



*James Ellis*

Head of Legal and Democratic Services

**MEETING** : EXECUTIVE  
**VENUE** : ONLINE MEETING - LIVESTREAMED  
**DATE** : TUESDAY 6 OCTOBER 2020  
**TIME** : 7.00 PM

## **MEMBERS OF THE EXECUTIVE**

- |                                   |   |
|-----------------------------------|---|
| Councillor Linda Haysey           | - Leader of the Council   |
| Councillor Peter Boylan           | - Executive Member for Neighbourhoods                             |
| Councillor Eric Buckmaster        | - Executive Member for Wellbeing                                  |
| Councillor George Cutting         | - Executive Member for Corporate Services                         |
| Councillor Jan Goodeve            | - Executive Member for Planning and Growth                        |
| Councillor Graham McAndrew        | - Executive Member for Environmental Sustainability               |
| Councillor Suzanne Rutland-Barsby | - Executive Member for Communities                                |
| Councillor Geoffrey Williamson    | - Deputy Leader and Executive Member for Financial Sustainability |

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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.)

### **Public Attendance**

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<https://www.youtube.com/user/EastHertsDistrict/live>.

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Visit <https://www.eastherts.gov.uk/article/35542/Political-Structure> for details.

## AGENDA

1. Apologies

*To receive apologies for absence.*

2. Leader's Announcements

3. Minutes (Pages 7 - 16)

*To approve as a correct record the Minutes of the meeting held on 1 September 2020*

4. Declarations of Interest

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

5. Update from Overview and Scrutiny Committee

*To receive a report of the Committee Chairman.*

6. Update from Audit and Governance Committee

*To receive a report of the Committee Chairman.*

7. East Herts District Plan 2018 – Amendments to Policies Map (Pages 17 - 26)

8. Harlow and Gilston Garden Town: Sustainability Guidance and Checklist (Pages 27 - 62)

9. Policies for Enforcing Standards for Private Sector Landlords (Pages 63 - 98)
10. Council Tax Reduction Scheme 2021/22 (Pages 99 - 116)
11. Quarterly Corporate Budget Monitor - Q1 June 2020 (Pages 117 - 134)
12. Use of Compulsory Purchase (CPO) Powers in the Gilston Area (Pages 135 - 152)
13. Exclusion of Press and Public

*To move that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the discussion of item 14, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act of the following description: in that it provides details of owners of land to which the report relates; and during the discussion of item 15, on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 6b of Part 1 of Schedule 12A of the said Act of the following description: that disclosure could compromise a proposed exercise of Compulsory Purchase Order powers.*

14. Use of Compulsory Purchase (CPO) Powers in the Gilston Area (Pages 153 - 160)
15. Compulsory Purchase Order Request - Options Appraisal Process (Pages 161 - 166)
16. 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.*

MINUTES OF A MEETING OF THE  
EXECUTIVE HELD AS A VIRTUAL MEETING  
ON TUESDAY 1 SEPTEMBER 2020,  
AT 7.00 PM

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PRESENT: Councillor L Haysey (Chairman/Leader)  
Councillors G Williamson, P Boylan,  
E Buckmaster, G Cutting, G McAndrew and  
S Rutland-Barsby.

ALSO PRESENT:

Councillors B Crystall, T Stowe,  
M Goldspink, D Hollebon, A Huggins,  
J Jones, M McMullen, M Pope, C Redfern,  
P Ruffles and S Newton.

OFFICERS IN ATTENDANCE:

Richard Cassidy	- Chief Executive
Helen Standen	- Deputy Chief Executive
Rebecca Dobson	- Democratic Services Manager
James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Bob Palmer	- Interim Head of Strategic Finance and Property
Sara Saunders	- Head of Planning and Building Control
Claire Sime	- Service Manager

William Troop

(Policy and  
Implementation)  
- Democratic  
Services Officer

142 LEADER'S ANNOUNCEMENTS

The Leader welcomed all those attending the online meeting and viewing the meeting on the internet. She advised the Executive and other Members who were in attendance of the virtual meeting protocols to be followed. She said that in the interests of maximum transparency, she would state at the conclusion of each vote whether it was unanimous, so that the public were aware of the outcome, and any Member would have the opportunity to comment.

