



**MEETING** : EXECUTIVE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : TUESDAY 6 OCTOBER 2015  
**TIME** : 7.00 PM

**MEMBERS OF THE EXECUTIVE**

- |                                   |   |
|-----------------------------------|---|
| Councillor Linda Haysey           | - Leader  |
| Councillor Eric Buckmaster        | - Executive Member for Health and Wellbeing   |
| Councillor Tony Jackson           | - Ambassador and Executive Member for Shared Services                               |
| Councillor Gary Jones             | - Executive Member for Economic Development   |
| Councillor Graham McAndrew        | - Executive Member for Environment and the Public Space                             |
| Councillor Suzanne Rutland-Barsby | - Deputy Leader and Executive Member for Development Management and Council Support |
| Councillor Geoffrey Williamson    | - Executive Member for Finance and Support Services                                 |

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## DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
  - must not participate in any discussion of the matter at the meeting;
  - must not participate in any vote taken on the matter at the meeting;
  - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
  - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
  - must leave the room while any discussion or voting takes place.
  
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
  
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

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### **Audio/Visual Recording of meetings**

Everyone is welcome to record meetings of the Council and its Committees using whatever, non-disruptive, methods you think are suitable, which may include social media of any kind, such as tweeting, blogging or Facebook. However, oral reporting or commentary is prohibited. If you have any questions about this please contact Democratic Services (members of the press should contact the Press Office). Please note that the Chairman of the meeting has the discretion to halt any recording for a number of reasons, including disruption caused by the filming or the nature of the business being conducted. Anyone filming a meeting should focus only on those actively participating and be sensitive to the rights of minors, vulnerable adults and those members of the public who have not consented to being filmed.

## AGENDA

1. Apologies

*To receive apologies for absence.*

2. Leader's Announcements

3. Minutes (Pages 7 - 12)

*To approve the Minutes of the meeting held on 1 September 2015.*

4. Declarations of Interest

*To receive any Member(s) declaration(s) of interest.*

5. Issues Arising from Scrutiny (Pages 13 - 16)

6. Anti-Social Behaviour, Crime & Policing Act 2014 - Environmental Crime Enforcement Implications (Pages 17 - 52)

7. Resident Permit Parking Policy Review (Pages 53 - 80)

8. Hertfordshire Building Control Project (Pages 81 - 92)

9. Deregulation Act 2015 - Duration of Licences (Pages 93 - 102)

10. District Planning Executive Panel: Minutes - 10 September 2015 (Pages 103 - 108)

*To consider recommendations on the matters below:*

(A) East Herts Green Belt Review August 2015

*Minute 1 refers*

(B) Village Hierarchy Study Stage 1 August 2015

*Minute 2 refers*

(C) Duty to Co-operate Update Report

*Minute 3 refers*

(D) Buntingford Transport Model Report August 2015

*Minute 4 refers*

(E) Affordable Housing – Amendment to Policy

*Minute 5 refers*

11. Authorisation to make a Compulsory Purchase Order on an empty home  
(Pages 109 - 128)

*Note – Essential Reference Papers ‘B’ and ‘C’ are enclosed for Members only as they contain exempt information as defined in paragraphs 1 and 3 respectively.*

1. *Information relating to any individual.*

3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

12. Urgent Business

*To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.*

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MINUTES OF A MEETING OF THE  
EXECUTIVE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD ON  
TUESDAY 1 SEPTEMBER 2015, AT 7.30  
PM

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PRESENT: Councillor L Haysey (Chairman/Leader)  
Councillors E Buckmaster, A Jackson,  
G Jones, G McAndrew, S Rutland-Barsby  
and G Williamson.

ALSO PRESENT:

Councillors A Alder, R Brunton, J Cartwright,  
Mrs R Cheswright, K Crofton, I Devonshire,  
M Freeman, J Jones, M McMullen, P Moore,  
S Reed and M Stevenson.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Acting Chief Executive/Director of Neighbourhood Services
Philip Gregory	- Head of Strategic Finance
Martin Ibrahim	- Democratic Services Team Leader
Adele Taylor	- Director of Finance and Support Services

247 MINUTES

RESOLVED – that the Minutes of the Executive meetings held on 28 July, 4 August and 10 August 2015, be approved as correct records and signed by the Leader.

248 ISSUES ARISING FROM SCRUTINY

The Executive received a report detailing those issues referred to it by the Scrutiny Committees, which were noted. Issues relating to specific reports for the Executive were considered and detailed at the relevant report of the Executive Member.

RESOLVED – that the report be received.

249 EASTWICK, GILSTON AND HUNSDON PARISHES - REQUEST FOR AREA DESIGNATION FOR NEIGHBOURHOOD PLANNING

The Executive gave consideration to a report detailing an application by Eastwick and Gilston and Hunsdon Parish Councils for the designation of a Neighbourhood Area, as detailed on the plan attached to the report submitted. The application comprised the Eastwick and Gilston and Hunsdon Parish Areas.

The Executive considered the application and the consultation undertaken. The report submitted detailed the main areas of consideration in determining the application in accordance with Schedule 9 of the Localism Act 2011.

Councillor R Brunton, as the local ward Member, expressed his support for the application and urged both parish councils to engage with interested groups in the process.

The Executive supported the application, as now detailed.

RESOLVED - that the application for the designation of a Neighbourhood Area, submitted co-jointly by Eastwick and Gilston and Hunsdon Parish Councils, be supported.

250 MUCH HADHAM PARISH - REQUEST FOR AREA DESIGNATION FOR NEIGHBOURHOOD PLANNING

The Executive gave consideration to a report detailing an



application by Much Hadham Parish Council for the designation of a Neighbourhood Area, as detailed on the plan attached to the report submitted. The application comprised the Much Hadham Parish Area.

The Executive considered the application and the consultation undertaken. The report submitted detailed the main areas of consideration in determining the application in accordance with Schedule 9 of the Localism Act 2011.

Councillor I Devonshire, as the local ward Member, expressed his support for the application.

The Executive supported the application.

RESOLVED - that the application for the designation of a Neighbourhood Area, submitted by Much Hadham Parish Council, be supported.

## 251 ANNUAL GOVERNANCE STATEMENT

The Executive considered the 2014/15 Annual Governance Statement and the 2015/16 Action Plan. The Audit Committee, at its meeting to be held on 23 September 2015, would be asked to approve these documents and the Executive was invited to comment.

The Executive noted the comments of the Corporate Business Scrutiny Committee, at its meeting held on 25 August 2015, in relation to the Action Plan being more detailed and SMART as set out in the best practice list quoted in the report.

The Executive supported these comments and the documents going forward to the Audit Committee.

RESOLVED – that (A) the comments of Corporate Business Scrutiny Committee be received and supported; and

(B) the Audit Committee be advised that the Executive supports the 2014/15 Annual Governance

Statement and the 2015/16 Action Plan, as now detailed.

252 ANNUAL REPORT 2014/15

The Executive considered the 2014/15 Corporate Annual Report, documenting the Council's key achievements for each of the corporate priorities over the last financial year. The report also provided an overview of the Council's financial position and performance and a statement on contracts.

The Corporate Business Scrutiny Committee, at its meeting held on 26 August 2015, supported the recommendations and commented in respect of the pie charts within the financial information by suggesting that the segment shown as "other" needed more detail as it represented a significant portion of the whole. Also, the Committee suggested that the "what we have not done" examples for each priority could be more constructive in their title and tone and not blame others for any lack of progress.

The Director of Finance and Support Services accepted these comments and advised that they would be considered before the final version was published to the website.

The Executive approved the 2014/15 Corporate Annual Report as now submitted.

RESOLVED - that (A) the comments of Corporate Business Scrutiny Committee be received; and

(B) the Corporate Annual Report 2014/15 be approved.

253 QUARTERLY CORPORATE HEALTHCHECK – APRIL - JUNE 2015

The Executive considered a quarterly report on performance, finance and risk monitoring for the Council as at June 2015.

The Corporate Business Scrutiny Committee commented that

extra detail to explain staffing increases would be helpful in understanding why it was happening. Also, the Committee requested that further details on the actions being taken to regularise over/underspends would also be helpful.

The Executive Member for Finance and Support Services reminded the Executive of the ongoing implementation of the new, integrated finance and business planning process which might change how some information was provided.

The Executive approved the recommendations now detailed.

RESOLVED - that (A) the comments of the Corporate Business Scrutiny Committee on the Quarterly Corporate Healthcheck, be received;

(B) the revenue budget forecast overspend of £144k be noted;

(C) the proposed slippage on capital schemes of £90k be noted;

(D) additional funding of £17k for the Grange Paddocks heat exchanger capital scheme be approved:

(E) the carry forward requests from 2014/15 to 2015/16 of £139k be approved;

(F) the current explanation for long term trends for:

- EHPI 181 – Time taken to process Housing Benefit new claims and change events, and
- EHPI 192 – Percentage of household waste sent for reuse, recycling and composting,

be noted;

(G) action taken to address performance for EHPI

2.6 – Percentage of residual waste (refuse) sent for disposal, be noted; and

(H) the risk controls be approved.

The meeting closed at 7.44 pm

Chairman	.....
Date	.....

## EAST HERTS COUNCIL

EXECUTIVE – 6 OCTOBER 2015

### REPORT BY SCRUTINY COMMITTEE CHAIRMEN

#### ISSUES ARISING FROM SCRUTINY

WARD(S) AFFECTED: All

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#### **Purpose/Summary of Report**

- This report details the comments and recommendations made by the Scrutiny Committees since the last meeting of the Executive and should be read in conjunction with reports of the Executive Members found elsewhere on the agenda.

<b><u>RECOMMENDATION FOR DECISION:</u></b>	
<b>(A)</b>	<b>That the report be received.</b>

1.0 Background

1.1 Scrutiny meetings have been held recently as follows:

Environment Scrutiny Committee – 8 September 2015  
Community Scrutiny Committee – 22 September 2015

2.0 Report

2.1 **Anti-Social Behaviour, Crime & Policing Act 2014 -  
Environmental Crime Enforcement Implications (Agenda Item  
6)**

The Environment Scrutiny Committee agreed that the Executive be advised that (A) the Draft Environment Crime Enforcement Policy, as now submitted, be approved subject to public consultation;

(B) consultation be undertaken on the replacement of the three existing dog control orders with one consolidation Public Space Protection Order; and

(C) consultation be undertaken on three potential new offences for inclusion in the order, namely, making it an offence to fail to pick up after a dog, to fail to have the means to pick up after a dog and failing to put a dog on a lead when directed to do so by an Officer.

## 2.2 Resident Permit Parking Scheme Policy (Agenda Item 7)

The Environment Scrutiny Committee (in June 2015) confirmed their support of the guidelines set out in the report now submitted and further agreed that a new policy should be developed for consideration by the Executive before any new schemes were agreed.

## 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

None

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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATION

Contribution to the Council's Corporate Priorities/ Objectives:	This report seeks to summarise scrutiny activities, which in general terms, support all of the Council's objectives.
Consultation:	This report assists the wider consultation process in reporting issues arising from scrutiny to the Executive.
Legal:	The Constitution provides for issues arising from Scrutiny to be reported to the Executive.
Financial:	None
Human Resource:	None
Risk Management:	None
Health & Wellbeing – issues and impacts:	None

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## EAST HERTS COUNCIL

EXECUTIVE – 6 OCTOBER 2015

### REPORT BY EXECUTIVE MEMBER FOR COMMUNITY SAFETY AND ENVIRONMENT

#### ANTI SOCIAL BEHAVIOUR, CRIME & POLICING ACT 2014 - ENVIRONMENTAL CRIME ENFORCEMENT IMPLICATIONS

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- This report provides details of the implications of the changes resulting from the Anti-social Behaviour, Crime and Policing Act 2014 on the Council's Environmental Crime Policy.
- To also seek approval to consult on the consolidation of our existing dog control powers within a Public Space Protection Order.

#### **RECOMMENDATIONS FOR THE EXECUTIVE: That:**

<b>(A)</b>	<b>the Draft Environmental Crime Enforcement Policy, as set out in Essential Reference Paper 'B', be approved, subject to public consultation;</b>
<b>(B)</b>	<b>a consultation process be undertaken on the replacement of the three existing dog control orders with one consolidated Public Space Protection Order; and</b>
<b>(C)</b>	<b>a consultation process be undertaken to consult on three potential new offences to be included in the order, namely, making it an offence to fail to pick up after your dog, making it an offence to fail to have the means to pick up after a dog, and to fail to put a dog on a lead when directed to so by one of our officers.</b>

#### 1.0 Background

1.1 The Council conducts all enforcement in accordance with its own corporate 'Enforcement Policy for East Herts District Council'

which is based upon national best practice.

- 1.2 Enforcement is conducted by a number of Council Services, but primarily by Regulatory Services (Planning and Building Management, Community Safety and Health) and Customer and Community Services (by Environmental Services and Parking).
- 1.3 In 2006 the Council agreed an Environmental Crime Policy following the introduction of the Clean Neighbourhoods and Environment Act 2005. The policy covers the enforcement of activities that affect the streetscene and visual amenity of the environment. This mainly impacts upon the work of Environmental Services which deals with street cleansing and waste collection operations, dog control and enforcement, Development Control, which undertakes planning enforcement matters including flyposting, and Environmental Health, which deals with health, pollution and statutory nuisances such as noise, light and insects.
- 1.4 The Anti-social Behaviour (ASB), Crime and Policing Act 2014 was introduced to improve the way that the police, councils and social landlords deal with anti-social behaviour. Final statutory guidance was published in July 2014 and while some changes commenced from March 2014, others which affect East Herts have only been effective since 20<sup>th</sup> October 2014.
- 1.5 Many of the changes introduced by the new legislation affect the police and other agencies and a report detailing the powers available was agreed by the Executive on 2<sup>nd</sup> June 2015. This report focuses only on the parts of the legislation that will impact on the Council's Environmental Crime Enforcement Policy.

## 2.0 Report

- 2.1 The current Environmental Crime Policy was agreed in 2006 and covered the following items:
  - Crime and Disorder Reduction Partnerships (now called Community Safety Partnerships)
  - Nuisance Parking Offences
  - Abandoned Vehicles
  - Litter
  - Distribution of Free Literature
  - Graffiti and other defacement
  - Deposit and Disposal of Waste

- Dog Control Orders
- Noise
- Nuisance from Light and Insects
- Fixed Penalty Notices
- Abandoned Shopping Trolleys

2.2 Since the policy was produced there have been a number of minor amendments following clarification of guidance. The Government has recently made several changes to existing legislation as part of an overhaul of offences relating to anti-social behaviour (ASB) and these include some activities linked to environmental crime.

2.3 This legislation amends a range of existing legislation including:

- Environmental Protection Act (1990)
- Clean Neighbourhoods and Environment Act (2005)
- Anti-social Behaviour Act (2003)

2.4 The new legislation will affect the following:

- Littering from cars
- Clearing litter and waste on land
- Graffiti and other defacement
- Controlling dogs

The implications on East Herts policy are explained below in more detail.

#### 2.5 Littering from Cars

The ASB, Crime & Policing Act 2014 gives greater powers to Councils to combat the problem of littering from cars. Under the new legislation, it is proposed that s88 of EPA 1990 will be amended to allow a civil penalty to be issued to the registered keeper of a vehicle where there is reason to believe that a littering offence in England has been committed in respect of the vehicle.

2.6 It is hoped that this will make it easier for Councils to take action on the increasing problem of litter on the highway verges. A date for commencement is however yet to be confirmed, but officers would be keen to use this when the powers are available.

#### 2.7 Clearing litter and waste on land

Under the section 92 to 94A of CNEA (2005) local authorities

could issue Litter Abatement Notices, Litter Clearing Notices and Street Litter Control Notices to landowners and businesses who allowed land to become littered.

2.8 The object of these notices was to deal with accumulations of litter that reduce the quality of the local environment within a neighbourhood. These Notices have now been repealed and replaced with Community Protection Notices as detailed in section 2.11.

2.9 Graffiti and other defacement

The Anti-social Behaviour Act (2003) as amended by the CNEA (2005), enabled local authorities to issue notices requiring the removal of graffiti and fly posting to 'statutory bodies' and others responsible for street furniture and other "relevant surfaces" where these are defaced by graffiti or fly posting in a manner that is detrimental to the amenity of the area or is offensive. If a graffiti removal notice is not complied with, the local authority can remove the graffiti itself and reclaim the cost of doing so.

2.10 These Notices have now been repealed and replaced with Community Protection Notices as detailed in section 2.11.

2.11 Community Protection Notices

The ASB, Crime and Policing Act 2014 introduced Community Protection Notices as a means to tackle a wide range of ongoing problems or nuisances which negatively affect a community's quality of life.

2.12 CPNs have been introduced to simplify legislation and have fewer restrictions than the legislation that they replace. They are useful in dealing with ongoing problems especially where there are more than one issue that need resolving.

2.13 A CPN can be issued where we are satisfied that the behaviour -

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent and continuing in nature;
- is unreasonable;

2.14 A fixed penalty notice can be issued of up to £100 if appropriate. Breach is a criminal offence with a £2,500 fine for individuals or £20,000 for businesses. CPNs can allow the council to carry out works in default on behalf of a perpetrator.

- 2.15 CPNs deal with a wider range of behaviours than the legislation that they replace. For example:
- accumulation of litter on private land or land belonging to a statutory body;
  - a large amount of graffiti on private premises;
  - litter left on land as a result of the operations of a business;
  - irresponsible dog ownership such as dogs straying.
- 2.16 CPNs do not discharge the council from its duty to issue Abatement Notices where the behaviours constitute a statutory nuisance under EPA 1990, however the Council will consider using all relevant powers in tandem before reaching a decision.
- 2.17 The Council would only use these for areas where we have existing responsibility and will not be taking on issues which could be classed as neighbour disputes.
- 2.18 It is anticipated that the number of reported dog related problems may increase due to public awareness of the new powers, particularly to the Police. However it is not possible to estimate by how much.
- 2.19 Before considering using a CPN process, the case will be discussed with the Community Safety team and logged on SafetyNet, which is a web based case management system that Police, Housing Associations and East Herts have access to.
- 2.20 Controlling Dogs  
The Dog (Fouling of Land) Act 1996 allowed local authorities to designate land under its control where it is an offence to permit dog fouling. Under this legislation all footpaths, amenity areas on housing estates, and public open spaces in East Herts have been declared designated areas.
- 2.21 If a dog defecates on designated land it is an offence if the person in charge of the dog fails to pick up the faeces. Any person found guilty of this offence could face a fine of up to £1,000 or could be given a FPN of £50.
- 2.22 The Clean Neighbourhoods & Environment Act 2005 gave Councils the option to replace this and the previous system of byelaws with Dog Control Orders.
- 2.23 The Councils three existing dog control orders (DCOs) make it an offence to:

- allow your dog off a lead at Hertford Castle Grounds, Bishops Stortford Castle Gardens, and all Council owned allotments;
- to allow your dog in designated East Herts children's play areas, games areas, bowling greens and marked playing pitches when there is a match in play;
- for one person to take more than 4 dogs on to any East Herts land at any one time.

