

Duty to Co-operate
Memorandum of Understanding
East Herts Council and the Local Nature Partnership

- 1.1. This memorandum of understanding establishes a framework for co-operation between East Herts District Council and the Local Nature Partnership with respect to strategic planning and development issues.
- 1.2. Local Authorities are required through the Duty to Co-operate to engage constructively and actively on an on-going basis on planning matters that impact on more than one local planning area. The NPPF sets out the requirement that public bodies should cooperate on planning issues that cross administrative boundaries particularly those which relate to the following strategic priorities:
 - The homes and jobs needed in the area.
 - The provision of retail, leisure, and other commercial development.
 - The provision of infrastructure for transport telecommunications, waste management, water supply, wastewater, flood risk and coastal change management.
 - The provision of minerals and energy (including heat).
 - The provision of health, security, community and cultural infrastructure and other local facilities.
 - Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment including landscape.
- 1.3. The NPPF requires Local Planning Authorities to work collaboratively with other bodies to make sure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans. Local Planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross- boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position. Co-operation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.

2. Parties to the Memorandum

- 2.1. The Memorandum is agreed by the following parties / authorities:
 - East Hertfordshire District Council
 - The Hertfordshire Local Nature Partnership

3. Limitations

- 3.1. The Parties recognise that there might not always be full agreement with respect to all the issues on which they have agreed to co-operate. For the avoidance of doubt the Memorandum will not restrict the discretion of any of the

Parties in the determination of any planning application, or in the exercise of any its statutory powers and duties or in its response to consultations and is not intended to be legally binding.

4. Objectives

4.1. The Memorandum has the following broad objectives:

- To help secure a consistent approach to strategic planning and development issues.
- To make sure that the District Plan complies with the guiding principles of the Local Nature Partnership.
- To identify and agree the need for and approach to undertaking further technical evidence to inform the submission of the District Plan and/or the examination of the District Plan.
- To make sure there is compliance with the Duty to Co-operate.

5. Matters Agreed

5.1. East Herts council has prepared a Statement of Accordance with the LNP Principles and this has been agreed by the LNP Board as a fair and accurate statement. The Statement is attached as **Appendix A**.

6. Matters of Joint concern or where further co-operation will be required

6.1. The following LNP partnership bodies have made representations to the East Herts District Plan:

- **Herts and Middlesex Wildlife Trust** – Generally supports the District Plan and makes recommendations for amendments to policies to reflect changes in best practice and to enable flexibility should biodiversity calculation methods change over time, and to specify the purpose of these calculations is to demonstrate a net gain.
- **Lea Valley Regional Park Authority** – The Authority supports the District Plan policies of relevance to the Regional Park.
- **Herts and Middlesex Badger Group** – have raised concerns about the impact on badgers in the vicinity of the East of Stevenage proposed allocation.
- **Natural England** – have raised concern that the Lea Valley Regional Park Authority evidence will not have anticipated the proposed developments and that the authority should be consulted to ensure the Plan takes account of the impacts on the Regional Park. They also raise concern that the recreational pressures on the Epping Forest SAC arising from development across the Housing Market Area have not been considered. Other site specific issues were raised and suggestions put forward to add clarity to policy requirements.
- **Environment Agency** – generally supportive of the District Plan. Some site-specific matters were raised regarding the requirement to ensure flood risk assessments are carried out and that developers should apply the sequential approach to the layout of sites to avoid and mitigate flood risk.

7. Commitment to Future Co-operation

- 7.1. East Herts Council intends to suggest a number of minor amendments to the Plan as a result of these comments and will be collaborating with the relevant LNP partnership bodies to agree these suggestions. In particular, the issue of recreational pressure on the Epping Forest SAC have since been resolved in collaboration with Natural England. An MoU has been signed between East Herts, Harlow and Epping Forest Councils and the City of London Conservators and Natural England to this effect. This MoU is attached at **Appendix B**.
- 7.2. Site-specific matters will be resolved through a collaborative approach to masterplanning which will enable early and continued engagement on the planning and delivery of development.
- 7.3. It is also the intention of the Council to prepare Memoranda of Understanding with the Environment Agency, Natural England and the Lea Valley Regional Park Authority.

8. Evidence of Co-operation

- 8.1. Throughout the Plan-making process officers have liaised with various Local Nature Partnership bodies such as Hertfordshire Ecology, the Herts and Middlesex Wildlife Trust and the Lea Valley regional Park Authority in the formulation of the District Plan policies.
- 8.2. Officers also attend the Lea Valley Nature Improvement Area Partnership.

Appendix A

East Herts District Plan

Statement in Accordance with Local Nature Partnership Principles

February 2017

This Statement is to set out how the emerging East Herts District Plan has been prepared in accordance with the six guiding principles as established by the Hertfordshire Local Nature Partnership *Planning for Biodiversity and the Natural Environment in Hertfordshire – Guiding Principles*, 2014.

Principle 1: Recognise the value of the natural environment and the range of benefits and services it provides

The emerging East Herts District Plan (hereafter “the Plan”) recognises the many ecosystem services and benefits that the natural environment and green and blue infrastructure provide.

Chapter 20 of the Plan focuses on the natural environment, recognising that the natural environment is an integral part of the planning system and as such needs to be taken into consideration in any development. East Herts has a rich geological and biological inheritance and it is important that this is protected and enhanced for current and future generations.