Councillor Haysey referred to the fact that times were still strange, in light of the pandemic. However, she was pleased to say there was a small measure of good news in that the council had succeeded in awarding £1.6m of government grants to a total of 166 businesses, greatly ahead of the government timetable for doing so. She thanked the Officers responsible.

143 APOLOGIES

Apologies for absence were received from Councillor Goodeve.

144 MINUTES – 7 JULY 2020



The Leader proposed and Councillor McAndrew seconded a motion that the Minutes of the meeting held on 7 July 2020 be approved as a correct record and signed by the Leader. The motion, on being put to the meeting and a vote taken, was declared CARRIED.

**RESOLVED** – that the Minutes of the meeting held on 7 July 2020, be approved as a correct record and signed by the Leader.

145 DECLARATIONS OF INTEREST

There were no declarations of interest.

146 UPDATE FROM OVERVIEW AND SCRUTINY COMMITTEE

The Leader said the Chairman of the Overview and Scrutiny Committee had confirmed in correspondence that no report had been submitted, as the Committee had not met since the previous meeting of the Executive.

147 UPDATE FROM AUDIT AND GOVERNANCE COMMITTEE

Councillor Pope, as Chairman of the Audit and Governance Committee, said the Committee had last met on 28 July 2020. The full agenda had included a useful presentation on cyber security from the Assistant Director – Digital and Transformation from Stevenage Borough Council. The Committee had considered the draft Statement of Accounts for 2019/20. The final version would be submitted to the Committee at its next meeting.

The Leader thanked Councillor Pope for his verbal

report.

148 SUSTAINABILITY SUPPLEMENTARY PLANNING DOCUMENT  
- DRAFT FOR CONSULTATION

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The Leader submitted a report seeking approval of publication of a draft Sustainability Supplementary Planning Document (SPD) for consultation. She said this SPD represented one of a suite of many actions the Council was taking to provide guidance for developers and to add detail to the policies in the District Plan. In addition, a new body had been set up recently, the Hertfordshire Climate Change Sustainability Policy Group. This group was being chaired by this authority's Executive Member for Environmental Sustainability, Councillor McAndrew. In response to the Leader's invitation to speak, Councillor McAndrew said he would reserve his comments until after the debate on this item.

Councillor Crystall said the SPD emphasised a holistic approach regarding matters such as landscaping. However, from his experience at meetings of the Development Management Committee, there could sometimes be a disconnect in the process. He asked whether the SPD was an opportunity to review the process Officers used in assessing applications.

At the invitation of the Leader, the Head of Planning and Building Control said the starting point was the District Plan. This document provided more information for applicants to use, and set out a checklist of expectations. A great deal depended on what type of application was being considered by the Development Management Committee. This document

set out the expectation as to the work which would have been done in relation to each application. The SPD should ensure applicants were considering these matters in their proposals.

The Planning Policy Service Manager agreed that it depended on the nature and type of application, but the key point was that the SPD focused the minds of applicants, Officers and Members on the checklist of expectations.

The Executive Member for Communities congratulated Officers on the production of this excellent document.

Councillor Stowe asked whether the new SPD would reinforce the Council's ability to require design features, not only for new builds, but in respect of applications generally.

The Head of Planning and Building Control said it was still necessary to rely on the District Plan. The SPD was intended to encourage compliance with policy requirements.

The Executive Member for Environmental Sustainability expressed his thanks to the Principal Planning Officer for her excellent work on the SPD. The document brought clarity to Officers and Members of the Development Management Committee regarding environmentally sustainable aspects of design. The document would evolve over time when the District Plan was reviewed, and was a good starting point.

Councillor Haysey proposed and Councillor McAndrew seconded a motion to support the recommendations

in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** - to agree that (A) the Sustainability Supplementary Planning Document (SPD), as detailed in Appendix A to the report, be agreed and published for a four-week period of public consultation; and

(B) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 it has been determined that a Strategic Environmental Assessment of the emerging Sustainability SPD is not required as it is unlikely to have significant environmental effects beyond the District Plan policies.

