itself to minimise impact and that changes "would" allow "significant appropriate screening" are by no means certain. In any event, regarding the clear definition of Green Belt boundaries, paragraph 85 of the NPPF does not refer to identification of boundaries that currently do not follow recognisable physical features that might, in the future, become "strong" boundaries following "significant appropriate screening". (Presuming that the screening involved tree planting this would take many years to mature.)

The new proposed Green Belt boundary is not in accordance with national policy and the Plan is therefore unsound in this respect.

Appendix 1

The Hertford Settlement Appraisal quotes selectively from pages 58 and 59 of the East Herts Green Belt Final Report prepared by PBA for the Council.

The full wording relating to the evaluation of Parcel 35 in relation to Green Belt Purpose 1 (To check unrestricted sprawl ...) is

"Only southern end of parcel adjoins built up area where Green Belt boundary follows weak boundary where there are allotments and a nursery. Outer boundary defined along minor roads. Designation has constrained growth of town into this area. Any significant development extending beyond immediate edge of town would be perceived as 'sprawl'; local opportunity here to strengthen boundary in conjunction with small development of nursery site."

The "Outer boundary" referred to is the outer boundary of the built-up area of Hertford. This Green Belt boundary follows "minor roads". In terms of paragraph 85 these are "physical features that are recognisable and likely to be permanent". It is not clear how the boundary is "weak" because there are allotments and a nursery in the part of the Green Belt adjacent to the minor road boundary. Nor is it clear how the boundary would be strengthened "with a small development of the nursery site".

The full wording relating to the evaluation of Parcel 35 in relation to Green Belt Purpose 3 (To assist safeguarding countryside ...) is

"Large tract of primarily arable land, with strong rural character; visually very exposed on raised broad ridge that separates the Beane and Rib valleys and contains the town from the countryside to the north. Some blocks of woodland (some Ancient). Little settlement except for small 'isolated' hamlet at Chapmore End on north east edge of parcel. Clear defined transition to urban area at Bengo at southern end, partly softened by weak vegetation and fringe uses (nursery and allotments). Any development beyond this small area would lead to very prominent encroachment into this widely exposed, generally open and largely elevated area of mainly unspoilt countryside."

The reference to "Clear defined transition to urban area at Bengo" arises because the existing Green Belt boundary follows the line of a minor road (Sacombe Road). The observation that clear transition is softened by vegetation and the existence of allotments and a nursery does not diminish the use of a minor road (a recognisable physical feature) as the Green Belt boundary. To repeat, it is not clear how even a small development would strengthen the clear "transition to urban area".

Objection to Section 7.3.4

Modification necessary to make the Pre-Submission District Plan legally compliant, compliant with the duty to cooperate or sound.

The Pegs Lane area to remain undesignated

The Pegs Lane area should not be designated as an Employment Area. County Hall is a Listed Building, much of which would not be suitable for office use. Should the County Council decide to relocate substantial parts of their functions the Listed Building would be suitable for conversion to residential use. In addition the open space (cricket field etc) associated with County Hall would not be needed by County workers if functions were relocated and is in any event not needed in this location by the public. It too would be suitable for residential use.

Residential development here would reduce any need to develop Green Belt land on the peripheries of Hertford. Continued or extended employment use here, where little useful public transport is available, would exacerbate the already serious air quality issues in the vicinity, contrary to national policy, whereas a reduction in employment use would ameliorate them. This aspect of the Plan is therefore unsound, and options should be left open.

Objection to Section 24.5 Air Quality

Modification necessary to make the Pre-Submission District Plan legally compliant, compliant with the duty to co-operate or sound.

Reduce the quantum of development in the Plan so that air quality is not exacerbated

This section correctly identifies the issue, and Policy EQ4 sets out a range of measures which can and should be taken to mitigate the effects of developments and make all development less injurious to air quality. We fully support the analysis and the Policy. However the Policy will not be effective in achieving satisfactory air quality because the quantum of development proposed in the Plan, and the rates of population and economic growth to be catered for, are too high. The quantum of development is therefore unjustified, and the Plan as a whole is unsound, because it fails to contribute towards national objectives for pollutants, taking into account the cumulative impacts on air quality from individual sites, as required by para 124 of the NPPF.

The Plan acknowledges (paragraph 2.3.6) that many local communities in East Herts are reliant on the private car as their only transport option. "This impacts on (inter alia) air quality ... in towns and villages." (paragraph 2.3.6)

An Air Quality Management Area was declared along Gascoyne Way in Hertford in 2011. This was extended to Ware Road and Old Cross area of Hertford in 2012.

The Council admits that new developments proposed in the Plan will add to the level of pollution in the Hertford Air Quality Management Area (AQMA) where pollution already exceeds the acceptable level.

Policy EQ4 sets out two means of mitigation, provision of recharging points for electric vehicles on all new developments and the purchase of low emission vehicles, only for bus routes serving the new developments, when the existing fleet has to be replaced. Neither of these measures will have significant impact for many years after occupation of the proposed new developments, and even then impact will be uncertain.

In response to a Consultation by Hertfordshire County Council concerning Transport Vision 2050, the Executive of East Herts Council received a report in 6th December 2016 which referred to a County Council proposal to build, at a cost of £153-£175 million, an A414 Hertford By-pass as a result of which there would be reduction of private vehicle trips through the Air Quality Management Area and "improvements in air quality" (paragraph 2.25). However the proposal was not expected to be implemented until 2021-2031. The Executive endorsed this proposal in principle.

The Vision set out in paragraph 2.4.1 of what the Council would like the District to be like in 2033 envisages that "The high quality environment of East Herts will have been maintained." It is clear that with the current Plan this Vision is unattainable, certainly so far as Air Quality is concerned.

The strategy of the Plan is unsound because it would exacerbate, rather than ameliorate, air quality in the future.

[END OF OBJECTIONS]