Additions to the Plan subsequent to the Preferred Options District Plan consultation include greater reference to improving the health and wellbeing of residents and visitors to the District, and recognises that open spaces perform wider health and wellbeing benefits beyond opportunities for sport or recreation, such as for reflection and relaxation, for improving air quality and creating urban heat cooling for example.

These matters are also addressed through the Sustainability Appraisal of the District Plan.

Principle 2: Protect and enhance existing biodiversity assets

Chapter 20: Natural Environment contains four policies which seek to protect and enhance existing biodiversity assets. These policies seek to protect and enhance areas designated for their biodiversity importance commensurate to their level of significance.

Policy NE1: International, National and Locally Designated Nature Conservation Sites states, that permission will be refused for development proposals, land use or activities which are likely to have a detrimental impact which adversely affects the integrity of a site, unless there are imperative reasons of overriding public interest, as per the provisions of the National Planning Policy Framework (NPPF). In these exceptional situations, evidence of a sequential assessment will be required and appropriate mitigation sought which achieves a net gain for nature. Proposals are

required to avoid impacts, provide mitigation where impact is unavoidable and provide compensatory measures to achieve a net gain for nature, either on or off-site. Ecological impacts will be quantified by using an approved Biodiversity Impact Assessment Calculator.

Policy NE2: Sites of Nature Conservation Interest (Non-Designated), requires all development proposals to achieve a net gain in biodiversity, applying the mitigation hierarchy of avoidance, mitigation and compensation, within the context of avoiding harm to, or loss of features that contribute to the wider ecological network.

Policy NE3: Species and Habitats, requires development proposals to seek to enhance biodiversity and to create opportunities for wildlife. European Protected Species will be protected and the three derogation tests will be required in accordance with the European Habitats and Birds Directive.

Development proposals for strategic sites are required to follow a comprehensive masterplanning approach, which engages relevant experts and stakeholders as necessary. There will therefore be sufficient measures to ensure that masterplans are prepared with a full understanding of the ecological assets and constraints of a site and its surrounding environment.

Principle 3: Seek opportunities to improve habitat connectivity

The Natural Environment chapter seeks to increase habitat connectivity through the requirement for development to create a net gain to biodiversity. The chapter references and requires development to be in accordance with the Local Nature Partnership and the Hertfordshire Biodiversity Action Plan. Development is required to avoid habitat loss and fragmentation and to create, restore and enhanced linked habitats and 'stepping stones' through the landscape.

The chapter provides guidance as to the variety of possible interventions and mitigation measures and makes it clear that compensation is a last resort and will not make unacceptable development acceptable where a habitat is lost. Biodiversity offsetting approaches will not be applied to priority habitats.

The river environment is a key part of the character of each of the District's towns and many villages, and it is therefore particularly important that rivers and their landscapes are protected and improved and that opportunities are taken to maximise the benefit of river corridors in terms of increasing connectivity between different ecological assets and as a means of improving recreational access, thereby increasing a sense of appreciation and ownership of the natural environment.

In addition to the Natural Environment chapter, the Design and Landscape chapter and site specific policies seek to improve the coverage and connectivity of different habitats, including within the urban environment through street trees, buffer planting, amenity spaces, parks and residential gardens.

The Council is working with the Lea Catchment Nature Improvement Area Partnership on several schemes across the district and regularly engage relevant experts as required during the plan-making and planning application stages.

Principle 4: Integrate biodiversity opportunities within new development

The District Plan Design and Landscape chapters requires proposals to fully consider the landscape character of sites and must demonstrate how proposals conserve, enhance or strengthen the character and distinctive features of the landscape and to retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value.

The Community Facilities chapter and site-specific policies require development proposals to integrate existing biodiversity features within the overall design, and to maximise the use of green infrastructure features to provide multiple-use solutions to matters such as drainage, the need for open spaces and as a means of providing non-vehicle based routes through sites. On-site mitigation measures are encouraged such as the use of bat and bird boxes, urban landscaping and reduced lighting for example.

Principle 5: Make decisions informed by the best available ecological information and data

The District Plan advises that applicants engage the advice of relevant stakeholders such as the Herts Environmental Records Centre at an early stage in the application process. The District Plan provides signposts to relevant organisations and tools to assist in this process.

Applicants are required to demonstrate that the ecological value of a site has been appropriately assessed and that proposals will mitigate any impacts or losses arising through development. All proposals are required to provide net gains to biodiversity in line with the requirements of the NPPF and therefore the Plan requires the use of an approved Biodiversity Impact Assessment Calculator.

Principle 6: Secure the long term management of existing and new habitats/sites

One important aspect to the provision of green infrastructure and other mitigation measures is the long-term maintenance of such features after the development is complete. Therefore the Plan seeks to ensure that management programmes are provided and agreed through the planning application process to demonstrate how the maintenance requirements have been considered.

The District Plan makes it clear that conditions and the use of Section 106 Agreements will be used to ensure that mitigation measures are provided satisfactorily. For the largest proposed strategic allocation at the Gilston Area site, it is envisaged that a community land trust is established to assist in the long term planning and maintenance of open space assets provided through the development.

The Infrastructure Delivery Plan supporting the East Herts District Plan identifies a range of green infrastructure projects likely to be required to support the development proposed in the Plan, and sets out how these projects can be funded and delivered in association with the Local Nature Partnership and its member bodies.