2.24 It is generally considered that the three DCOs have been effective in promoting responsible dog ownership. However, officers continue to struggle to catch the minority of dog owners who persist in allowing their dogs to foul and to catch and deal with dog owners who fail to properly control their dogs.

2.25 At the time, it was decided not to adopt the order for failing to remove dog faeces as the current legislation under the Dogs (Fouling of Land) Act 1996 worked satisfactory. However officers now find this legislation confusing for the public and authorised officers to enforce. Additionally it only covers certain land as it excludes land alongside highways over 40mph, moorland, heathland, woodland and areas where animals graze. The fixed penalty of £50 is felt to be too low when the penalty for littering is £80.

2.26 The ASB, Crime & Policing Act 2014 provides local authorities with the power to create a Public Space Protection Order (PSPO) where they are satisfied that activities carried out in a public place are having a detrimental effect on the quality of life of those in the locality and the effect of those activities are likely to be persistent or continuing in nature and justifies the restrictions imposed.

2.27 It is proposed to consolidate the existing DCOs into a single PSPO and also replace the order under the Dogs (Fouling of Land) Act at the same time. It will be proposed that the new offences will consist of:

- Dogs on lead by direction
- Failing to have the means to pick up after a dog

Further explanation of these proposals can be found in **Essential Reference Paper 'D'**.

- 2.28 The existing DCOs were introduced in 2007 following consultation with the public and many interested bodies. The final DCOs were amended following concerns about the order to restrict dogs on marked playing pitches. There are minor changes to locations of some play areas but it is not anticipated that the re-introduction of the existing DCOs will receive anything other than support for the proposals.
- 2.29 It is recognised that the additional powers which form part of this consultation have the potential to be controversial. However dog fouling continues to be a major concern for East Herts residents and each year the Council receives more than 70 complaints about dog attacks and 230 complaints about dog fouling.
- 2.30 The consultation process will be conducted in accordance with Cabinet Office Guidelines. In order to ensure that parishes can consider these proposals within their meeting cycle, the consultation period will be conducted over 12 weeks. The proposals will also be circulated to a wide variety of interested parties including residents groups, dog clubs and bordering authorities.
- 2.31 Because of the wide remit of the new Act, officers are in the process of consulting with the police and partners on issues which impact on wider community safety. The full list of these are still to be confirmed but this is likely to include converting the five existing Designated Public Place Orders in the town centres (DPPOs) to continue to restrict the consumption of alcohol in the designated zones.
- 2.32 As a result there might be a couple of additional questions relating to community safety and Anti-social Behaviour PSPOs that are added to the consultation outlined in this report in order to avoid the need for further consultation at additional cost.
- 2.33 The results of the consultation exercise will be used as the basis for a further report to the Executive.
- 2.34 Fixed Penalty Notices  
Under the ASB, Crime & Policing Act 2014 fixed penalty notices of up to £100 can be issued for both Community Protection Notices and Public Space Protection Orders. The maximum amount is set at £100 for these offences but Councils can decide whether to set it at a lesser amount and/or give a discounted rate if paid within 14 days.

- 2.35 The suggested amounts for the new offences are based on similar offences that they replaced, but still high enough to show the Council's commitment to reduce these problems.
- 2.36 Subject to training and arranging agreements, it is proposed that Town & Parish Council designated officers can be authorised to issue FPNs or incident tickets for littering, dog fouling and other offences agreed by Director of Neighbourhood Services on the Council's behalf.
- 2.37 An updated Environmental Crime Policy is provided in **Essential Reference Paper 'B'**. The objective of this document, which sits beneath the Council's Corporate Enforcement Policy, is to ensure that resources are focused on priority areas and appropriate and proportional action is taken in different circumstances. It is recommended that members approve the draft document and this goes to public consultation along with the proposed PSPOs.
- 2.38 FPN charges will be set by the Council and subject to variation by Director of Neighbourhood Services in consultation with the portfolio holder. A full list of FPNs for Environmental Crime and the discounted payments can be found in **Essential Reference Paper 'C'**.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

None

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Report Author: Nick Kirby – Environmental Inspection Team Manager  
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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives	<b>Place – Safe and Clean</b> This priority focuses on sustainability, the built environment and ensuring our towns and villages are safe and clean.
Consultation:	Internal departments and officers affected by the Environmental Crime Policy changes have been consulted. The updated policy will be made available on the Councils website and public consultation invited.  Consultation will be required for Public Spaces Protection Orders with residents, partners and appropriate community representatives.
Legal:	No statutory requirements but certain parts of existing legislation have been repealed and new powers have been brought in to replace them.  Any public consultation carried out will be as per the legal guidelines.
Financial:	It is not anticipated to increase resource levels on enforcement as policy changes relate only to new powers for existing offences. The new offences proposed for PSPOs should help officers carry out enforcement more effectively rather than generate increased workload.  However if members wish to extend enforcement on litter and dog fouling enforcement then additional options and costs could be investigated.  The income level from fines and fixed penalty notices are not anticipated to be large as the majority of people respond to informal action (typically under £500 per annum). Any income is used to support the street cleansing service.
Human Resource:	The updated policy impacts primarily upon the work of the Environmental Inspection Team.

	<p>The new legislation places an emphasis on the police, councils and social landlords to work together to deal with problems more quickly. Partnership working, information sharing and early and informal interventions are key to successfully dealing with anti-social behaviour.</p> <p>The policy promotes greater partnership working particularly with the police, housing associations and Town and Parish Councils. It is proposed that these partnerships should help support the work of the Council's Inspection Team particularly regarding dog issues, litter and dog fouling.</p>
<p><b>Risk Management:</b></p>	<p>The updated policy provided officers with clear guidance on dealing with Environmental Crime to minimise risks and ensure that officer decisions are fair and proportionate.</p> <p>Failure to implement new powers removes an important tool and seriously limits the opportunity to improve public satisfaction with these services.</p>
<p><b>Health and wellbeing – issues and impacts:</b></p>	<p>The revised policy provides some additional tools to help local authorities address problems with the local environment and persistent offenders to improve quality of life.</p>



# Environmental Crime Enforcement Policy

## 1 Scope

1.1 This policy covers enforcement activities in support of the Council's duties and responsibilities for maintenance of 'streetscene' and the visual amenity of the local environment for:

- Street cleansing, control of litter and dog fouling.
- Sites which are detrimental to the amenity of a neighbourhood.
- Graffiti and flyposting.
- Proper management and disposal of domestic and commercial waste.
- Nuisance & abandoned vehicles.
- Stray dogs and nuisance dogs.

1.2 These functions are normally carried out by the Council's Environmental Services Team and the Development Control Service and where relevant in consultation with the Community Safety Team.

## 2 Objectives

2.1 The quality of the local environment has a significant impact on people's perceptions of wellbeing and quality of life. It also supports the work of the East Herts Community Safety Partnership, to keep East Herts a safe place to live, work and visit. The Council is committed to improving standards of neighbourhood management and to tackling environmental crime and anti-social behaviour. This policy sets out the approaches and issues that are considered when employing enforcement measures.

### **3 Other Relevant Policies**

3.1 This policy conforms with the Council's 'Enforcement Policy for East Herts District Council'.

3.2 Enforcement action taken by Council officers on matters other than those covered in 1.1 above are covered by separate enforcement policies that reflect specific legislative requirements and the nature of the activity. Examples of other Council Enforcement Policies are:

- Neighbourhood Services: Environmental Health Enforcement Policy, which includes action the Council will take in relation to environmental health and other statutory nuisances.
- Neighbourhood Services: Development Control Enforcement Policy which deals with enforcement action against breaches in planning matters.

### **4 Key Legislation**

The main legislation and guidance to which this policy relates (with reference to the scope in 1.1), but not exclusively so, is:

- Anti-social behaviour, Crime and Policing Act (2014)
- Clean Neighbourhoods and Environment Act (2005)
- Environmental Protection Act (1990)
- Refuse Amenity Act (1978)
- Dog Fouling of Land Act (1995)
- Anti-social Behaviour Act (2003)
- Control of Pollution (Amendment) Act (1989)
- Local Government Act (1972)

### **5 East Herts Council's Enforcement Policy**

5.1 The Council has an overarching 'Enforcement Policy for East Herts District Council' which lays down the rules and principles adopted when undertaking enforcement action to secure compliance with the law. It is based upon the 'Central and Local Government Concordat on Good Enforcement'. This is a nationally recognised standard for promoting best practice enforcement. A key aim is to ensure that all enforcement is

proportionate, equitable and practicable and is delivered in a constant manner.

- 5.2 The Environmental Crime Enforcement Policy sits beneath the Council's Enforcement Policy and reflects these principles.

## **6 Shared Enforcement**

- 6.1 East Herts Council will work in partnership with other enforcement agencies with a shared enforcement role under legislation such as the Police, Environment Agency, housing associations and other central and local government authorities and agencies. The Council is committed to partnership working to address Community Safety, Crime and Disorder and Environmental Crime issues. Where appropriate, particularly on emerging or more serious issues, we will liaise with other internal departments and/or partners, or through the Community Safety Partnership to ensure consistency and communication in enforcement action.

- 6.2 Where appropriate, enforcement matters will be referred to another body or agency. In these circumstances, officers will advise the complainant and/or the perpetrator where doing so will not compromise future enforcement action by the Council or another agency.

## **7 Authorised Officers**

- 7.1 The Council's responsible officer, as laid down in the Council's Constitution (Scheme of Delegations) will authorise officers in writing, specifying the limits of their authorisation. Persons other than East Herts Council employees may also be authorised, where it is legally permissible to do so, and the responsible officer considers that the Council's objectives, policies and procedures will be applied. Enforcement action will only be carried out by authorised officers who have received appropriate training and sufficient experience. The Council will also work with the Police through the Community Accreditation Scheme to designate powers to officers where relevant to the job role.

- 7.2 The designations of person(s) who may authorise a prosecution, enforcement notice or a formal caution within the scope of this policy are the Head of Environmental Services,

Head of Community Safety & Health and the Head of Planning & Building Management in consultation with the Director of Neighbourhood Services.

## **8 Enforcement Approach**

- 8.1 In accordance with the Council's Policy and the 'Enforcement Concordat' authorised officers will seek to ensure that all enforcement is fair and proportionate and gives due regard to the legal rights of others.
- 8.2 Where appropriate, enforcement investigations will be conducted at times of the day which minimise inconvenience to business and traders whilst ensuring that fair and representative evidence is obtained relating to any alleged offence.
- 8.3 Prior notification of an impending enforcement inspection will not be made where such notification would defeat the purpose for which the inspection was being undertaken.
- 8.4 Authorised officers will have due regard to individuals legal rights and will conform to the Council's Diversity and Equalities Policy when conducting enforcement action, considering, for example, language and access difficulties.
- 8.5 In making an enforcement decision, officers will consider the following:
- seriousness and prevalence of offence;
  - the quality of available evidence and probability of the enforcement action under consideration being successful;
  - the perpetrator's past history and likelihood of re-offending;
  - the likely effectiveness of the deterrent that successful enforcement action would achieve;
  - the impact on the community (or part of).
- 8.6 Where there are failures to comply with the law, this Authority has a number of informal and formal approaches to secure compliance:
- to take no action (e.g. refer the matter to another agency or service, or where further action is not expedient);
  - to take informal action;

- to issue a formal warning;
- to use statutory enforcement notices;
- to carry out work in default;
- to use formal cautions;
- issue fixed penalty notices;
- to prosecute.

8.7 Informal approaches are the preferred method of enforcement for minor offences in the first instance, and particularly when dealing with vulnerable persons, the elderly and the young (persons under 16 years of age). The Council will aim to work in partnership with stakeholders such as businesses and landowners, and to seek joint approaches to resolving environmental crime problems, preferably through early and information interventions where possible, such as Community Protection Warning letters (see 11.4).

### **Informal Action - Verbal Observation or Warning**

8.8 This is to be used for minor contraventions especially when they are isolated incidents that are remedied immediately with the full co-operation of the person responsible. All verbal observations or warnings will be recorded.

### **Environmental Crime Incident Tickets**

8.9 When an offence has been committed, but a warning needs to be issued on site, authorised officers may issue an Environmental Crime Incident Ticket.

These tickets will not in themselves be a Fixed Penalty or other notice, but will be used to record and check information and allow the offender to understand the actions to be taken. On checking the evidence and any previous logged offences in the office, officers can then decide if further action should be taken such as a fixed penalty notice to be issued.

### **Written Observation or Formal Warning**

8.10 This is appropriate for offences which are more serious, where it is not possible to issue a verbal observation or warning or where informal action has not been complied with satisfactorily. The written warning will include details of the offence, the

relevant legislation, remedial action required, timescales for compliance, and the consequences of non-compliance. It could also be in the format of a voluntary agreement between the issuing organisation (Police/Council) and the individual.

### **Enforcement Notice**

8.11 This will be used where informal action has been unsuccessful in that there has been a failure to comply or resolve the matter relating to the offence, commitments given have not been honoured or timescales have been exceeded, or where the authorised officer believes that informal action is inappropriate. The Notice will also indicate how and to whom representations can be made.

### **Carry out Works in Default**

8.12 Certain legislation gives powers for the Council to carry out works in default when a Notice has not been complied with, for example, Community Protection Notices. The decision to carry out works in default will be made by the Head of Service. The officer will follow up such action by investigating the recovery of costs where the legislation allows this.

### **Formal Cautions**

8.13 These will be considered for prosecutable offences when the criteria in the Home Office Guidance are met. Typically, the reason for choosing this option would be that in considering prosecution, the public interest test is not fully met (see 'Prosecution' below), that the offence did not result in real harm or that there was full co-operation. A formal caution will not be used simply because the evidence is insufficient to give a reasonable prospect of prosecution success. If a formal caution is refused, prosecution will normally follow. The decision to issue a formal caution will be taken by the Head of Service in consultation with the Legal Services Manager.

### **Fixed Penalty Notices**

8.14 Fixed penalty notices (FPNs), offers offenders the option of paying a penalty charge to avoid being prosecuted for certain offences. Authorised officers will not issue a fixed penalty notice unless:

- The offence justifies prosecution.



- It is believed by the authorised officer, at the time of issuing the Fixed Penalty Notice, that there is sufficient evidence to achieve a successful prosecution.
  - It will act as a sufficient deterrent against re-offending.
- 8.15 If any fixed penalty notice remains unpaid after expiry of the payment period, the file will be passed to the Legal Services Manager who will consider prosecution.
- 8.16 Enforcement action taken against young people will be carried out with due regard to the requirements of the Children’s Act 2004 and to Defra Guidance “Issuing Fixed Penalty Notices to Juveniles” 2006.
- 8.17 The name, address, age and date of birth of the offender will be obtained together with the name and address of the parent or legal guardian. The offender will be advised that this information will be shared with the local Youth Offending Team.
- 8.18 Notices may be issued to 16 and 17 year olds using the same procedures as Adults. However, authorised officers will consider whether a written warning is appropriate for a first offence, depending upon the nature and seriousness of the offence.
- 8.19 In most circumstances a written warning will be issued to the parents of a child under the age of 16 in the first instance. If the offence occurs in school hours or in school uniform, an advisory letter will be sent to the Head Teacher.
- 8.20 If the child continues to offend despite this intervention, enforcement action, (including a Fixed Penalty Notice), may be taken following discussions with the Community Safety Team or relevant local agencies responsible for law enforcement and children’ services (e.g. Police, Youth Service, Youth Offending Team). The Council will consult with partners to determine whether an FPN is the most appropriate measure for a person under 16 or if other measures (e.g. warnings, Acceptable Behaviour Contracts) are more appropriate.
- 8.21 In all circumstances the parent or legal guardian will be advised as soon as possible. Where a fixed penalty notice is to be served on a person aged 10 – 15, this should be done with the parent or legal guardian present.

## **Prosecution**

- 8.22 The Council recognises that most people wish to comply with the law and prosecution will generally be restricted to those who flout the law.
- 8.23 The Head of Service will authorise that prosecution is warranted and in these circumstances, an evidence file will be submitted to the Legal Services Manager who will determine whether the case will proceed to prosecution based upon standard evidential and public interest tests.

## **9 Diversity**

- 9.1 The Council is committed to equality of access to its services and has adopted a 'Comprehensive Equality Policy'. This policy will be followed by officers when carrying out their duties.
- 9.2 In respect of race equality, the Council has adopted the McPherson's definition of a racist incident 'a racial incident is any incident which is perceived to be racist by the victim or any other person'.
- 9.3 The Council follows the Codes of Practice of the Commission for Racial Equality and Equal Opportunity Commission, and it is committed to achieving the Equality Standard for local government.
- 9.4 We believe in the need to eliminate unlawful discrimination and to promote equality of opportunity in all that we do. We recognise the rich diversity of East Hertfordshire's population as a strength, and we aim to treat all people with dignity and respect, whilst recognising the value of each individual and the positive contribution they make to the diverse community and workforce.

## **10 Review**

- 10.1 It is recommended that this policy will be reviewed on an annual basis and in light of any changes in legislation, Codes of Practice or centrally issued guidance.

Policy officially adopted May 2006.

Reviewed and updated September 2015.

## APPENDIX A

# 11 List of Core Offences and Officers Guidance

### 11.1 *Nuisance Parking Offences*

**Section 3** of the CNEA 2005 aims to prevent the selling of vehicles on the road. It is intended to target those people who run a business selling motor vehicles and use the road as a mock showroom. It is not intended to target individual private sellers of single vehicles, but the nuisance that is caused by the presence of numbers of vehicles being offered for sale by the same person or business.

The offence may only be committed where there are two or more vehicles being offered for sale for the purposes of a business. The vehicles must be within 500 metres of each other.