149 DRAFT UPDATED EAST HERTS COUNCIL SAFEGUARDING POLICY

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The Executive Member for Neighbourhoods submitted a report on an updated version of the Council's Safeguarding Policy. He invited the Executive to consider the draft policy, propose any amendments for including prior to consideration by Council, and to recommend the policy to Council for adoption.

The Executive Member for Wellbeing welcomed the report and updated policy.

There being no comments, Councillor Boylan proposed and Councillor Buckmaster seconded, a motion to support the recommendations in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** – that (A) the draft updated Safeguarding Policy be recommended to Council for adoption; and

(B) the Head of Housing and Health incorporate any amendments to the Safeguarding Policy suggested by the Executive, acting in consultation with the Lead Member for Neighbourhoods, prior to presentation to Council for adoption.

## 150 FINANCIAL UPDATE

The Executive Member for Financial Sustainability submitted a report providing an update on developments to the council's financial position since the previous meeting of the Executive.

Councillor Williamson highlighted the main points set out in the report, relating to the impacts of Covid-19, using best available information to provide indicative figures, on the 2020/21 Budget and Medium Term Financial Plan. The report also addressed the need for updated business cases for major projects within the Capital Programme.

Councillor Williamson said during the three months since the previous report there had been some significant developments. It was therefore important that the financial information was regularly updated.

In relation to the budget, the update points included the fact that additional grant funding of £200,000 had been received, taking the total unbudgeted grant

received to £1,702,811; information was awaited on a compensation scheme for lost fees and charges income, but certain features of the scheme had been announced, as detailed in the report. The council's total budgeted income for the year was at the end of April £12.3 million, but adjusting this figure for items likely to be excluded from the scheme reduced the annual budgeted figure to £7 million. The calculated monthly compensation due was approximately £400,000.

Councillor Williamson then took Members through the projection for the additional use of reserves which had been adjusted to give a range of four to six months loss of income, rather than between three and five months. The additional grant and compensation for losses on fees and charges was deducted to arrive at the new predicted range of outcomes. The range of additional use of reserves in 2020/21 ranged from an optimistic forecast of £400,000 to a less optimistic one of £1,200,000. Due to the off-sets of the compensation scheme, the level of concern for the financial position for the current year had reduced from what had previously been predicted.

Councillor Williamson then referred to the Medium Term Financial Plan (MTFP). He said when setting the budget for 2020/21 savings proposals and additional income generation plans had been identified, which had closed the budget gap for the current year. However, the budget gap which had previously been identified had now increased from £420,000 to £1,102,000 in the year 2021/22; from £551,000 to £901,000 in the year 2022/23 and from £610,000 to £1,960,000 in the year 2023/24. The three key areas for

income generation were from investments from the Financial Sustainability Committee, from Millstream and from car parking. No adjustments had been made to the first two income generation streams, but it was reasonable to remove the additional income target of £200,000 from parking income. Additional costs were also required for the waste service, in respect of adding new properties to the district, and there would need to be a new separate food waste collection in the final year of the MTFP. Other costs to be included in the MTFP related to support for the Harlow Gilston Garden Town work, and for an additional resource on information governance.

Finally, it was clear that the capital programme major projects required re-evaluation of the business cases for these schemes. It was important that decisions around continuing with the existing programme were based on up to date information. Councillor Williamson said his report recommended that a review take place of the business case for major projects as part of the 2021/22 budget setting process.

The Leader thanked Councillor Williamson and Officers for this report. She said the council was in a better financial position than some authorities, but it was important not to be complacent.

Councillor Pope agreed with the points made regarding the capital programme, and asked when the evaluations of the major projects would take place.

The Interim Head of Strategic Finance and Property said the instruction had been issued to project managers to re-evaluate the business cases and

conduct scenario planning. A range of figures would be provided to Members by the end of September.

Councillor Williamson proposed, and Councillor Cutting seconded, a motion to support the recommendations in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** that (A) the potential impacts of Covid-19 on the budget for 2020/21 and the Medium Term Financial Plan be noted; and

(B) a review of the Capital Programme and the updating of business cases for major projects be undertaken as part of the 2021/22 budget setting process.

The meeting closed at 7.27 pm



## East Herts Council Report

### Executive

**Date of Meeting:** 6 October 2020

**Report by:** Councillor Linda Haysey, Leader of the Council

**Report title:** East Herts District Plan 2018: Amendments to Policies Map

**Ward(s) affected:** All

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### Summary

- This report highlights three inaccuracies in the adopted East Herts District Plan Policies Map and seeks to agree amendments to the Policies Map to accurately reflect the policies in the District Plan.

### RECOMMENDATIONS FOR Executive to recommend to Council:

- a) **That the amendments at Appendix A be noted and approved to form part of the adopted East Herts District Plan 2018 Policies Map.**

#### 1.0 Proposal(s)

- 1.1 The purpose of this report is to enable Members to consider proposed changes to the adopted District Plan Policies Map.

#### 2.0 Background

- 2.1 East Herts adopted its policies map alongside the District Plan at Council on 23<sup>rd</sup> October 2018. The Council must maintain an

adopted policies map which illustrates geographically the application of policies in the adopted development plan.

- 2.2 In April 2020 Much Hadham Parish Council notified the Local Planning Authority that they had identified a number of inaccuracies in the adopted policies map and requested that these inaccuracies be rectified. The inaccuracies relate to Policy CFLR1 in the East Herts District Plan and the inaccurate designation of locations as Open Space, Sport or Recreation areas.
- 2.3 In 2017 consultants undertook and completed an Open Spaces and Sports Facilities Assessment on behalf of the Council to supplement the evidence base supporting the District Plan. The LPA was able to speak with the consultants who confirmed that a digitisation error and mistaken allocation of adjacent land explained the inaccuracies.
- 2.4 Having worked with the consultants and Much Hadham Parish Council to establish the correct boundaries for Policy CFLR1, three amendments to the policies map have been identified and can be found at Appendix A.
- 2.5 The amendments are detailed as follows:
  1. At Green Tye the 2018 Policy CFLR1 designation incorrectly included land within private ownership. The updated designation has now been amended to exclude those areas in private ownership.
  2. In Perry Green the 2018 Policy CFLR1 designation incorrectly included a residential area that intended to cover St Thomas's burial ground which is adjacent to the site. This designation has been deleted.
  3. St Thomas's burial ground has now been identified under Policy CFLR1 following the deletion of the incorrect designation of the residential area in Perry Green noted in amendment 2 (above).

### **3.0 Considerations**

- 3.1 The role of the policies map is to geographically illustrate the policies in the development plan.
- 3.2 The policies map is not a development plan document (DPD) but is instead a local development document (LDD) and therefore is not subject to the same consultation as the East Herts District Plan which is a DPD. Subsections 23(1), 23(5) and 26(1) of the Planning and Compulsory Purchase Act 2004 allow for the lawful revision of a policies map outside of the Local Plan process (as an LDD) in order to correct a factual error.
- 3.3 Therefore, through this report the Council is able to lawfully correct the inaccuracies identified by incorporating the amendments at Appendix A into the adopted policies map.

### **4.0 Options**

- 4.1 The Council could choose not to incorporate the amendments into the adopted policies map but it would then continue to inaccurately represent Policy CLFR1 geographically.

### **5.0 Risks**

- 5.1 The continued inaccurate representation of Policy CLFR1 in the adopted policies map.

### **6.0 Implications/Consultations**

- 6.1 None

### **Community Safety**

No

### **Data Protection**

No

## **Equalities**

No

## **Environmental Sustainability**

No

## **Financial**

No

## **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

No

## **Legal**

Yes

## **Specific Wards**

All Wards

## **7.0 Background papers, appendices and other relevant material**

7.1 Appendix A – Policies Map Amendments

7.2 Relevant Case Law: *Bond, R v Vale of White Horse District Council*  
[2019] EWHC 3080 (Admin) (19 November 2019)  
(<https://www.bailii.org/ew/cases/EWHC/Admin/2019/3080.html>)