**Section 4** of the CNEA 2005 is aimed primarily at those that act irresponsibly as part of a business and who are attempting to use the road as a mock workshop. It is not intended to target private individuals who are carrying out minor work to their vehicles (unless the repairs cause annoyance to persons in the vicinity), or those who carry out necessary work to vehicles by the side of the road in order to get them moving again after a breakdown or accident (such as breakdown organisations and mobile mechanics), provided the work is completed within 72 hours.

These offences apply to any highway or road to which the public have access. This includes roads through housing estates owned by Housing Associations. It covers both the carriageway and the footpath but not car parks.

- Hertfordshire County Council's Trading Standards Department may take action under the Trade Descriptions Act in some circumstances.
- The Town and Country Planning Acts can also be used where it can be demonstrated that there is a change in the use of the land. This can be very difficult as these activities are typically transient in nature.
- Where there is an obstruction of the Highway, the Highway Authority may also take action under the Highways Acts or,

where there is an issue of highway safety, the Police can take action.

- In response to complaints the Environmental Health Service may ask people to move vehicles where it is considered that they are 'trading without consent' under the Local Government (Miscellaneous Provisions) Act 1982.

### **East Herts Policy**

- The Council will investigate these incidences and generally the first occasion will be dealt with informally.
- Authorised officers may issue fixed penalty notices to offenders as an alternative to prosecution.
- The Council will work with Trading Standards to undertake enforcement action against offenders who persistently sell vehicles on the highway.

### **11.2 Abandoned Vehicles**

The Refuse Disposal Amenity Act 1978 lays down that it is a criminal offence to abandon a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a highway.

There is no legal definition of an abandoned vehicle. However, statutory guidance suggests the following characteristics are generally common to abandoned vehicles and one or a combination of the following could assist a local authority officer in making a decision on abandonment:

- (a) Untaxed, **with**
- (b) No registered owner
- (c) Stationary for a significant amount of time
- (d) Significantly damaged, run down or un-roadworthy
- (e) Burned out
- (f) Lacking one or more of its number plates
- (g) Containing waste

*This is not an exhaustive list and a vehicle would not have to be displaying the full list to be abandoned.*

The Guidance states that a vehicle should not be considered abandoned solely on the grounds that it is untaxed (as checked on the DVLA website).

The CNEA 2005 removed the need to place a 24 hour notice on the vehicle in some circumstances. All abandoned vehicles can be removed immediately, however, councils must be reasonably satisfied that the vehicle **has been abandoned**. Vehicles cannot be removed if they are just untaxed under this legislation.

For certain types of abandoned vehicles, local authorities must take steps to trace the owner of a vehicle and, if successful, give them **7 days written notice** that the authority intends to dispose of the vehicle if it is not collected within that time. If the owner is traced, the local authority has the option to serve a fixed penalty notice as an alternative to prosecution. The success of this measure depends upon the ability to prove ownership. Local authorities can destroy vehicles at any time after collection if in very poor condition or if they are untaxed **and** have no number plates without there being a requirement to trace the owner.

Under current legislation owners can recover vehicles or proceeds from their sale (less collection, storage and disposal costs) up to a year after a vehicle is sold. The Council can also recover costs from owners where they are identified, however nearly all vehicles collected are of a very low value, ownership cannot be proved and it is rarely possible to recover costs.

### **East Herts Policy**

- The Council aims to inspect vehicles reported as abandoned within 24 hours.
- Officers make enquires with the DVLA and local residents and carry out an HPI check where appropriate to identify an owner.
- Authorised officers will give instructions to the Council's contractor for the immediate removal of vehicles which are hazardous or in poor condition. (Note that this does not include vehicles that present a traffic hazard or obstruction by way of position on the highway. This is the responsibility of the Police.)
- Authorised officers will give instructions to the Council's contractor for the removal and destruction of vehicles that have

no tax **and** no registration plates, or no tax **and** no current keeper on the DVLA database.

- Where a vehicle appears to be abandoned but not dangerous a white 'is this your vehicle' notice is attached and the Council writes to the last registered keeper to ascertain the status of the vehicle. If there is no response from the last registered keeper within 7 days, a second letter is sent proposing the removal date before the vehicle is removed for destruction.
- Where a vehicle is on land that is occupied, the Council is required to give the land owner 15 days notice that they propose to remove the vehicle. Officers work closely with housing associations to progress the removal of abandoned vehicles from their land.
- Vehicles that are burned out or in very poor condition are destroyed within 24 hours. Officers will also contact the Police to determine if the vehicle was stolen.
- Other vehicles are stored by the council's contractor until such time as it is deemed that they are abandoned and are then either destroyed or sold at auction.
- Officers liaise with the Fire Service on potentially abandoned vehicles with a view to immediate removal of vehicles likely to pose a fire hazard or where it is considered that there is an imminent danger of an arson attack upon the vehicle.
- Under the current arrangement for dealing with abandoned vehicles, officers comply with the criteria laid down in legislation to determine whether or not a vehicle has actually been abandoned. This ensures that the Council is not drawn into vexatious complaints or neighbour disputes over parking spaces.
- The responsibility for dealing with untaxed vehicles that are not abandoned rests with the DVLA. East Herts has chosen not to adopt DVLA powers as there is a low level of abandoned vehicles in the district and the effect on costs and staff resources would be disproportionate to the problem.
- Fixed penalty notices for abandoned vehicles may be used by authorised officers but are considered to be of limited use.

### 11.3 *Litter*

Under Section 87 of the Environmental Protection Act (1990) it is an offence to drop and leave litter. The CNEA 2005 makes it an offence to drop litter anywhere in the open air including private land and on

water. It also clarifies the EPA (1990) such that 'litter' includes cigarette butts and chewing gum.

A litter offence can be prosecuted through a magistrates' court and carries with it a maximum fine of level four on the standard scale (currently £2,500).

Fixed Penalty Notices (FPNs) can be used as an alternative to prosecution for dropping litter. It is an offence not to provide, or to give a false name and address to an authorised officer.

### **East Herts Policy**

- East Herts has a low level litter problem compared with many areas and a relatively high standard of measured cleanliness. The Council will take action where littering has been witnessed or there is other firm evidence and the presumption will be to issue the FPN in lieu of prosecution.
- The Council will undertake campaign based exercises with the Police which included the use of FPNs for littering as part of targeted public education and awareness campaign work and subject to the offence being sufficient to warrant prosecution.
- The Council will continue to work with the Police to develop the range of skills of East Herts Accredited Staff and Police Community Support Officers including allowing both to issue Fixed Penalty Notices for litter offences.
- On a case by case basis, authorised officers may, in accordance with the principles of the Enforcement Policy choose to consider the placing of bags of rubbish (where evidence can be found) as littering.
- Generally, offences may be seen by officers on overt patrol or in vehicles whilst following other road users during the course of their normal duties. The Council will also accept witness statements from members of the public or officers for investigation. Offences observed on overt CCTV will be pursued where identity can be obtained.
- Where littering from vehicles takes place, accredited officers will seek to identify registered vehicle details from the police, and will write to the vehicle owner.
- When passed by the Secretary of State, the Council will adopt new powers under s88 of the EPA 1990 where the registered keeper can be issued with a FPN as a result of litter being deposited from a vehicle.

## 11.4 *Community Protection Notices*

The Anti-social Behaviour, Crime and Policing Act 2014 introduced **Community Protection Notices** as a means to tackle a wide range of ongoing problems or nuisances which negatively affect a community's quality of life.

As a result of the introduction of CPNs the following powers were repealed:

- Litter Clearing Notices
- Litter Abatement Notices
- Street Litter Control Notices
- Defacement Removal Notices for graffiti and flyposting

CPNs have been introduced to simplify legislation and have fewer restrictions than the legislation that they replace. They are useful in dealing with ongoing problems especially where there is more than one issue that need resolving.

A CPN can be issued where we are satisfied that the behaviour -

- a) is having a **detrimental effect on the quality of life of those in the locality**
- b) is persistent and **continuing** in nature
- c) is **unreasonable**

A written warning must be issued first given a reasonable timescale to remove.

The Notice can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again.

A fixed penalty notice can be issued of up to £100 if appropriate. Breach is a criminal offence with a £2,500 fine for individuals or £20,000 for businesses. CPNs can allow the council to carry out works in default on behalf of a perpetrator.

CPNs do not discharge the Council from its duty to issue Abatement Notices where the behaviours constitute a statutory nuisance under EPA 1990, however the Council will consider using all relevant powers in tandem before reaching a decision. Before issuing a CPN advice should be taken from other relevant council departments to ensure that



the restrictions or requirement imposed do not conflict with any other notice, permit etc.

Section 215 under the Town and Country Planning Act 1990 could be used as an alternative to a CPN. They can be used to deal with land owners who allow land to become unsightly in such a way that it has an effect on public amenity.

Detail on the use of these powers in relation to dogs can be found in section 11.7.

### **East Herts Policy**

- Where possible informal action will be undertaken in the first instance with residents and businesses to prevent ongoing environmental problems.
  - Where graffiti is on Council property it will be removed on a programmed basis. We aim to remove or obscure offensive or racist graffiti within 24 hours.
  - Where there are high concentrations of graffiti in areas where it may encourage further anti-social behaviour specific initiatives will be undertaken with partners. Agencies that are responsible for street furniture are notified of graffiti on their property.
  - Prior to graffiti removal on private land an indemnity form must be completed by the landowner or managing agent to protect the Council from litigation and claims for any 'damage' caused as a result of removal.
  - The Planning Enforcement Section deal with fly posting. The current approach is to remove posters or placards or to request the perpetrator to remove them (backed up by the threat of prosecution under the Town and Country Planning Act).
  - CPNs deal with a wider range of behaviours than the legislation that they replace. The types of behaviour that East Herts would use this for are:
    - accumulations of litter on private land or land belonging to a statutory body
    - a large amount of graffiti on private premises
    - litter left on land as a result of the operations of a business
    - irresponsible dog ownership such as dogs straying
- NB: List is non exhaustive and for example only but behaviours must meet the tests above.
- The Council would only use these for areas where we have existing responsibility and will not be taking on issues which could be classed as neighbour disputes.

- Before considering using a CPN process, the case will be discussed with the Community Safety team and logged on SafetyNet, which is a web based case management system that Police, Housing Associations and East Herts have access to.

### **11.5 *Distribution of free literature***

The CNEA (2005) amended the EPA (1990) to give local authorities the power to control distribution by designating areas of their own land or highways where distribution is only allowed with their consent. Doing so without consent is an offence. Distribution of materials for political, charitable or religious purposes is exempt. It does not include material put through letter boxes.

Local authorities may charge a fee for granting consent, may impose conditions on the distribution and may seize materials that are being distributed without consent.

Fixed Penalty Notices may be issued as an alternative to prosecution for distributing without consent.

#### **East Herts Policy**

- East Herts owned car parks, open spaces and shopping centres in the five main town centres are designated as areas where consent must be sought to distribute free literature to help reduce littering. Maps of the areas are available from the Council's website.
- The Head of Community Safety and Health is authorised to consider requests for consent, applying appropriate conditions to prevent litter e.g. that discarded materials be collected within 100m of the distribution point on the same day or where distributors are mobile, the whole town centre.
- The Council will charge a fee to cover administration costs of authorising distribution. This fee may be waived for 'not-for-profit' organisations at the discretion of the Head of Community Safety and Health.
- The Head of Environmental Services is authorised to take enforcement action for non-compliance. Authorised officers are permitted to issue Fixed Penalty Notices and seize material being distributed without consent.

## 11.6 *Deposit and Disposal of Waste*

There is no specific definition of fly tipping other than that set out in section 33 of the Environmental Protection Act (EPA)1990, which says it is an offence in general terms, to treat, keep or dispose of controlled waste other than in accordance with an environmental permit or in a manner likely to cause pollution of the environment or harm to human health. The maximum penalties for the illegal disposal of waste are £50,000 and/or 1 year imprisonment.

Householders have a 'Duty of Care' to ensure that their waste is passed on to an 'authorised person', and can be prosecuted with a fine of up to £5,000 if they cannot prove that they took reasonable steps to prevent their waste being fly tipped.

It is an offence for anyone who is not a registered carrier of controlled waste to transport such waste to or from any place in Great Britain in the course of any business of his or otherwise with a view to profit. Fixed Penalty Notices can be used for failure to provide evidence that they are a licensed waste carrier.

Under the EPA (1990), section 46 & 47 Notices can be served on householders and businesses specifying, for example, that they must put their waste receptacles in a certain place to facilitate waste collection. Noncompliance with section 46 is a civil penalty with a FPN of £80, while section 47 is a criminal offence with a maximum fine of £1,000.

### **East Herts Policy**

- The Council takes action against anyone found to be fly tipping on public highways or 'relevant land' with a view to prosecution. We may also investigate instances of fly tipping on private land but it will be the responsibility of the landowner to remove the waste. Officers utilise witness statements, investigate sources of illegal dumping and carry out covert surveillance. The Council will deal with fly tips up to one tipper load. Larger tips and those resulting from organised crime tend to be dealt with by the Environment Agency.
- East Herts Council regularly conduct stop and search exercises to ensure that vehicles that carry waste are aware of the law, subject to support from partner agencies (Police, DVLA, VOSA,

Trading Standards, Environment Agency, Dept. of Works & Pensions).

- FPNs may be used where residents and businesses put out waste at the wrong time or in the wrong place which cause a nuisance or is detrimental to the amenity of the locality. The objective is to prevent obstructions or unsightly waste being left on the street which attracts vermin and causes litter. They would be used primarily for persistent offenders who have failed to respond to informal action.

### 11.7 **Dogs**

There are a range of measures that can be used to encourage responsible dog ownership and deal with irresponsible dog owners failing to pick up after their dogs, letting their dog stray or causing a nuisance.

Under the ASB, Crime and Policing Act (2014), Community Protection Notices (CPNs) and Public Space Protection Orders (PSPOs) can be used for a range of dog related problems.

The ASB, Crime and Policing Act (2014) amended the Dangerous Dogs Act (1991) to extend the offence of dangerously out of control to all places including private property.

The Council has a duty under the EPA1990 to appoint an officer “for the purpose of discharging the functions for dealing with stray dogs found in the area of the authority”. The CNEA 2005 removed the responsibility for stray dogs from the police placing this solely with the local authority. This means that outside office hours local authorities will be expected, where practicable, to provide a place to accept stray dogs.

The Microchipping of Dogs (England) Regulations will come into effect from 6<sup>th</sup> April 2016. From this date all dogs over 8 weeks must be microchipped and keepers details be up to date. The only exemption is where a veterinary surgeon certifies, on a form approved by the Secretary of State, that a dog should not be microchipped for reasons of the animal’s health.

An authorised officer may serve a notice on the keeper of a dog to have the dog microchipped within 21 days. Failure to comply with the notice could mean a fine.

**Community Protection Notices** provide a statutory tool that can be used in cases of irresponsible dog ownership. They can be used where an Acceptable Behaviour Contract, or other non-enforcement measures, has not worked or where the threshold had been met but a statutory notice is more appropriate. They can address behaviour that has a negative effect on anyone in the community. For example dogs out of control in a park, alarming visitors to the home, straying and causing damage or even a dog that causes distress or injure other animals.

A written warning must be issued first providing the opportunity to rectify behaviour.

**Public Space Protection Orders** specify an area where activities are taking place that are or may likely be detrimental to the local community's quality of life. PSPOs impose conditions or restrictions on people using that area.

The council can make a PSPO if it believes the activities are detrimental to the local community's life and that the negative impact is so much to make the restrictions reasonable.

However the behaviour being restricted has to:

- be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- be persistent or continuing nature; and
- be unreasonable.

Breach is a criminal offence punishable by a fine of up to £1,000. Alternatively a fixed penalty notice can be issued of up to £100.

### **East Herts Policy**

The Council will use the above legislation to encourage responsible dog ownership working with partners through early engagement and education work to prevent problems becoming more serious. This may include early intervention measures such as letters, joint visits and Acceptable Behaviour Contracts.

Where an incident relates to a dog that is identified as being dangerously out of control this matter will be referred to Police.

Officers will use CPNs after liaison with the Community Safety team where the appropriate tests are met.

PSPOs will be used when the tests are met and following consultation which will be carried out in conjunction with the Community Safety team and the Police.

The PSPOs will make it an offence to:

- allow your dog off a lead at places designated in the order;
- to allow your dog in designated East Herts children's play areas, games areas, bowling greens and marked playing pitches when there is a match in play;
- for one person to take more than 4 dogs on to any East Herts land at any one time;
- failing to place a dog on a lead when requested to do so;
- failing to pick up after your dog;
- failing to have the means to pick up after your dog.

Where the offence of failing to have the means to pick up after your dog takes place officers would approach dog owners and request them to produce bags, containers or other means by which they will pick up after their dogs. If the owner fails to produce this on request then provided the offence is on designated land and the offender is not exempted, by for instance being registered blind, an offence is committed for which a fixed penalty fine of up to £100 may be issued. Failure to pay the fine may result in legal proceedings with a potential fine of up to £1000 in the Magistrates' Court. On the first offence

Enforcement on dog fouling can be difficult as offences often take place at night or early in the morning. Action taken by the Council will try and highlight the problem to residents of the area, and encourage them to provide information to help officers target patrols and catch the offenders.

Where the Council receives a report of dog fouling it may undertake all or some of the following actions (depending on the severity of the problem):

- Increase education and awareness through putting up various signs
- Highlighting the issue through spray painting and stencils on the ground

- Encourage reporting of offenders through leafleting park users and nearby residents
- Encourage community involvement through parish newsletters, press release and social media
- Carry out patrols based on evidence given by residents

Action taken will be in proportion to the amount of fouling, the use of the area and the number of complaints. For example, dog fouling outside a primary school will therefore take priority over a rural footpath.

The Council will promote microchipping as a permanent means of identification and to make reuniting lost dogs easier. When the microchipping regs come into effect the Council will use the powers available to ensure owners comply with the legislation. As part of this strategy all stray dogs will be microchipped before being returned to owners or rehoming.

The Council does not provide a 24hr stray dog collection service as this is not practical in a large district. In the evenings and weekends the public can take stray dogs to acceptance points at local kennels where the dog will be scanned for microchip and/or kept until the owner contacts the council.

### **11.8 *Fixed Penalty Notices***

Fixed penalty Notices (FPNs) are a way of dealing with low level environmental crime and are more cost effective than prosecutions.

#### **East Herts Policy**

- FPNs are part of a wider enforcement strategy and targeted at priority areas.
- FPNs are only issued when there is sufficient evidence to warrant a prosecution should the penalty not be paid.
- The Council will work with the Police for joint enforcement campaigns for litter and waste carrier offences and PCSOs are equipped to issue FPNs.
- FPNs are used in a responsible and proportionate manner in accordance with the Council's Enforcement Policy.

### **11.9 *Abandoned Shopping Trolleys***

#### **Legislation**

The EPA allows a local authority to seize, store and dispose of abandoned shopping and luggage trolleys found in its area. This is an adoptive Schedule under section 99. The provisions allow for costs to be recovered from the owner of the trolleys, and the CNEA (2005) has improved the ability for local authorities to reclaim these charges.

Local authorities must retain seized trolleys for a period of six weeks before selling or disposing of them.

A notice must be served on the apparent owner.

The trolley must be delivered to the owner if it is claimed within the six week period (upon payment of the charge).

Collection, storage and disposal costs may be recovered even if the trolley is not claimed provided the owner can be identified.

### **East Herts Policy**

- East Herts has a low level of problems with the abandonment of shopping trolleys.
- On the first occasion the Council will normally advise retailers of their location and request that they are collected. Occasionally, Council inspection staff will remove trolleys if they are deemed to be causing a hazard.
- The powers to remove and recover costs for abandoned trolleys were adopted in 2006 and retailers were advised that the Council will charge for recovery, return, storage or disposal of shopping trolleys if retailers do not take appropriate measures to deal with this problem.
- Charges for recovery, and return are set at £50 per trolley; £2 per day for storage and £30 for disposal.

Officers guidance will be automatically amended by officers from time to time as legislation changes.



## ESSENTIAL REFERENCE PAPER 'C'

### Fixed Penalty Notices

The Fixed Amounts shown in the table below are those agreed by the Council in 2006. Where the legislation has been repealed, the replacement power is shown along with the new recommended FPN amount. The discounts for prompt payment within 14 days are an incentive for offenders to deal with the matter promptly and minimise administration costs of chasing payment and / or pursuing prosecution.

Description of Offence	Act	Fixed Penalty Amount	Amount if paid in 14 days
Abandoning a vehicle	Refuse Disposal (Amenity) Act 1978	£200	£150
Exposing vehicles for sale or repairing vehicles on a road	Clean Neighbourhoods and Environment Act 2005	£110	£60
Litter	Environmental Protection Act 1990	£80	£50
Failure to comply with a Street Litter Control Notices or Litter Clearing Notice - <b>Repealed</b>	Environmental Protection Act 1990	£110	£60
Graffiti and fly posting offences - <b>Repealed</b>	Anti-Social Behaviour Act 2003	£80	£50
Replaced by Failure to comply with a Community Protection Notice	ASB, Crime & Policing Act 2014	£100	£60
Unauthorised distribution of literature or failure to comply with an authorised officer's instruction to cease distribution in a designated area	Environmental Protection Act 1990	£80	£50
Failure to produce waste carrier registration documents	Control of Pollution (Amendment) Act 1989	£300	£200
Failure to produce waste transfer notes	Environmental Protection Act 1990	£300	£200
Waste receptacles offences	Environmental Protection Act 1990	£110	£60
Dog Control Order offences - <b>Repealed</b>	Clean Neighbourhood and Environment Act 2005	£50	£50
Replaced by Failure to comply with Public Space Protection Order	ASB, Crime & Policing Act 2014	£100	£60

Although local authorities are empowered to set their own fine amounts for certain penalties, the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2006 set the range between which penalties may fall and the minimum level of discounted penalties as follows:

Fixed Penalty Notice Full Amount		Minimum level of discounted payment
Default Rate	Range for Full amount	(if paid within 14 days)
£75	£50 - £80	£50
£100	£75 - £110	£60
£200	-	£120
£300	-	£180

## ESSENTIAL REFERENCE PAPER 'D'

### **Proposal to introduce the new offence of failing to have the means to pick up after a dog**

East Herts District Council's three existing dog control orders (DCOs) make it an offence to:

- allow your dog off a lead at Hertford Castle Grounds, Bishops Stortford Castle Gardens, and all Council owned allotments;
- to allow your dog in designated East Herts childrens play areas, games areas, bowling greens and marked playing pitches when there is a match in play;
- for one person to take more than 4 dogs on to any East Herts land at any one time.

Dog Fouling enforcement is undertaken using the Dog (Fouling of Land) Act 1996, but the areas to which it applies are limited and excludes land alongside highways over 40mph, moorland, heathland, woodland and areas where animals graze. This makes it confusing for the public and authorised officers to enforce. The fixed penalty of £50 is also felt to be too low when the penalty for littering is £80.

It is however generally considered that the three DCOs and the DFLA have been effective in promoting responsible dog ownership but the council continues to struggle to catch the minority of dog owners who persist in allowing their dogs to foul. Although the Council continue to receive over 230 complaints about dog fouling each year it is believed this figure fails to reflect the real level of concern across our district. Many residents report their concerns to their parish rather than the district council and many previous complainants remain unconvinced about the ability of the Council to act to prevent the fouling taking place.

The proposal is to use new powers contained in the Anti-social Behaviour, Crime and Policing Act 2014 to replace the three existing DCOs, and the DFLA with a single Public Space Protection Order, and to create two new offences under the same Order of failing to place a dog on a lead when requested to do so and failing to have the means to pick up after your dog. The latter requirement would provide an additional enforcement option for our authorised officers. Officers would approach dog owners and request them to produce bags, containers or other means by which they will pick up after their dogs. If the owner fails to produce this on request then provided the offence is on designated land and the offender is not exempted, by for instance being registered

blind, an offence is committed for which a fixed penalty fine of up to £100 may be issued. Failure to pay the fine may result in legal proceedings with a potential fine of up to £1000 in the Magistrates' Court. If adopted it is intended that the introduction of this new power would be preceded by a substantial educational campaign and the use of an informal approach certainly on the first offence.

In order to introduce a PSPO the Council has to be satisfied on reasonable grounds that following conditions are met: that activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality and that the effect of those activities is likely to be persistent or continuing in nature and justifies the restrictions imposed. This test is considered to be met for the following reasons:

- The Council receive over 230 complaints per year about dog fouling
- If ingested dog faeces containing the round worm parasite *Toxicara* can cause illness, including partial blindness - young children who often play in dirt, or eat dirt, are particularly at risk
- Treading or coming into contact with dog faeces is very unpleasant
- Our town and parish councils view dog fouling as a significant problem
- Although measures taken by the Council have been successful in reducing the incidence of dog fouling, and the expectation that owners should be picking up after their dogs is now viewed as being reasonable, there are still a minority owners who continue to fail to pick up
- Catching dog owners in the process of allowing their dogs to foul is difficult, particularly during the darker months of the year, this offence provides an additional enforcement tool.
- A consultation process which includes social media and all interested local, regional and national bodies will be utilised prior to introducing any change to our existing provisions on dog control.

## EAST HERTS COUNCIL

EXECUTIVE – 6 OCTOBER 2015

REPORT BY EXECUTIVE MEMBER FOR ECONOMIC DEVELOPMENT

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### RESIDENT PERMIT PARKING SCHEME POLICY

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- To adopt a new policy and operational guidance in respect of resident permit parking schemes in East Herts.

<b><u>RECOMMENDATIONS FOR EXECUTIVE: That:</u></b>	
(A)	<b>the new policy and operational guidance for future resident permit parking schemes as now submitted, be adopted, and</b>
(B)	<b>the actions proposed in paragraphs 2.7, 2.9 and 2.13 of this report, be approved.</b>

#### 1.0 Background

1.1 East Herts Council operates twelve on-street resident permit parking schemes (also known as RPZs). There are seven in Bishop's Stortford, three in Hertford and two in Ware. Work is underway on a scheme for Hertford and another in Bishop's Stortford. A list of current RPZs can be seen at **Essential Reference Paper 'B'**.

1.2 The Council's current policy on RPZs dates back to its adoption of a District Parking Strategy in 2003 and can be summarised as follows; "the highest priority for parking in residential areas where pressure on parking is extreme should be given to residents of that area." <http://www.eastherts.gov.uk/index.jsp?articleid=10361>

1.3 A report on the financial aspects of RPZs was submitted to the East Herts Executive on 3 February 2015. This Committee resolved that; "[the] Environment Scrutiny Committee be requested to consider and make recommendations on the criteria

against which existing resident parking schemes and requests for new schemes can be assessed”.

## 2.0 Report

2.1 In line with the request of the 3 February Executive a report was presented to the Council’s Environment Scrutiny Committee on 9 June 2015. This Committee resolved that:

- Existing RPZs should continue under current arrangements, other than to explore opportunities for shared use parking where appropriate.
- There should be no commencement of new schemes until the Council formally adopts a new policy regarding the creation of RPZs.

## Review of Existing Permit Schemes

2.2 It can be difficult to implement changes to the terms of operation of an RPZ that is already in place. Given the invariably high levels of satisfaction there can be understandable resistance among residents to proposals that may be perceived as a post-hoc attempt to water down the scheme’s benefits.

2.3 When consulted recently, residents of the ‘Chantry’ (B7) RPZ in Bishop’s Stortford resisted strongly a proposal to introduce ‘shared use’ parking, whereby non-residents’ vehicles might be allowed to park in the zone on a managed basis.

2.4 Officers have not tested whether residents might be willing to entertain ‘shared use’ parking if some or all of any additional income generated was used to reduce the cost of permits. The Council may wish to test this price sensitivity, which might lead to support for an element of ‘shared use’ parking where there is significant under use by residents during the working day.

2.5 Officers’ current view is that only the ‘Chantry’ (B7) scheme and areas of the Stansted Road (B1) scheme, both in Bishop’s Stortford, are capable of accommodating ‘shared use’ parking.

2.6 To introduce ‘shared use’ parking in existing scheme areas the Council would first have to consult informally and would then be required to promote a Traffic Regulation Order to give legal effect to the change.

- 2.7 The Executive is invited to confirm whether it wishes the 'exclusive' nature of existing RPZs to be reviewed with a view to implementing 'shared use' parking where possible.
- 2.8 Should Members consider that a more comprehensive review of all existing schemes is warranted, which could include a survey of resident opinion on issues such as 'shared use', officers have obtained a proposal from the consultants who currently assist with the design and promotion of most East Herts RPZs. The price for this review would be approximately £15,000. This review would establish a helpful evidence base upon which a number of proposals, including the possibility of amending the operational terms of current schemes, could be developed.
- 2.9 The Executive is asked to confirm whether it wishes this full review of existing schemes to be commissioned, in which case the cost would be met from New Homes Bonus funding.

#### Policy Proposals – New Permit Schemes

- 2.10 RPZs are only implemented where a majority of residents who engage in the consultation process indicate their support. Reviews undertaken approximately six months after implementation invariably demonstrate high levels of resident satisfaction.
- 2.11 Officers suggest that in residential areas where demand for on-street parking outstrips supply and where residents' quality of life is diminished as a result, RPZs have a positive role to play as part of a balanced approach to parking management. They should therefore be retained as an option; however as more and more schemes are implemented they can exacerbate parking problems elsewhere, including off-street car parks. For this reason a more sophisticated policy framework than that which has existed since 2003 is now required.
- 2.12 Particular areas that the new policy on RPZs addresses include:
- The need for extensive research into the consequences for the wider community, should an RPZ be implemented.
  - The need to ensure that whilst RPZs address residents' needs, they operate flexibly, to make best use of the available kerb space.
  - The need to ensure that as far as is possible the Council's RPZs continue to operate on a 'break even' basis.

Under the new policy East Herts Councillors representing the wards in the town will enjoy an enhanced role at an early stage in the decision making process and their majority support for a scheme and the outline terms on which that scheme might operate will be a prerequisite to officers making a funding bid and proceeding to detailed design and public consultation stages. Local Members will also play a prominent role in the review of new schemes, which typically takes place around six months after implementation.

- 2.13 Officers' record of outstanding public requests for an RPZ is attached as **Essential Reference Paper 'C'**. The Executive is asked to confirm whether it wishes the viability of these requests to be re-evaluated under the terms of the new policy.
- 2.14 The proposed policy framework for the prioritisation and implementation of future RPZs is offered as **Essential Reference Paper 'D'**. Operational guidance to underpin this policy framework is offered as **Essential Reference Paper 'E'**. A basic flowchart of the proposed policy and operational procedure is offered as **Essential Reference Paper 'F'**.
- 3.0 Implications/Consultations
- 3.1 The financial aspects of implementing and running a resident permit parking scheme can be considerable. Evaluation and preparation costs would increase significantly should the more extensive qualification criteria offered in **Essential Reference Paper 'E'** be adopted.
- 3.2 Extensive informal and formal consultation takes place before a resident permit parking scheme is implemented. The final act of consultation is advertisement of a Traffic Regulation Order. Any interested party may object to proposals set out in a Traffic Regulation Order.
- 3.3 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

- East Herts District Parking Strategy Financial Strategy (Ove Arup) May 2003



- Minutes of a meeting of the East Herts Executive on 15 July 2003  
[http://online.eastherts.gov.uk/moderngov/Data/Executive/20030715/Agenda/minutes\\_1.pdf](http://online.eastherts.gov.uk/moderngov/Data/Executive/20030715/Agenda/minutes_1.pdf)
- Road Traffic Regulation Act 1984 (Sections 45-46)  
<http://www.legislation.gov.uk/ukpga/1984/27/contents>
- Report to the East Herts Executive 3 February 2015 (Permit Charging Policy)  
<http://democracy.eastherts.gov.uk/documents/s27538/Resident%20Permits.pdf>

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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives	<b><i>People – Fair and accessible services for those that use them and opportunities for everyone to contribute</i></b> <b><i>Place – Safe and Clean</i></b>
Consultation:	Resident permit parking schemes are introduced only after extensive informal and statutory consultation.
Legal:	The implementation of a new resident permit parking scheme or changes to the operating conditions of an existing scheme would require the promotion of a Traffic Regulation Order.
Financial:	The financial aspects of this report are outlined in the body of the report and were analysed in greater detail in a report to the East Herts Executive on 3 February 2015.
Human Resource:	N/A
Risk Management:	N/A
Health and wellbeing – issues and impacts:	N/A

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## ESSENTIAL REFERENCE PAPER 'B'

### **East Herts Council Resident Permit Parking Schemes at July 2015**

#### **Bishop's Stortford**

##### **B1 Stansted Road (Implemented 2005)**

Cherry Gardens, Dolphin Way, Heron Court, Kingfisher Way, Kings Court, Kingsbridge Road, Kingsmead Road, Stansted Road (part)

##### **B2 Dunmow Road (Implemented 2005)**

Dunmow Road (part), East Road, Elm Grove, Limes Crescent, Manor Road, Urban Road, Wayletts Drive, Wilton Close

##### **B3 Windhill (Implemented 2007)**

Basbow Lane (part), Bells Hill, Church Street (part), King Street, Regency Close, The Stewarts, Windhill

##### **B4 Newtown (Implemented 2007)**

Apton Court, Apton Fields, Apton Road, Chapel Row, Chestnut Close, Grove Place, Middle Row, Newtown Road, Oaktree Close, Portland Place, Portland Road, Royal Oak Gardens, Stacey Court, Vicarage Close

##### **B5 Newtown (Implemented 2007, extended 2009)**

Bartholomew Road, Castle Street, Jervis Road, Nursery Close, Nursery Road, Oak Street, South Street (part), Stort Road, the Chase, the Lindens, Trinity Close, Trinity Street, Trinity Way, Wharf Road

##### **B6 South Street and Southmill Street (Implemented 2008)**

South Street and Southmill Street. NB – this is a business permit scheme linked to the nearby 'Millers 3' development. No resident parking permits are available under this scheme.

##### **B7 Chantry (Implemented 2013)**

Alpha Place, Barrells Down Road, Bryan Road, Carrigans, Chantry Road, Cricketfield Lane (part), Elm Road, Hadham Road (part), Half Acres, Lindsey Close, Lindsey Road, Northgate End (part), North Terrace, Pinelands, Rye Street (part), Stane Close, Thornfield Road

## **Hertford**

### **H1 Folly Island (Implemented 2007)**

Frampton Street, Old Hall Street, Riverside, The Folly, Thornton Street

### **H2 Chambers Street (Implemented 2006)**

Chambers Street

### **H3 Hertford East (Implemented 2008, extended 2010)**

Charlotte Quay, Holden Close, Marshgate Drive (part), Mead Lane (part), Priors Street, Railway Place, Railway Street (part), Raynham Street, St Johns Court, St Johns Street, Talbot Street (part), Townshend Street Villiers Street, Ware Road (part)

## **Ware**

### **W1 Church Street**

Church Street

### **W2 Coronation Road (Implemented 2013)**

Baldock Street (part), Crib Street, Century Road, Church Street (part), Coronation Road, Francis Road (part), Little Horse Lane, Rokewood Mews, The Bourne (part)

**Current List of Public Requests for a Resident Permit Parking Scheme**

**ESSENTIAL REFERENCE PAPER 'C'**

<b>Hertford</b>	<b>Streets Affected</b>	<b>Nature of Problem/Comments</b>
Hertford North	Balfour Street, George Street, Millmead Way, Molewood Road, Nelson Street, Port Hill, Port Vale, Russell Street, Wellington Street	Close proximity to train station - heavily parked with commuter traffic, some town centre worker parking, issues with access
County Hall area	Hagsdell Road, Highfield Road, Queens Road, Morgans Road, The Chestnuts, Valley Close	Heavily parked area - possible resident vehicles only
Fordwich Hill	Fordwich Hill, Fordwich Rise, Sele Road	Heavily parked area - believed resident vehicles only
Warren Park Road	Warren Park Road	Heavily parked at western end
Trinity Grove	Trinity Grove	Fairly heavily parked on both sides with some footway parking
Foxholes Avenue	Foxholes Avenue	Heavily parked
Hertingfordbury Road	North Road and surroundings	Heavily parked - county hospital, railway commuters, town commuters
West Street	West Street	Heavily parked, primarily by town and County Hall workers.
Park Road	Park Road	Non-resident parking causing some residents concern
Port Vale Area	Dimsdale Street	Commuter parking causing issues for one resident. Close proximity to town centre
Stanstead Road	Stanstead Road	Parking overspill from development of former Ware Road police station site. Scheme under development 2015/16. S106 funded.
Currie Street	Currie Street	Request for inclusion in H3 RPZ, due to increased commuter parking and overspill from nearby developments.
Spencer Street	Spencer Street	Possible commuter and 'outsider' resident parking. Road not maintained at public expense. No possibility of scheme.