## **Contact Member**

Cllr Linda Haysey – Leader of the Council

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**Report Author**

George Pavey –

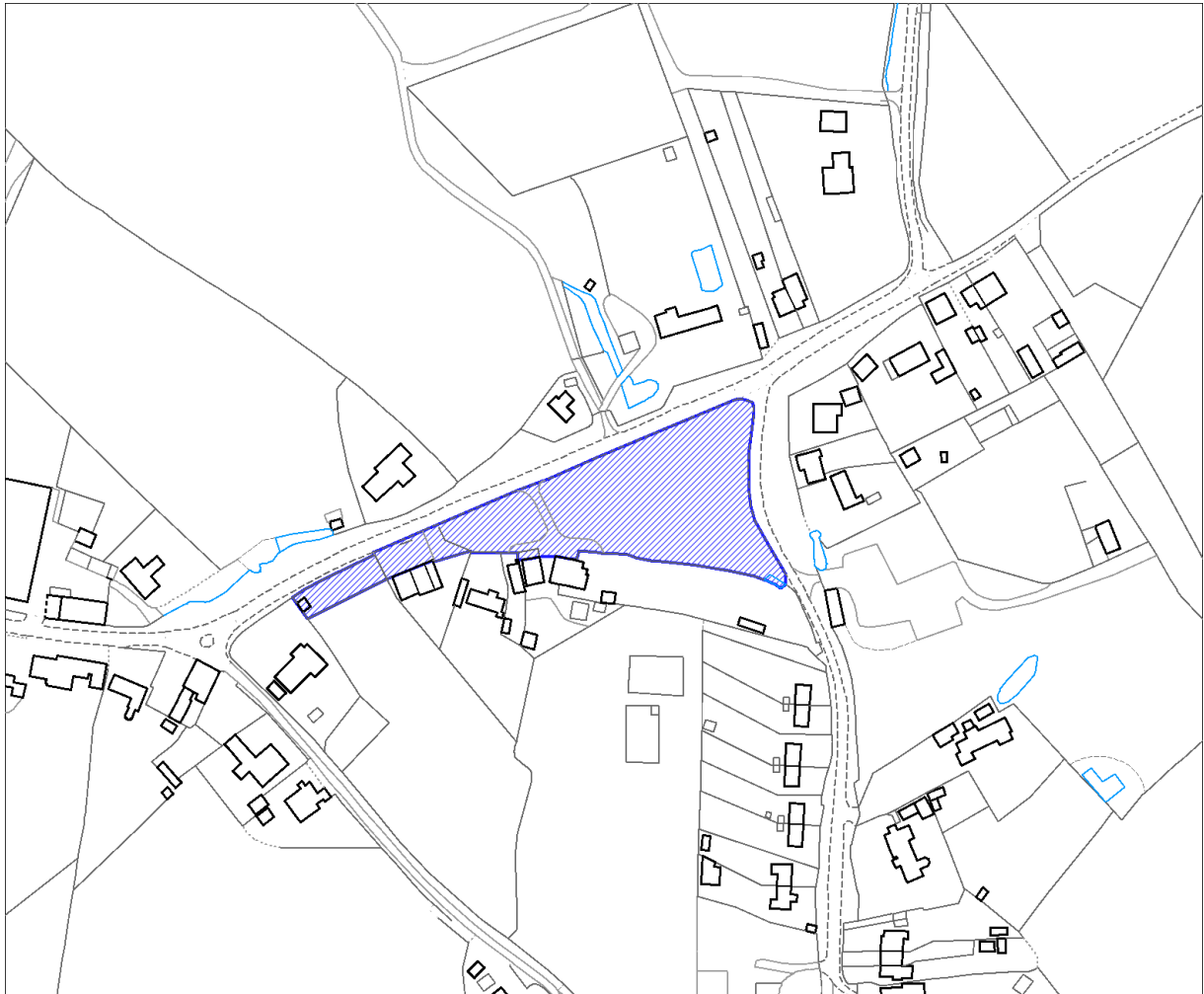
Principal Planning Officer (Policy & Implementation)

[george.pavey@eastherts.gov.uk](mailto:george.pavey@eastherts.gov.uk)

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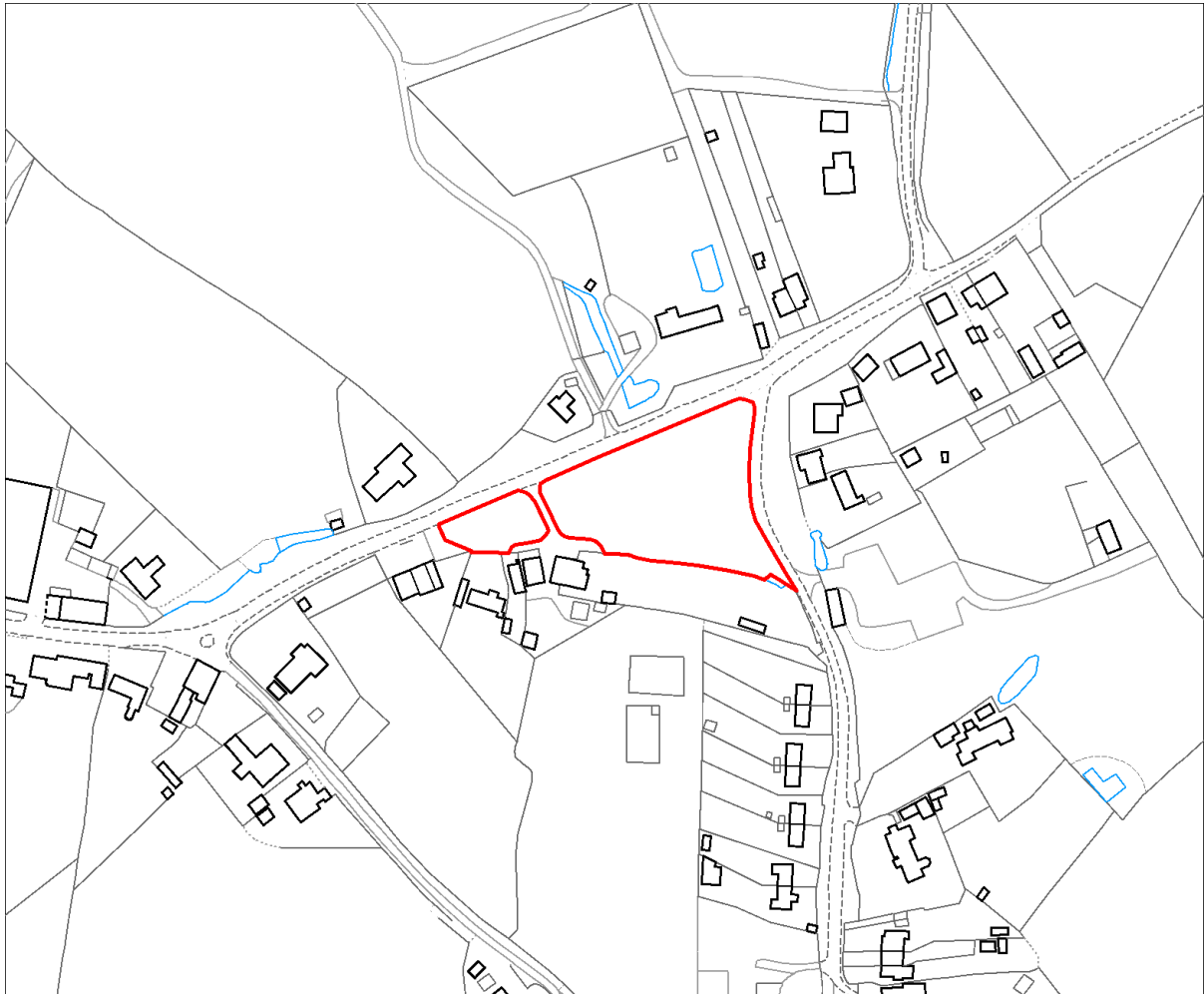
## Change 1 - Green Tye:

### Policy CLFR1 – District Plan Policies Map 2018:



**Note** – The above designation wrongly identified land in private ownership, as such the amendment (next page) corrects this.