B Stortford	Streets Affected	Nature of Problem/Comments
South Road / Havers Lane	Braziers Quay, Havers Lane, Mill Street, Rhodes Avenue, South Road, Southmill Road, South Street, Wharf Road	Heavily parked in close proximity to railway station with some waiting restrictions in place.  Some areas to be included in proposed Southmill Road 'B8' RPZ 2015/16.
Hockerill	London Road, Grange Road, Warwick Road, Crescent Road,	Agreed with HCC - not suitable for scheme progression.
Haymeads Lane	Haymeads Lane, Haycroft, Linkside Road, Highfield Ave, Fairway, Rosebery, Greenway, Beldhams Lane	
Extension of B5	Scott Road	Displacement from B5.  Proposed scheme withdrawn
Wrenbrook Road	Wrenbrook Road (cul de sac)	
Stane Close	Chantry Area	Commuter vehicles
Grange Road	Grange Road	Commuter vehicles and airport parkers
Beldams Lane	Beldam's Lane	Not known



<b>B Stortford</b>	<b>Streets Affected</b>	<b>Nature of Problem/Comments</b>
Grange Road	Grange Road	Airport parkers, noise from alarms, town centre workers, commuters speeding etc
Firlands	Possible link to Newtown scheme (and see Scott Road entry above)	Possible displaced parking from Newtown scheme?
Chantry extension	Grange Park	Displacement from B7 and Grange Paddocks
Woodlands (off Parsonage Lane)	Woodlands	Airport parking

<b>Sawbridgeworth</b>	<b>Streets Affected</b>	<b>Nature of Problem/Comments</b>
New Street	The Orchards, New Street	Heavily parked by commuters (railway station nearby) and parking further restricted by HCC installation of additional restrictions.

Ware and Stansted Abbotts	Streets Affected	Nature of Problem/Comments
Church Street	Church Street	4 household competing for two spaces currently
Priory Street	Priory Street	Commuter vehicles
Herts Regional College affected roads	Middleton Road Ware and other roads around HRC	Restrictions in place to prevent student parking - impacts on residents and scheme would be more friendly to residents
Hanbury Close	Hanbury Close, King Edward's Road, Vicarage Road, Raynsford Road	Commuter, town shopper, worker parking
Collett Road	Collett Road	Residents experiencing parking problems due to proximity to town centre and on periphery of W2 Resident Permit Parking Scheme "Coronation Road". XXXXXX enquired if a local commercial development might offer scope for S106 funding. DK advised this was not applicable as the change to residential was covered under permitted development rules and no need for planning consent.
Stansted Abbotts	Amwell Lane and Station Road in Stanstead Abbotts	Resident concerned about proposed Herts Highways restrictions and impact on residents of Station Road with "no parking available". Resident accepts it is not the council's responsibility to provide parking.

## ESSENTIAL REFERENCE PAPER 'D'

### **EAST HERTS COUNCIL RESIDENT PERMIT PARKING POLICY**

#### **INTRODUCTION**

Resident Permit Parking Schemes (RPZs) may be introduced to assist residents living in an area where on-street parking demand significantly exceeds supply and where it is not appropriate to manage this demand using conventional parking restrictions.

This document sets out the policy framework that underpins the adoption and operation of RPZs in East Herts.

Schemes will be implemented and will operate in accordance with Operational Guidance which operates in parallel of this policy.

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#### ***The Member Role***

- Considerable financial and other resources are expended during the investigation, design and implementation of a resident permit parking scheme. For this reason and to ensure the Council's proposals are in line with the community's wishes, Member involvement in the process from its earliest point is essential. No scheme will progress to detailed survey, design and consultation stage until it receives support from all district councillors for the affected area(s).

#### ***Award of Schemes***

- East Herts Council will prioritise residents' parking needs in primarily residential areas where there is evidence derived from surveys that demand for on-street parking significantly exceeds supply, due to the presence of non-residents' vehicles.
- East Herts Council will follow the extensive consultation process set out in statute and Operational Guidance. The

Council will seek to implement an RPZ only in areas where, following consultation, a majority of those residents who express a view wish to be included in a scheme.

- East Herts Council will follow statute and best practice when designing, implementing and administering its resident permit parking schemes. In particular the Council will:
  - Seek to ensure that schemes operate in support of the Council's network management obligations as set out in Part 2 (16) of the Traffic Management Act 2004 and other relevant legislation.
  - Seek to ensure that collectively schemes do not generate a net financial surplus for the Council.
- East Herts Council will assess the wider effects on the community when considering the implementation of an RPZ, including the potential for vehicle displacement, the additional demand for off-street parking that may be generated and the ability of nearby car parks to accommodate this demand. These issues will be addressed through the scheme design, consultation and reporting processes.
- East Herts Council will seek to introduce 'shared use' RPZs wherever feasible and will prioritise schemes where this approach can be taken, to make effective use of on-street parking provision.

### ***Financial Principles***

- East Herts Council will use S106 contributions arising from related developments to fund the implementation of RPZs where these are available, although the progression of a scheme using S106 funding will be subject to it also meeting the Council's other policy and operational criteria, including the requirement for support from district councillors for the affected area(s) and a majority of those residents who engage in the consultation process.
- East Herts Council will not seek to recover the set-up costs of RPZs from residents, recognizing that in some cases

these will have been met from S106 funding and that in many cases the implementation of an RPZ is likely to lead to increased use by some displaced motorists of the Council's off-street car parks, leading to an indirect financial benefit to the Council.

- East Herts Council will seek to recoup the operational cost of RPZs from the residents who benefit from the scheme – primarily from the sale of permits, visitor parking time and income from shared use parking (if applicable). At all stages during the consultation process the Council will give residents its 'best estimate' of the likely initial cost of permits should a scheme be implemented, to allow residents to make an informed decision on whether to seek inclusion in a scheme.
- Scheme revenue and costs will be reviewed on an annual basis as part of the Council's annual fees and charges process.
- East Herts Council will take into account Penalty Charge Notice revenue that may arise from the implementation of a scheme when setting and reviewing scheme charges.
- Any inadvertent surplus arising from the Council's on-street parking operations (including RPZs) will be ring fenced for use by the Council in accordance with S55 of the Road Traffic Regulation Act 1984.
- Any revenue surplus generated from 'shared use' schemes through the sale of 'pay and display' or commuter parking permits will be offset against permit costs.

## **Review of Schemes**

- East Herts Council will review resident satisfaction with a newly introduced RPZ approximately six months after implementation. This review will also canvass the views of residents, councillors and others from the wider area, outside the scheme's boundary, to ensure its full effects are

understood. Where beneficial, the scheme may then be modified.

## **Removal of Schemes**

- Receipt of a significant number of requests for the removal of an established scheme will be managed in line with the 'Consultation and Implementation' process set out in Section 6 of Operational Guidance.

## ESSENTIAL REFERENCE PAPER 'E'

### **EAST HERTS COUNCIL RESIDENT PERMIT PARKING SCHEMES OPERATIONAL GUIDANCE**

#### **1. INTRODUCTION**

Resident permit parking schemes (RPZs) may be offered to assist residents living in an area where on-street parking demand significantly exceeds supply and where it is not appropriate to manage parking problems using conventional parking restrictions.

This document supports the policy framework that governs the prioritisation, implementation and operation of RPZs in East Herts.

#### **2. ADVANTAGES AND DISADVANTAGES OF AN RPZ**

Implementing an RPZ can bring advantages and disadvantages:

##### Advantages

- Discourages commuter/shopper parking in residential streets
- Enhances environment in residential areas
- Residents find on-street parking is easier and more convenient
- May engender improved parking and traffic management
- Can deliver road safety benefits
- Encourages alternative, more sustainable modes of travel
- Can reduce traffic and congestion

##### Disadvantages

- Possible negative effects of displaced commuter/shopper parking
- Costs of introduction and management
- Residents and their visitors have to pay to park in their street
- Permits do not absolutely guarantee a parking space

- May only help manage an under-supply of spaces, not solve underlying problems
- Can lead to inefficient use of on-street parking spaces
- Possibility that a RPZ may reduce availability of on-street parking, with consequent problems for visitors and businesses

### **3. TYPES OF RPZ**

There are two broad approaches to the implementation of an RPZ (see below). In order to ensure the most efficient use of available parking there should be a presumption towards a 'shared use' approach wherever possible.

#### Exclusive Use Permit Schemes

This is the most traditional and common form of RPZ, where a street or area is divided into prohibited and permitted parking areas. In order to park in a permitted area, a vehicle would be required to have a valid permit. The permit categories may include residents, visitors, care workers serving residents and others as the Council may see fit. The system provides optimum benefit to residents but low levels of resident parking can lead to an inefficient use of on-street parking at certain times of the day or days of the week.

In areas where the demand for on-street spaces from residents alone exceeds the supply, the management and allocation of permits can be problematic; this is particularly the case where the RPZ results in the kerb space being reduced through formalisation of permitted parking – e.g. clearing parking at junctions – although this is normally justified on traffic management/safety grounds alone.

#### Shared Use Permit Schemes

This type of RPZ involves the dual use of on-street space, overcoming the under-use problem noted above. It commonly enables the time-limited shared use of on-street space (which may or may not be charged for) to be operated alongside vehicles with resident permits that would be exempt from either



time or charge restrictions. In isolation, it may eliminate the need for the administration of permits for visitors, carers etc. A hybrid variation of this type of RPZ could contain some bays marked for exclusive resident and/or limited waiting use.

#### **4. INITIAL CRITERIA FOR CONSIDERATION OF AN RPZ**

Criteria that must be met in full before an RPZ will be shortlisted:

- There should be early evidence of resident and district councillor support for an RPZ (e.g. petition, build-up of email requests or letters).
- At least 50% of properties in the proposed area as a whole should have no off-street parking (survey required).
- The kerb space occupied by non-residents should be greater than 40% at times when parking problems caused by non-residents occur (survey required).
- There should be sufficient kerb space to enable a minimum of 75% of all households within the proposed scheme area to park at least one vehicle on-street (survey required).

#### **5. FINAL CRITERIA FOR RPZ PRIORITISATION**

Final criteria that will determine the order of progression of shortlisted RPZs:

- Availability of S106 funding.
- Any beneficial tie-in with other work being undertaken e.g. town centre enhancements.
- Potential for a 'shared use' approach.
- Resolves problems for emergency vehicle access.
- The availability of off-street parking for non-residents in the area.
- The perceived impact of displacing non-resident cars.
- The size of the proposed RPZ.

The final decision as to whether to progress any given shortlisted RPZ to design and consultation stage and the outline terms on which that scheme should be developed will rest with the Portfolio Holder acting in consultation with the Head of Service, on the advice of the Parking Manager.

The geographical area of a proposed RPZ will be based on officer judgement, informed by considerations such as natural or man-made boundaries, requests logged, input from local district councillors and any conditions attached to relevant S106 funding (where available).

## **6. CONSULTATION AND IMPLEMENTATION PROTOCOL**

All proposed RPZs will be subject to consultation. The process will comprise:

- Preliminary consultation with district councillors for the affected town.
- A survey of all residents and businesses within the proposed area to identify the level of community concern regarding parking difficulties and to establish the level of support for an RPZ. This consultation will also be used to identify the community's outline requirements for a RPZ. The results of this questionnaire will be used to inform the development of a proposed RPZ.
- To qualify for progression to design stage, a simple majority of the total number of households in streets where a scheme is proposed (50% +1) must respond formally to this initial questionnaire and a simple majority of these respondents (50% + 1) must vote in favour of a scheme.
- Officers may re-consult in streets where the vote is tied, where residents' wishes appear unclear or where officers are aware of decisions made in nearby streets may make impact the situation elsewhere; however any decision by officers to depart from the above position must be clearly justified in relevant commissioning reports and communicated to affected residents.
- Except in the case of very small scale schemes, a second round of consultation should be by means of a public exhibition or public meeting as appropriate to the size and scale of the potential RPZ. This will allow officers to answer questions on a one to one basis and to further refine elements of the proposed scheme's design.

- The next, formal stage of the process will involve the advertisement of a Traffic Regulation Order in the local media and on-street Notices.
- The resolution of statutory objections to a Traffic Regulation Order is a matter for officers; however in exceptional circumstances where the volume and/or type of objection is viewed by officers as significant and/or when a petition has been received that qualifies the lead petitioner to address the Council, the matter may be referred to an appropriate committee of the Council for review .
- All RPZs will be reviewed approximately six months after implementation. This review will include a survey of district councillors, residents and businesses in and around the scheme area, following which point modifications may be made following the promotion of an Amendment Order, where these are seen as beneficial to the needs of residents and others.

## **7. DETAILED DESIGN PRINCIPLES**

When designing an RPZ there should be a clear understanding of the parking problems in the area and the implications of the introduction of the RPZ. Accordingly, when considering the needs of the residents and determining the layout of an RPZ the following detailed points must be addressed:

- Maintaining traffic flow & visibility at junctions
- Vehicle access
- Emergency vehicle access
- Loading/unloading requirements
- Bus stops
- Needs of blue badge holders
- Limited waiting areas for local businesses
- Needs of visitors and other categories of drivers who need to park within the zone
- The mix of the area (residential/commercial).
- Safety of the public and other road users within the zone

The objective in all cases should be to maximise amenity for residents whilst taking into account the needs of the wider community.

Signage and markings are required to be in accordance with the current Traffic Signs Regulations and General Directions and the relevant sections of the Department for Transport Traffic Signs Manual. Special authorisation will be obtained from the Department for Transport before any non-standard scheme is implemented. Individually marked or designated parking bays will not normally be provided.

Residents of new housing developments within established scheme areas (e.g. apartment buildings or existing buildings converted into apartments) will not be considered for inclusion in that scheme where private off-street parking is included in the development. In other cases, primarily where new houses are built that do not have private off-street parking there should be a presumption towards creating permit eligibility for that new address.

Private roads and roads that are not maintained at public expense will not be considered for inclusion in a resident permit parking scheme.

## **8. SCHEME CHARGING PRINCIPLES**

Permit and charges shall be determined by the Council and set at a level that seeks to cover the annual operational costs of the Council's RPZs.

Where a 'shared use' scheme has been introduced, any revenue surplus arising from this function will be used to offset the overall cost of resident permits.

Residents within a proposed scheme area will be given the Council's best estimate of the likely permit charge. Permit charges will then be subject to annual review, with the charges revised as necessary to ensure that overall the Council's RPZs continue to operate on as close as possible to a break-even basis.

Residents will be required to confirm their agreement to these terms during the consultation process.

## **9. RPZ OPERATIONAL TERMS**

Outline terms of a proposed RPZ will be set out at the start of the consultation process and will be refined through the process of consultation with residents, local Members and others.

The following principles will apply:

- The number of resident permits offered per household will be based on an officer assessment of the availability of kerb space versus the number of households within the proposed scheme area.
- The quantity of visitor parking hours offered per annum will be approximately 20% of the annual operating hours of the RPZ. (For example, if a scheme operates for 10 hours a day, 6 days a week, approx. 600hrs of visitor parking time will be issued per household).
- The operational hours of a scheme will be considered on an individual basis and as a rule they will be set at the minimum necessary to secure the primary objective of that scheme whilst maximizing its potential for legitimate use by other motorists.

## **10. SPECIAL PERMITS**

To qualify for a special parking permit an organisation or individual will be required to demonstrate:

- That they are providing essential care, health or other essential community service for residents within the RPZ.
- That there is a need for them to park within the RPZ to provide that service.

An organisation or individual will be required to write to the Council detailing the reasons why they need this permit. If they meet the Council's criteria they will be sent an application form to complete. The Council may require additional, supporting documentation in support of an application.

## **11. REVIEW OF AN RPZ**

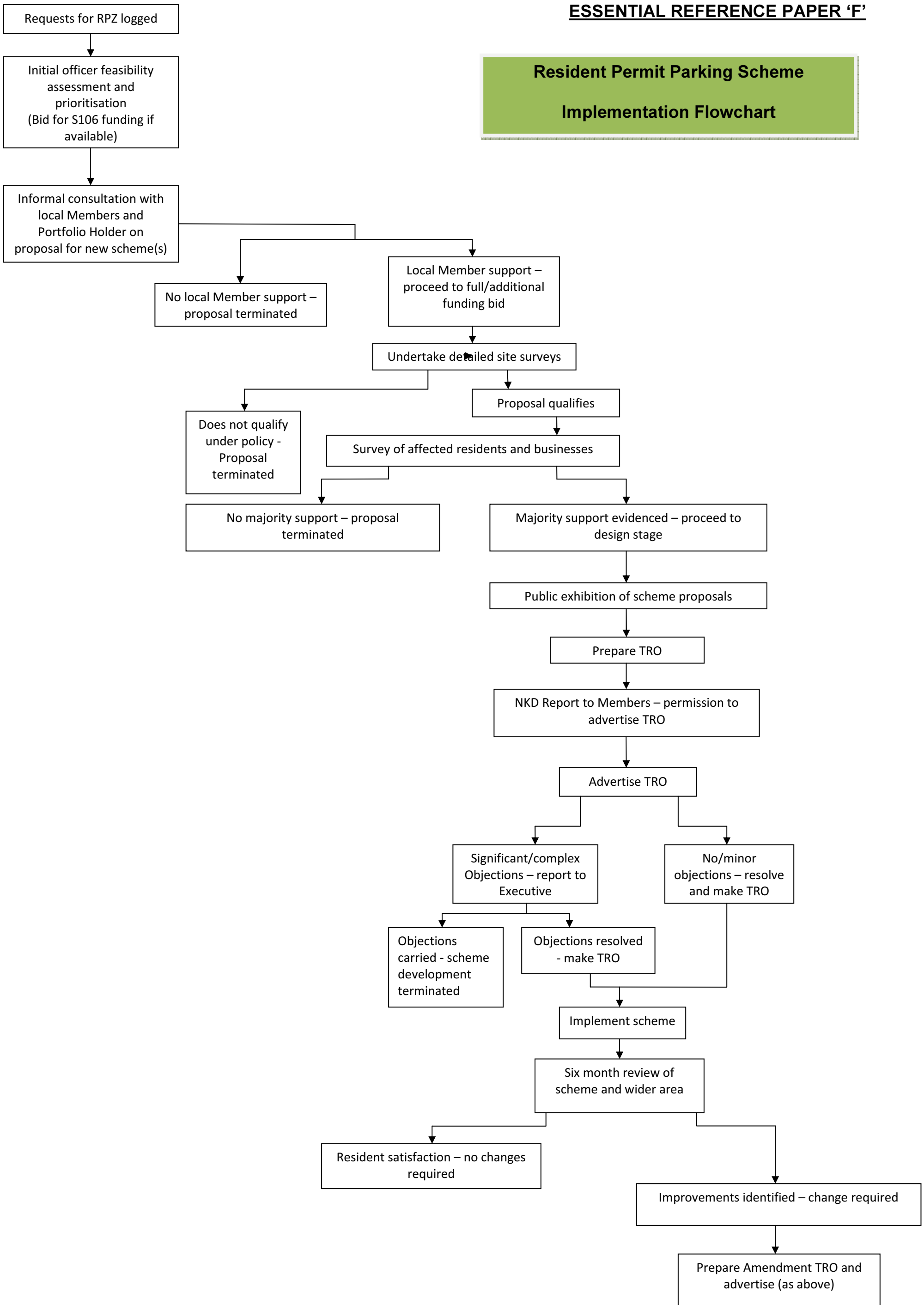
### **Review of Schemes**

The Council will review resident satisfaction with a newly introduced RPZ approximately six months after implementation. This review will also canvass the views of residents, local councillors and others from a wider area outside the scheme's boundary, to ensure its full effects are understood. Where beneficial, the scheme may then be modified as per the process set out in Section 6 of this document (Consultation and Implementation Protocol).

## **12. REMOVAL OF AN RPZ**

Significant evidence of local support for the removal of an RPZ will be managed in the same manner as the process set out in Section 6 of this document (Consultation and Implementation Protocol).

**Resident Permit Parking Scheme  
Implementation Flowchart**



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## EAST HERTS COUNCIL

EXECUTIVE - 6 OCTOBER 2015

REPORT BY THE AMBASSADOR AND EXECUTIVE MEMBER FOR  
SHARED SERVICES

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### THE HERTFORDSHIRE BUILDING CONTROL PROJECT

WARD(S) AFFECTED: ALL

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#### **Purpose/Summary of Report**

- The report provides an update on the progress of the Hertfordshire Building Control project. The project is a joint venture between seven District Councils in Hertfordshire.

<b><u>RECOMMENDATIONS FOR EXECUTIVE</u> That:</b>	
<b>(A)</b>	<b>the full business case and the joint arrangements for the provision of Building Control functions, as now submitted, be approved;</b>
<b>(B)</b>	<b>authority be delegated to the Director of Neighbourhood Services, in consultation with the Portfolio Holder, to take all necessary steps to proceed with (A) above; and</b>
<b>(C)</b>	<b>the start-up funding arrangements, as detailed in paragraphs 5.13 to 5.16 of the report submitted, be approved.</b>

#### 1.0 Background

- 1.1 Local Authorities (LAs) have a statutory duty to provide a Building Control Service. This means that if an application is submitted to the authority, it has a duty to ensure that the works comply with building regulations. Originally LAs were the sole supplier of this service. However, in 1997 the government gave powers that allowed Approved Inspectors (AIs) to also act in this capacity. This competitive environment has meant that it is more difficult for LAs to retain their market share and grow new commercial work. Consequently many LAs, including East Herts have struggled to

ensure that the Building Control service they provide is both value for money and cost neutral. In order to sustain the service, new options for service delivery will need to be explored.

## 2.0 Report

2.1 East Herts District Council together with six other authorities (Welwyn Hatfield, North Herts, Stevenage, Three Rivers, Hertsmere and Broxbourne) has been working on proposals for joint arrangements.

2.2 The Council were concerned about the following issues:

- The majority of Hertfordshire LA Building Control services are run at a cost
- LAs find it difficult to market their services to commercial clients and are struggling to maintain householder client base as AIs are seen as more flexible and value for money.
- It is becoming increasingly difficult to recruit and retain high quality and specialist staff. Most LAs now have an ageing Building Control workforce.
- It is difficult to run services efficiently with current resources and overheads.

2.3 In order to take the model forward a project board was set up consisting of the seven Chief Executives or their nominated Directors and the East of England Local Government Association (EELGA). The board appointed a Project Manager and a Project Officer from North Herts Council for 15 hours per week to progress the project. In addition it was decided that the model would need some funding to pay for initial set up costs, therefore all seven authorities contributed to a central fund.

2.4 Expert legal advice for the project has been procured and this has led to the board deciding that a corporate structure would be the most efficient way to set up and run the arrangement, offering maximum flexibility with minimum exposure to procurement regulations and Corporation Tax.

2.5 The Executive at its meeting on 5 August 2014 approved the proposals now detailed, that the report be noted; and in principle, the project move forward and a full business case be submitted for approval at a later date.

### 3.0 Proposed Corporate Structure

3.1 The proposals are to establish three new corporate vehicles as follows:

- Delegable building control functions to be supplied to the Councils will be delivered on a non-profit making basis by a company limited by shares referred to as LA7;
- Approved Inspector work, work for any customers other than the Councils including other local authorities, private developers etc. and any work other than AI work which the 7 Councils may wish H7 to perform will be delivered on a profit making basis by a company limited by shares referred to as H7; and
- A new company limited by shares will be formed to act as a holding company for LA7 and H7 (HoldCo)

3.2 The proposals will have the following advantages:

- It will create efficiencies in terms of back office costs such as ICT and building charges.
- It will allow for rationalisation of resources.
- There can be greater flexibility in the way that staff are deployed, based on market need.
- The set up will allow for greater flexibility in terms of incentives and training for staff, improving retention, attracting specialist staff and job satisfaction.
- The model allows for any surplus to be re-invested in terms of incentives and training for staff, improving retention and job satisfaction.
- The model allows for any surplus to be re-invested in both the company and the Local Authorities.

3.3 In the report, HoldCo and its subsidiaries are referred to as the Building Control Group.

3.4 This will be supplemented by up to 6 of the Councils delegating building control functions which may not currently lawfully be externalised to LA7 or H7 to a single Council (LA1) under section 101 of the Local Government Act 1972.

3.5 The Councils delegating such functions would need to make a formal resolution to do so for a set period of time (although a Council can always elect to cease its delegation) and the Council accepting the delegations would need to make a formal resolution to accept such functions. The terms of the delegation including any payments towards the costs of LA1 as the Council which

employs the officer(s) who are to exercise the statutory functions and make decisions could be covered in an inter-authority agreement.

- 3.6 The decision made by LA1 on behalf of the other Councils would be routine and non-controversial decisions. The other Councils could elect to retain full decision making powers for strategic, policy-related or politically sensitive decisions if they wished.
- 3.7 The terms and scope of any delegation of functions can be drafted to reflect whatever each Council prefers. Although, uniformity between Councils terms of delegation will help streamline arrangements and drive efficiencies.
- 3.8 As part of the delegation, any Council would appoint one Council (LA1) as its agent for the purposes of the service contract with LA7 in order to streamline arrangements.
- 3.9 If one or more Councils wish to delegate their client or public administrative building control functions to another Council on its behalf then this should be through a delegation under S101 of the Local Government Act 1972 with the contractual back up and enforceability of an inter-authority agreement.

#### 4.0 Proposed Contractual Structure

- 4.1 Each of the Councils will enter into contractual arrangements with LA7 for building control services to buy building control services from LA7 in return for the payment by them of a service charge to LA7.
- 4.2 Although there are a number of alternatives, Councils would delegate the purchase of building control services and/or non-delegable statutory functions to one Council (LA1). LA1 would act as the Councils' agent and in that capacity enter into a single bilateral contract with LA7.

#### 5.0 Financial Implications

- 5.1 Detailed financial models based on partners' current cost/income and budgets have been formalised and consolidated in a uniform manner to provide a like-for-like comparison of each partners' financial position. This was then used as a basis to create a future cost model which looked to set the likely income and expenditure levels of the Building Control Group for 5 years from 2016/17 to

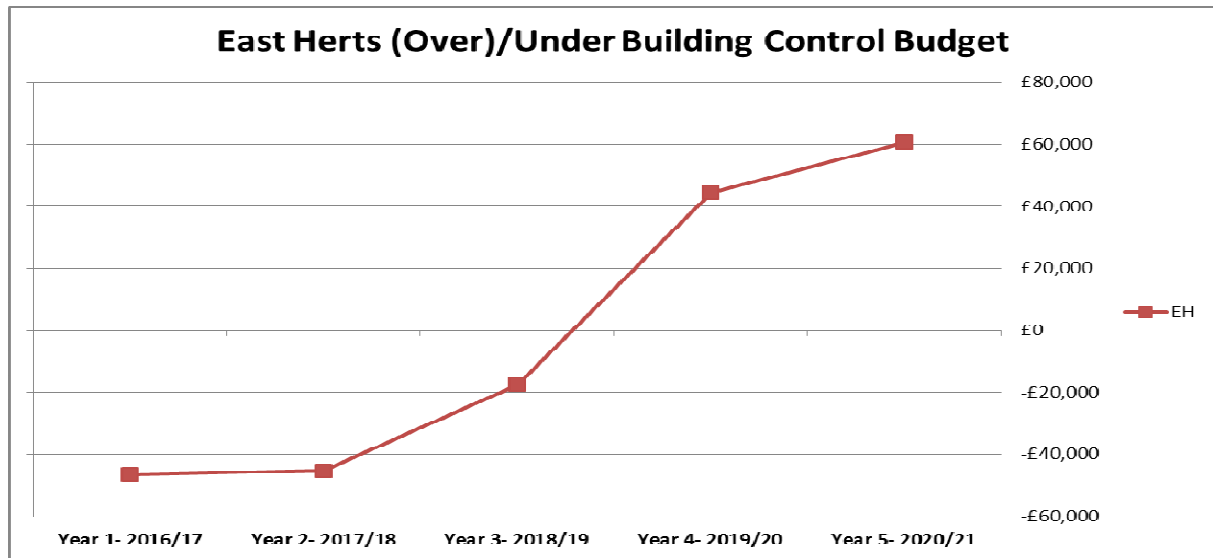
2020/21. These figures were compared to individual Local Authority (LA) budgets to identify their specific financial implications.

- 5.2 Within this exercise LA support services / overheads and premises cost were deemed out of scope and as such will be retained by the each LA. For East Herts this represents £169k support services and £35k premises budgets totalling £204k (In Table 1 below, the budget row reflects this treatment; the Year 0 As-Is budget including o/h+premises is £291k, compared to a budget of £88k in future years excluding o/h+premises).
- 5.3 The detailed East Herts position should it enter this partnership is outlined below in Table 1.
- 5.4 In summary, years 1, 2 and 3 would see the bottom line net cost to East Herts exceeding the remaining budget. This is not uncommon in new company start-ups as efficiencies will be gradual through the company's early years rather than a big bang immediately upon starting. However, the direction of travel in this period is positive and once at year 4, the cost is projected to fall below the remaining budget, illustrated in Graph 1 below.

**Table 1: Financial Model Summary**

	<u>Year0</u>	<u>Year1</u>	<u>Year2</u>	<u>Year3</u>	<u>Year4</u>	<u>Year5</u>
	<u>AS IS</u>	<u>2016/17</u>	<u>2017/18</u>	<u>2018/19</u>	<u>2019/20</u>	<u>2020/21</u>
	<u>(inc. o/h + prem.)</u>	<u>(exc. o/h + prem.)</u>	<u>(exc. o/h + prem.)</u>	<u>(exc. o/h + prem.)</u>	<u>(exc. o/h + prem.)</u>	<u>(exc. o/h + prem.)</u>
<b>Fee</b>	(19,520)	47,762	48,931	76,751	138,742	154,865
<b>Non-fee + Other</b>	(271,147)	(164,831)	(164,831)	(164,831)	(164,831)	(164,831)
<b>ICT</b>	In above	(17,093)	(17,093)	(17,093)	(17,093)	(17,093)
<b>Net (cost) / income</b>	<u>(290,667)</u>	<u>(134,162)</u>	<u>(132,993)</u>	<u>(105,172)</u>	<u>(43,182)</u>	<u>(27,059)</u>
<b>Budget</b>	291,964	87,720	87,720	87,720	87,720	87,720
<b>Variance</b>	<u>1,297</u>	<u>(46,442)</u>	<u>(45,273)</u>	<u>(17,452)</u>	<u>44,538</u>	<u>60,661</u>
	<u>under</u>	<u>over</u>	<u>over</u>	<u>over</u>	<u>under</u>	<u>under</u>

Graph 1: Projected forecast for East Herts Building Control



5.5 The financial model is based on two main parts;

- Fee
- Non-fee+Other

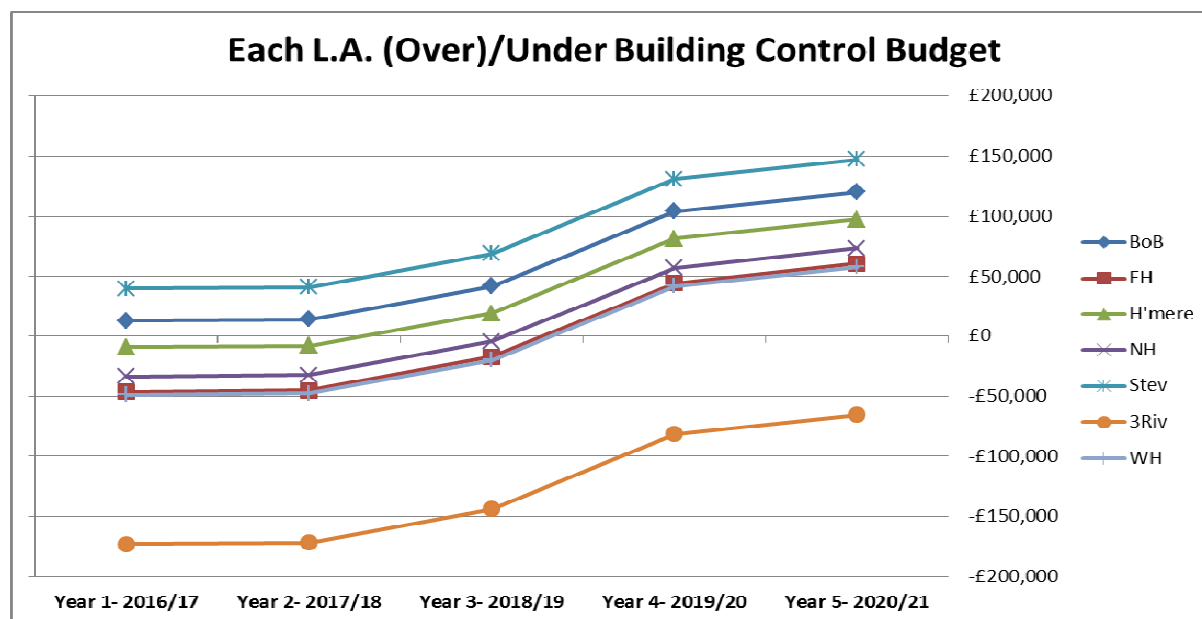
Delegable (LA7) functions will be found in both areas above, whilst non-delegable (in-house) and Approved Inspector (H7) are predominately Fee based.

5.6 The financial positions of all partners against their remaining budgets are illustrated in Graph 2 below for years 1 to 5 of the partnership.

5.7 The East Herts position is relatively low on this graph for two reasons;

- East Herts has the largest Non-Fee+Other net cost of the partners. This will be charged to the LAs based on actual consumption, with the consequence that East Herts will therefore be charged more than other partners for this part of the service provision
- As Fee service net income can only be extracted legally based on equal shares (1/7<sup>th</sup> each) there will be winners and losers depending on the actual amounts of fee income each LA brings to the partnership. As the largest income partner, East Herts is inevitably a loser financially (compared to Stevenage as the lowest income partner appearing towards the top of the graph).

Graph 2: Projected forecast for the LAs



5.8 Over and above the day-to-day costs of service in the years of provision, there are two additional sums of funding which need to be provided to the Building Control Group and therefore considered;

- Start-up loan funding of £647k;
  - £371k capital (for ICT hardware)
  - £276k revenue (for legal, recruitment, training etc.)
 This will be funded equally by the partners (£92k each LA) before year 1 begins. This will be subject to full principle and interest repayment, though the terms will have to be agreed upon start-up (the model currently assumes 5% over a 3 year repayment period).
- Income transfer for unfinished works; income is usually received with applications (i.e. before building control work begins) which will result in income held by LAs for work unfinished at the time of service transfer. Therefore a cash sum for these unfinished works will need to be transferred from LAs to the Building Control Group who will complete the work. Current estimates are that this would be approximately £200k for East Herts.

5.9 Key assumptions;

- Throughout the model, where estimates are used, these have been determined as conservative values, that is not overly optimistic or pessimistic

- Growth assumed;
  - Internal geographical, broadly 3%-5% annual growth
  - External geographical, increasing gradually to another 50% of current internal market (proxy)
- No accounting entry values are included within the model (i.e. pension deficit, accumulated absences, depreciation etc.)
- Price elasticity of demand for services has been classified as neutral (price changes do not affect total income received) to keep the model simple and manageable

This is not an exhaustive list of the model's assumptions, rather a summary of the most pertinent ones.

#### 5.10 Key risks;

- As with any prediction model, whilst the best available information concerning likely quantity and costs have been used, it is an estimate so figures are "expected", they are not guaranteed
- Building Control operates in an external business environment as such it will be affected by market factors be them legal, economic or other. Whilst the model aims to estimate how those factors will affect the Building Control Group, it should be noted that unforeseen factors could impact the financial numbers quoted positively or negatively.

5.11 There will be significant support services / overheads and premises that the Building Control Group will need to procure and there is an option for the partner LA's to provide these. The model assumes £500k-£600k support service / overheads and premises per annum to cover the following activities:

- Human Resources (HR)
- Information, Communications & Technology (ICT)
- Finance
- Corporate
- Legal
- Premises

5.12 No decisions have been made by the Board as to who (if any) will win these contracts, as such the model above includes these costs in the Building Control Group's forecasts, it does not assume any awards of these to specific LA parties. Therefore, any subsequent award to a LA would improve the receipts / income from the Building Control Group (if the services are provided without additional cost to the LA).



- 5.13 The financial resources required to “pump-prime” the joint venture are summarised in Table 2 below.

Table 2: Funding requirements

	Year 0	Year 1	Year 2	Year 3	Total
Start-up Loan	92	(33)	(33)	(33)	<b>(7)</b>
Unfinished work income transfer	200	-	-	-	-
Supplementary budget	-	46	45	17	<b>108</b>

- 5.14 The start-up loan will be funded from the transformation reserve which will be replenished by the loan repayments as agreed with the Building Control Group (including interest at an assumed rate of 5% over three years).
- 5.15 The income transfer for unfinished work will be funded from the income budget within the building control service upon transfer of the service to the Building Control Group.
- 5.16 The supplementary budget requirement will be funded from the transformation reserve during years 1 to 3. The anticipated reduction in budget requirement from year 4 onwards will be used to repay the reserve. Once the total supplementary budget provision has been repaid in full any budget surplus will be offered as a saving.

## 6.0 Conclusion

- 6.1 East Herts and the other Councils involved in this project have recognised that the environment for the provision of Building Control services remains competitive and is likely to be more so in the future. The service arrangement proposed here will allow for the quality of service to be maintained – with appropriately skilled staff employed. It also allows the company to act competitively beyond the boundary of the combined Councils – something which the Council would find difficult to achieve individually.
- 6.2 There are good service delivery reasons for the Council to commit to these proposals therefore. There are costs however. Putting aside set up costs which can be recouped, the proposals result in additional service provision costs for the Council for the first three years of operation. There is a risk that service costs would

increase if the Council were not involved in this arrangement in any event and, in the longer term, the financial model predicts that service costs will fall below current levels.

6.3 Given the longer term savings position and the maintenance and potential improvement to the quality of service provision, it is concluded that the budget risks in this matter are outweighed and that the Council should resolve that it continues to confirm its involvement in the joint arrangements and take the necessary steps to bring the new arrangements to fruition.

## 7.0 Implications/Consultations

7.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

## Background Papers

None

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Report Author: Simon Drinkwater- Acting Chief Executive & Director  
of Neighbourhood Services

## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	<b>People – Fair and accessible services for those that use them and opportunities for everyone to contribute</b>  This priority focuses on delivering strong services and seeking to enhance the quality of life, health and wellbeing, particularly for those who are vulnerable.
Consultation:	<i>There has been consultation with the other partner Councils as part of the process.</i>
Legal:	The legal implications have been set out in the report.
Financial:	The financial Implications are set out in the report.
Human Resource:	The staff and HR implications have been set out in the report.
Risk Management:	The risks of the proposals in the report have been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by operations.
Health and wellbeing – issues and impacts:	Building Control Services are essential to ensure the safety of the public in terms of the built environment and to ensure construction work complies with safety, energy efficiency and other requirements.

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## EAST HERTS COUNCIL

EXECUTIVE – 6 OCTOBER 2015

REPORT BY EXECUTIVE MEMBER FOR ENVIRONMENT AND THE  
PUBLIC SPACE

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DEREGULATION ACT 2015 – DURATION OF LICENCES

WARD(S) AFFECTED: ALL

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### **Purpose/Summary of Report**

- The purpose of this report is to provide details of the new legislation and approve the new fees.

<b><u>RECOMMENDATION FOR COUNCIL:</u> That:</b>	
<b>(A)</b>	<b>the proposed licence fee levels, as set out at Essential Reference Paper B of the report submitted, be approved.</b>

### 1.0 Background

1.1 The Deregulation Act 2015 has amended the Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A1976) in relation to the minimum durations of the following licences:

- Hackney Carriage Drivers
- Private Hire Drivers
- Private Hire Operators

East Herts currently issue a “Dual Drivers” badge (a combined Hackney Carriage and Private Hire Drivers badge) rather than solely a Hackney Carriage Drivers badge.

1.2 This has implications regarding the fees to be charged for the licences. We are only allowed to charge enough to recover our costs so any savings must be reflected in the fee set for the longer durations.

## 2.0 Report

- 2.1 Section 53(1)(a) & (b) of LG(MP)A 1976 (drivers' licences for hackney carriages and private hire vehicles) allowed a District Council to grant a drivers licence for up to three years or for such lesser period as the District Council saw fit. East Herts Council chose to issue drivers licences for a maximum period of one year.
- 2.2 Section 10(2) of the Deregulation Act amends section 53 of LG(MP)A 1976 and this has the effect of requiring a licensing authority to issue a drivers badge for a minimum of three years unless a shorter period is "appropriate in the circumstances of the case".
- 2.3 Section 55 of LG(MP)A 1976 allowed a District Council to grant a private hire operator's licence for up to five years or for such lesser period as the District Council saw fit. East Herts Council chose to issue operators licences for a maximum period of one year.
- 2.4 Section 10(3) of the Deregulation Act replaces section 55 of LG(MP)A 1976 and this has the effect of requiring a licensing authority to issue a private hire operators licence for a minimum of five years unless a shorter period is "appropriate in the circumstances of the case".
- 2.5 The Deregulation Act 2015 does not detail what an authority can consider "appropriate" in the circumstances of the case. Officers would interpret this to mean that, after the transitional period, only three and five year licences would be granted. However, should there be any doubt as to an applicant's fitness a shorter licence period could be granted to allow the applicant an opportunity to prove themselves. This would be at the discretion of a Licensing Sub-Committee as there is no proposal to amend the scheme of delegations.
- 2.6 In setting fees, the council has to have regard to the Provision of Services Regulations 2009 and any case law. Surpluses and deficits from one year may be carried forward to the following year and adjustments made where appropriate.
- 2.7 Driver licence fees  
The checks that applicants have to go through will remain the same, requiring the same amount of officer time to process documents. The only cost savings that could be applied for the

longer licence would be having to produce only one drivers badge every three years rather than one every year. The cost of a renewal is less than a new application so a fee for a three year “New” application and a three year “Renewal” application must be set.

## 2.8 Operator licences fees

The checks that applicants have to go through will remain the same but unlike the drivers licences there are no additional checks carried out during the duration of an operator’s licence. Therefore the fee for processing a five year licence will be the same as the cost of processing a one year licence. On average private hire operators receive two compliance visits in a five year period, the cost of which is divided between the annual fees. The cost of these visits has been added to the five year operator’s licence cost to ensure cost recovery. The operator’s licence fee is the same for both new applications and renewal of an existing licence.

2.9 The proposal is to continue issuing one year driver badges, alongside the three year licences required by the Deregulation Act, until the start of the next financial. This will allow the trade a transitional period rather than those renewing before April 2016 having to find three times the expected fee immediately.

2.10 As the increase in the price of the operator’s licence is only minimal it is not proposed to have a similar transitional period and we will move straight to five year duration licences.

2.11 The proposed fee for three year driver’s licences and five year operator’s licences can be found in **Essential Reference Paper B**.

2.12 The proposed fee changes will not form part of the finance and business planning process as the changes are required to be in place in October 2015. In the future they will be reviewed, along with the other taxi licensing fees, as part of the finance and business planning process to ensure cost recovery is achieved.

2.13 There are financial implications in relation to issuing longer duration licences, particularly in relation to cost recovery. By April 2017 all drivers will have moved to three year licences concentrating the income in that financial year with a significant drop in income the following years before renewals take place. By September 2016 all the private hire operators will have renewed

meaning that there will only be income from new applications until they are due for renewal in 2020. Finance has advised that through phasing the income can be distributed over the intervening years.

2.14 **Essential Reference Paper C** contains a comparison of estimated income from the changes in duration of the licences against the estimated income the authority would have received had it been able to continue to issue licences of one year duration.

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

Deregulation Act 2015 –

<http://www.legislation.gov.uk/ukpga/2015/20/introduction/enacted>

Local Government (Miscellaneous Provisions) Act 1976 -

<http://www.legislation.gov.uk/ukpga/1976/57>

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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p><b><i>Prosperity – Improving the economic and social opportunities available to our communities</i></b> This priority focuses on safeguarding and enhancing our unique mix of rural and urban communities, promoting sustainable, economic opportunities and delivering cost effective services.</p>
<p>Consultation:</p>	<p>No consultation has taken place as this is a statutory requirement, report for information only</p>
<p>Legal:</p>	<ul style="list-style-type: none"> <li>• <i>We are required to issue the licences for the new minimum duration periods.</i></li> <li>• <i>Fees must be set in line with the Provision of Services Regulations.</i></li> </ul>
<p>Financial:</p>	<ul style="list-style-type: none"> <li>• <i>Income from taxi licensing will be impacted as the fees being charged for the longer duration licenses will be lower.</i></li> <li>• <i>The income will be concentrated in the renewal years rather than being spread out annually.</i></li> <li>• <i>As taxi licensing fees can only be set on a cost recovery basis the impact will be balanced by the savings in officer time and materials.</i></li> <li>• <i>Fees will be reviewed regularly to ensure the authority is recovering the correct amount in line with policy.</i></li> <li>• <i>Any surplus or deficit must be carried over to the next year and the fees adjusted where appropriate.</i></li> </ul>
<p>Human Resource:</p>	<p>No issues identified by report author or contact officer</p>
<p>Risk Management:</p>	<ul style="list-style-type: none"> <li>• <i>All the current checks carried out on drivers will continue to be carried out at the original intervals so there is no increased risk.</i></li> <li>• <i>The Council's Licensing Records Points Scheme will remain in place to address misconduct during the longer licence periods.</i></li> <li>• <i>If the fees are not approved the authority will be unable to meet its statutory requirement for longer licence durations without having to charge a fee</i></li> </ul>

	<p><i>which does not comply with the Provision of Services Regulations. This would leave the fees open to challenge.</i></p> <ul style="list-style-type: none"> <li>• <i>There is a risk that in these times of austerity a taxi driver operating as a small business may not be able to afford the higher fee immediately, potentially taking their livelihood away. This is reason the transitional period has been proposed to allow drivers to prepare for the additional cost.</i></li> </ul>
<p>Health and wellbeing – issues and impacts:</p>	<p>No issues identified by report author or contact officer</p>

## ESSENTIAL REFERENCE PAPER 'B'

### DEREGULATION ACT 2015

The fees are based on the existing licence fees and have to be set taking into account the Provision of Services Regulations 1990 and recent case law.

#### Dual Driver & Private Hire Driver Fee

	<b>ONE YEAR (Current)</b>	<b>THREE YEAR (Proposed)</b>
New	£211.00	£369.00
Renewal	£106.00	£264.00

#### Private Hire Operator's Licence Fee

	<b>ONE YEAR (Current)</b>	<b>FIVE YEAR (Proposed)</b>
New and renewal (up to 6 vehicles)	£218.00	£258.00
Fee per additional vehicle	£30.00	£30.00

Fees have been assessed as follows:

<b>Activity</b>	<b>Comment</b>	<b>Cost of granting licences</b>
New Dual Driver or Private Hire Driver licence (Three year duration)	Cost of "New" one year licence £211.00 Two times the cost of "Renewal" of a one year licence £106.00 pa Minus the administration cost of producing two drivers badges at £27.00 each	£369.00
Renewal of Dual Driver or Private Hire Driver licence (Three year duration)	Cost of three "Renewals" of the one year licence £106.00 pa Minus the administration cost of producing two drivers badges at £27.00 each	£264.00
New or renewal of a Private Hire Operator's licence (Five year duration)	The cost of a one year duration operator's licence £218.00. The cost of two compliance visits during that period at £20.00 per visit	£258.00

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## ESSENTIAL REFERENCE PAPER 'C'

Estimated income is based on licence numbers for the financial year 2015/2016 (which have remained relatively constant for a number of years), the current fees for one year licences and the proposed fees for three and five year licences.

- Driver Renewals 346
- New Driver applications 60
- Private Hire Operator Renewal 32
- New Private Hire Operator applications 8

DRIVER	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Totals
Estimated Driver Income (1 year licence)	£49336	£49336	£49336	£49336	£49336	£49336	£296016
Estimated Driver Income (3 year licence)	£113484	£12660	£12660	£113484	£12660	£12660	£277608
	£64148	-£36676	-£36676	£64148	-£36676	-£36676	-£18408

OPERATOR	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Totals
Estimated Operator Income (1 year licence)	£8720	£8720	£8720	£8720	£8720	£8720	£52320
Estimated Operator Income (5 year licence)	£10320	£2064	£2064	£2064	£2064	£10320	£28896
	£1600	-£6656	-£6656	-£6656	-£6656	£1600	-£23424

**Note:** No inflationary uplift shown.

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MINUTES OF A MEETING OF THE  
DISTRICT PLANNING EXECUTIVE PANEL  
HELD IN THE COUNCIL CHAMBER,  
WALLFIELDS, HERTFORD ON THURSDAY  
10 SEPTEMBER 2015, AT 7.00 PM

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PRESENT: Councillor L Haysey (Chairman)  
Councillors E Buckmaster and G Jones.

ALSO PRESENT:

Councillors M Allen, R Brunton, I Devonshire,  
J Goodeve, J Jones, J Kaye, M McMullen,  
P Moore, M Pope, R Standley, N Symonds  
and K Warnell.

OFFICERS IN ATTENDANCE:

Chris Butcher	- Principal Planning Officer
Isabelle Hadow	- Senior Planning Officer
Martin Ibrahim	- Democratic Services Team Leader
Kay Mead	- Principal Planning Officer
George Pavey	- Assistant Planning/Technical Officer
Jenny Pierce	- Principal Planning Officer
Claire Sime	- Planning Policy Manager
Kevin Steptoe	- Head of Planning and Building Control Services

ALSO IN ATTENDANCE:

John Baker	- Peter Brett Associates
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## **1 EAST HERTS GREEN BELT REVIEW AUGUST 2015**

The Panel considered a report presenting the findings of the Green Belt Review 2015, which sought approval to use the outcome as part of the evidence base to inform and support the preparation of the District Plan.

John Baker, of Peter Brett Associates, gave a presentation on the Review, explaining the purpose, methodology and findings. He explained the assessment of parcels and sub-parcels which had resulted in four locations as having least importance to the fulfilment of Green Belt purposes and as such, had been identified as “Potential Areas of Search” for development locations. Two further parcels were identified as having moderate suitability and had been identified as “Potential longer-term Areas of Search”. These locations were detailed in the report now submitted.

In response to Members’ comments and questions, Mr Baker stated that consideration of any extensions to the Green Belt were not part of the brief of the Review. He clarified the objectivity of the methodology used, especially in relation to the “green wedges” in Bishop’s Stortford and the role of bypasses in defining Green Belt boundaries.

Officers also reminded Members of the progress of the Strategic Land Availability Assessment (SLAA).

The Panel supported the recommendation now detailed.

**RECOMMENDED** – that the Green Belt Review 2015 be approved as part of the evidence base to inform and support preparation of the East Herts District Plan.

## **2 VILLAGE HIERARCHY STUDY STAGE 1 AUGUST 2015**

The Panel gave consideration to a report on the findings of the Village Hierarchy Study Stage 1. This was the first



of two stages in providing important evidence to determine the rural strategy in the District Plan. It was noted that no decisions would be made until Stage 2 of the Study had been completed.

The Panel noted that Stage 1 sought to identify the services and facilities available in the villages, together with an assessment of accessibility and public transport provision. Stage 2 would present a final hierarchy after considering unique issues such as policy constraints, environmental constraints and school capacity, etc.

In response to Members' comments and questions, Officers confirmed that it was anticipated that Stage 2 would be completed by the end of 2015.

The Panel supported the recommendation now detailed.

**RECOMMENDED** – that the Village Hierarchy Study Stage 1 August 2015, be approved as part of the evidence base to inform and support preparation of the East Herts District Plan.

### **3 DUTY TO CO-OPERATE UPDATE REPORT**

The Panel received the notes of the latest round of Member-level meetings with adjoining Local Planning Authorities. Members were reminded of the Duty to Co-Operate and the need to engage constructively with a range of bodies throughout the plan-making process.

The Panel supported the recommendation as now detailed.

**RECOMMENDED** – that the notes of the Member-level meetings held with neighbouring local authorities be received.

#### **4 BUNTINGFORD TRANSPORT MODEL REPORT AUGUST 2015**

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The Panel received the findings of the Buntingford Transport Model, comprising a Local Model Validation Report and a Future Scenarios Testing Report. Agreement was sought to receiving the outcome as part of the evidence base to inform and support preparation of the District Plan and for Development Management purposes.

The work had been undertaken by Steer Davies Gleave consultants, who had created a micro-simulation model of the existing operation of the road network in and around Buntingford. The second stage of the work used the model to test the effects of various development scenarios and to determine any mitigation measures if required. This had been extended to undertake further model runs of two mitigation options and to provide indicative scheme design layouts for these two alternative options.

In response to Members' comments and questions, Officers clarified that they were working closely with Hertfordshire County Council colleagues on costing the mitigation measures and identifying how they could be funded. Existing section 106 funds were limited and competing priorities would need to be considered.

The Panel supported the recommendations as now detailed.

**RECOMMENDED** – that (A) the Buntingford Transport Model Report 2015 be approved as part of the evidence base to inform and support preparation of the East Herts District Plan;

(B) the Buntingford Transport Model Report 2015 be approved to inform Development Management decisions; and

(C) the Head of Planning and Building Control, in consultation with the Leader of the Council, be authorised to make non-material amendments to the final Buntingford Transport Model Report 2015, prior to publication.

## **5 AFFORDABLE HOUSING – AMENDMENT TO POLICY**

The Panel considered a report outlining the recent changes in national planning policy relating to the provision of affordable housing, and their implications for the Council's current Affordable Housing policy.

The Panel recalled that in December 2012, the Council had introduced a revised threshold to provide affordable housing and a percentage amount to be sought from development schemes in Category 1 and 2 Villages. This policy had been subsequently amended following new Government policy on the use of section 106 planning obligation agreements.

However, following a recent High Court decision, the details of which were set out in the report submitted, the Government had revoked the changes resulting in local planning authorities being able to formulate their own affordable housing thresholds. Therefore, it was proposed that the Council reverted to the 2012 Affordable Housing Policy (HSG3) position.

The Panel supported the recommendations as now detailed.

**RECOMMENDED** – that (A) the change in national planning policy through the removal of paragraphs in planning policy guidance related to affordable housing thresholds be noted;

(B) the affordable housing thresholds as amended in 2012 under the 2007 Local Plan HSG3 Affordable Housing policy be re-introduced; and

**(C) the Starter Homes exemption policy, as introduced by Central Government in March 2015, be included as part of the amended 2012 HSG3 policy, as set out in this report.**

## 6 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Members and the public to the meeting and reminded everyone that the meeting was being webcast.

She expressed her gratitude to former Councillor M Carver, for his enormous contribution to planning policy matters over many years and his wealth of knowledge and expertise in leading the Authority's District Plan preparations.

The Chairman referred to the cancellation of the Panel meeting scheduled for July 2015 and explained that the studies commissioned had not been received in time. She reminded Members that decisions would not be made on the findings of a single study, but the overarching evidence obtained.

The Chairman also referred to recent Government statements, which recognised the difficulties Local Authorities faced in dealing with changing parameters in preparing their District Plans. It was hoped that a more pragmatic approach would be taken by the Inspector at the Examination in Public stage.

Finally, the Panel Chairman advised on forthcoming meetings with parish and town councils and the recommencement of the Member policy support discussion groups.

## 7 MINUTES

RESOLVED – that the Minutes of the Panel meeting held on 19 March 2015 be approved as a correct record and signed by the Chairman.

The meeting closed at 8.37 pm

## EAST HERTS COUNCIL

EXECUTIVE – 6 OCTOBER 2015

EXECUTIVE MEMBER FOR HEALTH AND WELLBEING

COMPULSORY PURCHASE OF A LONG TERM EMPTY PROPERTY

WARD(S) AFFECTED: Hertford Castle

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### Purpose/Summary of Report

- This report recommends that the Council gives authority for the acquisition of an empty property in Hertford voluntarily or through the use of compulsory purchase powers. **Essential Reference Paper 'B'** gives the address of the property referred to in this report as Property X or the property.
- The report gives the background to this proposal by outlining the housing need in this area and the current empty homes situation and then gives the case history for the work already undertaken in seeking to bring this property into residential use.
- The relevant statutory powers and current guidance are set out together with an outline of the process towards confirmation of the Compulsory Purchase Order (CPO).
- The reasons and justification for proposing this CPO are given as are the considerations for Human Rights and Equality.

<b><u>RECOMMENDATIONS FOR EXECUTIVE: That:</u></b>	
<b>(A)</b>	<b>authority be given for the acquisition of the land comprising the property identified in the report submitted, either voluntarily or through a compulsory purchase process;</b>
<b>(B)</b>	<b>the Director of Neighbourhood Services be authorised to make a compulsory purchase order to be known as the District Council of East Hertfordshire (<i>Property X</i>, Hertford) Compulsory Purchase Order, under Section 17 of the Housing Act 1985, in respect of the land and property indicated on a map marked with the name of the</b>

	<b>Compulsory Purchase Order, where the words “Property X” will be replaced with the full address of the property;</b>
<b>(C)</b>	<b>the Director of Neighbourhood Services be authorised to fix the common seal of the Council to the necessary documents and make an application to the Secretary of State for confirmation of the Order;</b>
<b>(D)</b>	<b>the Director of Neighbourhood Services be authorised to confirm the Order following the passing of this responsibility from the Secretary of State;</b>
<b>(E)</b>	<b>the Director of Neighbourhood Services be authorised to acquire the necessary interests in the land and property included in the confirmed compulsory purchase order by means of a general vesting declaration, on terms to be agreed by the Director of Neighbourhood Services or on terms ordered by the Lands Tribunal;</b>
<b>(F)</b>	<b>the Director of Neighbourhood Services be authorised to determine and to follow the most appropriate course of action for the property following the options appraisal undertaken as set out in the revised Empty Homes Strategy 2016 to 2020, which may include an appropriate amount of works to be carried out to the property while it is in the Council’s possession to deal with issues of safety and security, to abate environmental nuisances and to prepare the property for marketing, the costs incurred in carrying out these works to be recovered from the rental income or resale price;</b>
<b>(G)</b>	<b>subject to the results of the options appraisal in (F) above, the Director of Neighbourhood Services be authorised to dispose of the freehold interest in the property, on the open market, by what he considers the most suitable method and otherwise on terms and conditions to be agreed by the Director of Neighbourhood Services; and</b>
<b>(H)</b>	<b>a budget based on the financial information in Essential Reference Paper ‘C’ be set for undertaking this CPO.</b>

## 1.0 Background

- 1.1 Empty homes are a wasted resource and have a negative effect leading to a decline in the neighbourhood. They can cause a potential nuisance to adjoining properties by attracting fly tipping, infestation of rodents, vandalism, unauthorised entry and other anti social behaviour.
- 1.2 The number of privately owned dwellings in East Hertfordshire as reported in the Council Tax base return for October 2014 as empty for longer than six months was 415.
- 1.3 The total number of dwellings in the district as reported in the same Council Tax base return was 59,783 dwellings.
- 1.4 The number of households on the Council's Housing Needs Register at 15 Sept 2015 is 2,147, of which 1,097 have expressed an interest in living in Hertford. We have housed 694 households since 1 April 2014. We have accepted applications and registered for housing 366 households since 1/4/2015.
- 1.5 The East Herts approach to tackling empty homes is explained in the Council's Empty Homes Strategy which is currently being revised and will be presented to Scrutiny on 17 November 2015 followed by consideration by Executive on 1 December 2015. We aim to encourage those who own empty homes to bring them back into use voluntarily and so our approach is focused initially on engaging with the owners offering support, advice and, where appropriate, offering grants, or the opportunity to make use of leasing schemes or other arrangements with housing providers.
- 1.6 Where, after repeated attempts, we are unable to enter dialogue with an owner or where an owner refuses to consider bringing back their property to use, we will consider taking enforcement action.
- 1.7 This is in line with our Private Sector Housing Enforcement Policy which states that "The Service's approach is to give informal advice, information and assistance when possible. Where this approach fails, or it is necessary to protect the health, safety or welfare of persons or the environment, the service will take necessary enforcement action".
- 1.8 The Council is part of a Consortium of councils that are delivering the PLACE project designed to bring long term empty properties

back into use using funding provided from central government. This finance can also be used for certain costs associated with enforcement action including the use of CPOs where the intention is to sell the property on vesting.

## 2.0 Case History

- 2.1 The address of the property is contained in **Essential Reference Paper B**. The information is confidential because it has been judged to be personal information.
- 2.2 The property is a 3 storey mid terraced house in a road comprising properties of similar construction built towards the end of the 19<sup>th</sup> Century. It is situated in a mainly residential area having had extensive residential development over the past decade. It is within easy access of the town centre, local parks and is approximately 5 minutes walk from the nearest train station. The majority of the other properties within the area are in a good habitable condition, well maintained and occupied.
- 2.3 The property has been empty since 2005 and complaints have been received from adjoining property owners and other members of the public concerning its derelict condition and its negative effect on neighbouring dwellings and the surrounding area.
- 2.4 The Council's Empty Property Officer has written to the owner at his last known address and at the empty property address (given as the owners address on the Land Register) on various occasions between 2012 and 2014 offering assistance if required to bring the property back into use, and requiring the completion and return of a Requisition for Information about the property's ownership served on him under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, and asking that he provides details of how he intends to return this long term empty property back into use. To date there has been no response from the owner. On two occasions the owner was served with notice of intended entry as required under the Housing Act 1985 and the Housing Act 2004 but on neither occasion did the owner attend the property.
- 2.5 The property is in a run down condition with broken windows and rotten wood work to the rear. The rear garden is overgrown and the shed has a collapsed roof. Neighbours in the same street have tried to maintain the front of the property to the benefit of the street as a whole and have painted the front door and window



frames some years ago.

- 2.6 No full internal inspection of the property has been possible although some of the ground floor is visible through the rear window. It is believed that the property has three bedrooms across the 1<sup>st</sup> and 2<sup>nd</sup> floors with a living room on the ground floor front and a kitchen on the ground floor rear. The bathroom is in a flat roofed, single storey rear addition. It appears that some works were commenced in the kitchen, but these have been abandoned. There is water dripping from the kitchen sink overflow to the rear of the property and neighbours have attempted to divert this away from the kitchen wall using sections of guttering.
- 2.7 The property has been valued by the Council's Assets and Estates Manager although this is a best estimate as no internal inspection has been possible to assist the valuation, this valuation is given in **Essential Reference Paper 'C'**. (A valuation by the District Valuer will be requested prior to entering negotiation with the owner on compensation.)
- 2.8 An exercise has been undertaken, which led to officers determining that the most appropriate method of enforcement for this property is compulsory purchase.
- 2.9 Based on the complaints received by the neighbours and the lack of involvement by the owner of this empty property it is considered that there is a compelling case in the public interest for the acquisition of the Property considering the benefits it will bring to the District which outweigh any detriment that may be suffered by the current landowners. The proposed Compulsory Purchase Order is therefore considered to be compatible with the European Convention on Human Rights.
- 3.0 Legal Powers and use of Compulsory Purchase
- 3.1 The Council has the power under s17 of the Housing Act 1985 to acquire land by compulsory purchase (land in this instance includes houses) for housing purposes. This section specifically includes the acquisition of houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings. The guidance on the compulsory purchase process ODPM Circular 06/2004 includes bringing empty properties into housing use as one of the main uses of the power.

- 3.2 Part XVII of the Housing Act 1985 applies, with modifications, the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation).
- 3.3 The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. The Convention Rights relevant to compulsory acquisition are Article 1, Article 6, Article 8 and Article 14. These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate.
- 3.4 As with all empty homes work the Council would prefer to bring this property back into use with the cooperation of the owner. If the use of CPO powers is agreed by this committee the owner will be written to requesting voluntary purchase of the property.
- 3.5 It is also possible that the owner may ask the Council to withdraw the CPO to allow him to complete renovation on the property and either let, sell or occupy it himself. If this occurs it is proposed that the Council will proceed with the CPO but give an undertaking not to enforce it on condition that steps towards occupation are completed within given timescales.
- 3.6 The process for making and confirming a CPO then taking ownership of the property and selling it to achieve future occupation requires the following steps:
  - 3.6.1 Following proper authorisation within the Council the Council must make and seal the order together with the order map. It must also prepare a statement of reasons.
  - 3.6.2 Copies of these must then be served on all parties with an interest in the dwelling (in this case the owner and the mortgagee) and placed on deposit. A notice stating that the CPO has been made must be displayed on site and a similar notice must be placed in a local newspaper for two consecutive weeks. At the same time the original CPO and map are sent to the National Planning Casework Unit (NPCU) which deals with the CPO on behalf of the Secretary of State.

- 3.6.3 There is then a period during which objections may be sent to the NPCU ( a minimum of 21 days but in this case anticipated to be at least one month). Any objections received by the NPCU will be forwarded to the council.
- 3.6.4 If no objections are made or if those that are made are withdrawn, the Secretary of State may allow the authority to confirm the CPO (this is done by adding a signed and dated endorsement to the CPO stating that it has been confirmed).
- 3.6.5 If an objection is made by the owner or the mortgagee and not withdrawn the objection will be dealt with by either written representations or by a public inquiry and the Secretary of State will then determine whether to confirm, modify or quash the Order.  
To encourage an owner not to make, or to withdraw, an objection the Council may agree an undertaking with the owner that, provided he takes specific steps to refurbish and achieve reoccupation to an agreed timetable the Council, having had the unopposed CPO confirmed, will not enforce it.
- 3.6.6 The confirmation of the Order may be challenged on a point of law within 6 weeks of the publication of such confirmation.
- 3.6.7 At this point a final options appraisal will be undertaken as set out in the Empty Homes Strategy 2016-2020 (this strategy to be submitted to the Executive Committee for approval later this year). This may result in the following outcomes after confirmation of the CPO either:
- 3.6.8 The Council may enter into and monitor an agreement as in 3.6.5 to bring the property into use within a specific time, OR
- 3.6.9 the Council may take ownership of the property by way of a General Vesting Declaration GVD and then:
- 3.6.9.1 The property may be sold by the Council, inserting a covenant into the contract requiring that the property be improved to a habitable condition within a specified date and that afterwards reasonable

steps be taken to secure occupation.

3.6.9.2 The property may be sold by the Council after undertaking improvement works to enhance its value.

3.6.9.3 The Council may undertake works to bring the property to a lettable condition and then make it available for rent

#### 4.0 Reasons for the Decision and the Justification for Making the Proposed CPO

4.1 ODPM Circular 06/2004 provides guidance as to the factors the Secretary of State can be expected to consider when considering the CPO and explains the factors that should be included in a statement of reasons.

4.2 The key test is that a CPO should only be made where there is a compelling case in the public interest and that the purposes for which a CPO is made sufficiently justify interfering with the human rights of those affected.

4.3 As the property in question:

- has been left empty and is becoming derelict
- has been subject to complaints from neighbours
- is in an area of housing need
- could be returned to use as a much needed 3 bedroom family home, and
- as the owner has failed to cooperate with the Council's efforts to engage with him to bring the property back into use voluntarily,

it is considered that there is a compelling case for intervention by means of a CPO.

4.4 Paragraph 9 of Appendix E (Orders made under housing powers) to the Circular, states that "When considering whether to confirm a compulsory purchase order the Secretary of State will normally wish to know how long the property has been vacant; what steps the authority has taken to encourage the owner to bring it back into acceptable use; the outcome; and what works have been carried out by the owner towards its reuse for housing purposes". Officers believe that the steps shown in the case history above

will prove sufficient to justify the use of a CPO.

## 5.0 Financial Considerations

- 5.1 There is no budget currently identified for undertaking empty homes work including the costs associated with undertaking a CPO, however there are costs involved that will not be recovered from the sale of the property.
- 5.2 The CPO costs may be recovered from the PLACE consortium if the property is subsequently sold as described in paragraph 3.6.9.1.
- 5.3 Where works are undertaken by the Council to enhance value of the property, as described in paragraph 3.6.9.2, CPO costs could be recovered from the additional value realised on completion.
- 5.4 Where the property is made available for rent, as described in paragraph 3.6.9.3, the Council could include the CPO costs in the capital cost of the asset acquisition and fund such costs from the capital programme.
- 5.5 The estimated costs of making and implementing this CPO are as set out in **Essential Reference Paper 'C'**. The information is confidential because it relates to the financial affairs of the Council.

## 6.0 Human Rights and Equality Act 2010 Considerations

- 6.1 Circular 06/04 advises acquiring authorities that compulsory purchase orders should only be made where there is a compelling case in the public interest. The purposes for which the order is made should justify the interference with the human rights of those with an interest in the affected land. In this case officers have considered the relevant factors and are satisfied that the benefits of acquiring the property provide a compelling case in the public interest for the use of CPO powers and outweigh the impact on the existing owner (see in particular paragraphs 2.8, 3.3, and 4.2-3 of this report).
- 6.2 Officers acknowledge that this proposal will have an effect on the human rights of the owner of the property however, on balance officers recommend that the Council finds the public benefit of the proposal outweighs the impact on those affected. Regard has been taken in particular to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and to

Articles 6 and 8.

### **Article 1 of the First Protocol**

6.3 Article 1 of the First Protocol provides that:

*“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”*

6.4 The order will affect the Article 1 rights of the present owner if confirmed by the Secretary of State. However there shall be no violation of those rights as officers are content that the steps taken are in the public interest and lawful as required by the first protocol. Those directly affected by the order will be entitled to compensation as provided by law, such compensation to be settled in absence of agreement by the impartial Upper Tribunal.

### **Article 8**

6.5 Article 8 of the Convention provides as follows:

*“(1) Everyone has the right to respect for his private and family life, his home and his correspondence*

*(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the Country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

6.6 Article 8 is a qualified right and interference can be justified in appropriate cases with reference to Article 8(2).

6.7 The Order will be made pursuant to s17 of the Housing Act 1985 which authorises the Council to acquire land compulsorily subject to following the procedures laid down in the Acquisition of Land Act 1981. Whilst the Council could argue that an unoccupied and previously tenanted property does not provide its owner benefit from protection under this right, there is anyway a compelling case in the public interest to acquire the Order Land and the public benefit will outweigh the private loss. In the circumstances, the compulsory acquisition of the Order Land will not conflict with Article 8 of the Convention.

### **Article 6**

6.8 Article 6 of the Convention provides as follows:

*“In the determination of his civil rights and obligations..... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”*

6.9 The Order when made will be publicised and all those affected by the Order will be notified and have the opportunity to make objections and to be heard at a public inquiry before a decision is made on whether or not the Order should be confirmed. A right of legal challenge exists to this process in accordance with section 23 of the Acquisition of Land Act 1981. Any dispute as to compensation payable falls to be determined by the Upper Tribunal, a court established by law.

### **Application of Human Rights to the Order**

6.10 In pursuing this Order officers of the Council have carefully considered the balance to be struck between individual rights and the wider public interest.

6.11 To the extent that the Order would affect those individual rights, officers recommend that the Council finds that the proposed interference with them would be in accordance with the law, proportionate and necessary in the public interest in order to secure the development of the Order Land and improvements and benefits that the Scheme will bring.

6.12 All of those whose Article 1, Article 6 and Article 8 rights would be affected by the Order will have an opportunity to object to it and to have their objection considered at an independent and public

hearing. Statutory judicial challenge provisions also exist.

- 6.13 Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the compensation code and any disputes over compensation are determined by an impartial tribunal established by law.

### **Equality Act Considerations**

- 6.14 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender re-assignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers. In particular the Council must pay due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 6.15 The Council considers that the proposal is fully compliant with the Equality Act. The Order required to facilitate the proposal is not anticipated to have any additional effects. The requirements of the appropriate Council Enforcement Policies which take into account Equality Impacts have been followed.

### 7.0 Implications/Consultations

- 7.1 Information on corporate issues and consultation with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

None



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## ESSENTIAL REFERENCE PAPER 'A'

### IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	<b>Place – Safe and Clean</b> This priority focuses on sustainability, the built environment and ensuring our towns and villages are safe and clean.
Consultation:	<i>This section should detail any consultation undertaken in preparing the proposals.</i>
Legal:	<i>The legal requirements relating to the CPO process are explained within the report. Consultation comments from the Legal Department have been incorporated</i>
Financial:	<i>ERP C covers the financial aspects of the proposed CPO. Assumptions have had to be made taking advice from appropriate services within the council and external experts. Comments have been incorporated into the report from the Head of Strategic Finance, Estates and Assets Manager and Risk Assurance Manager</i>
Human Resource:	<i>The services of NPLaw, experts in the Compulsory Purchase process have been proposed to support the process which will otherwise be managed within current staffing levels</i>
Risk Management:	<i>Further to the financial considerations, close working with communications should help mitigate any concerns regarding adverse publicity</i>
Health and wellbeing – issues and impacts:	<i>Good housing and good neighbourhoods are critical components of good health. Bringing an empty property in disrepair back into residential use will improve the local neighbourhood and provide another unit of housing in an area of high demand.</i>

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of the Local Government Act 1972.

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