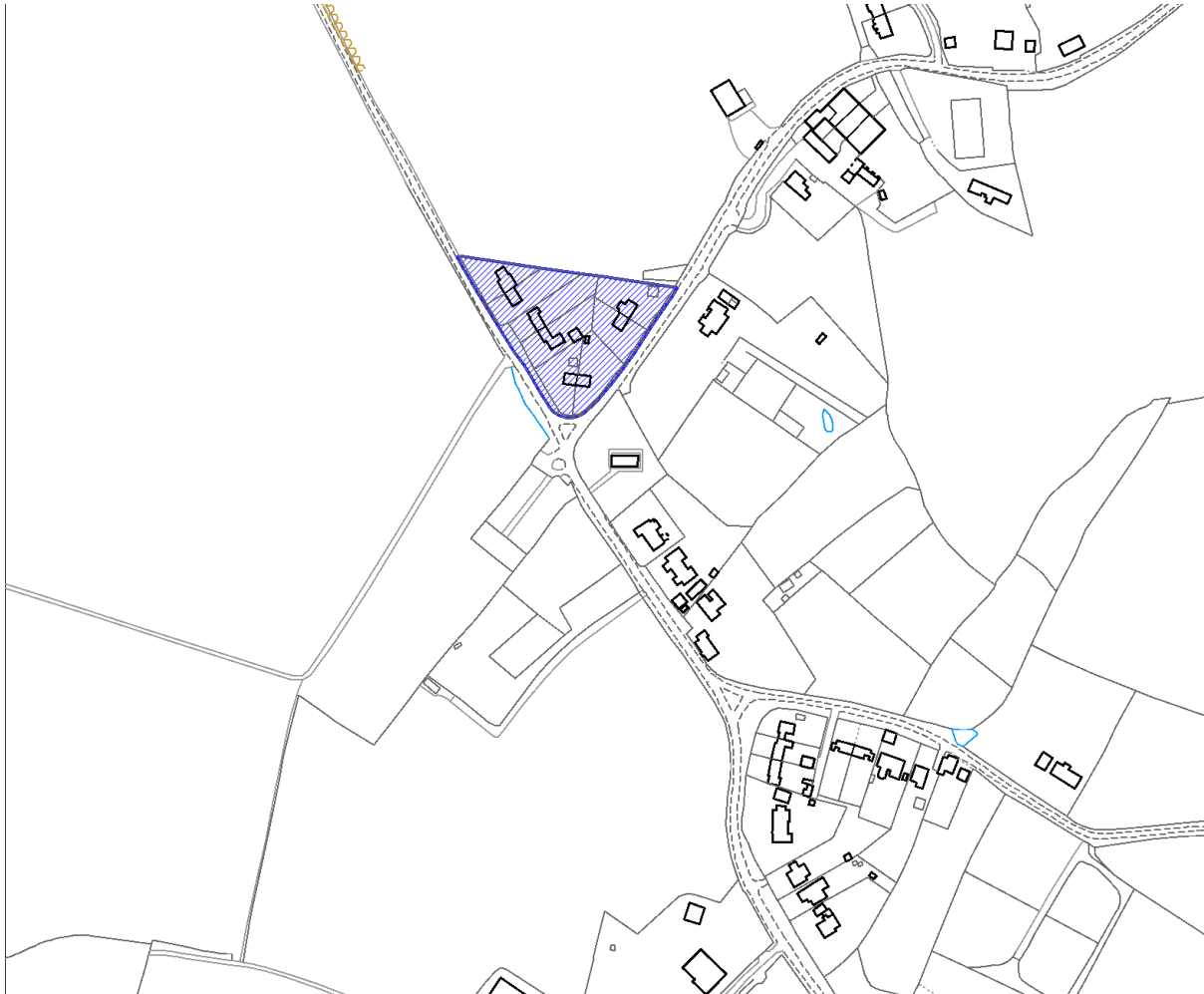
**Policy CLFR1 – District Plan Policies Map following 2020 amendment:**





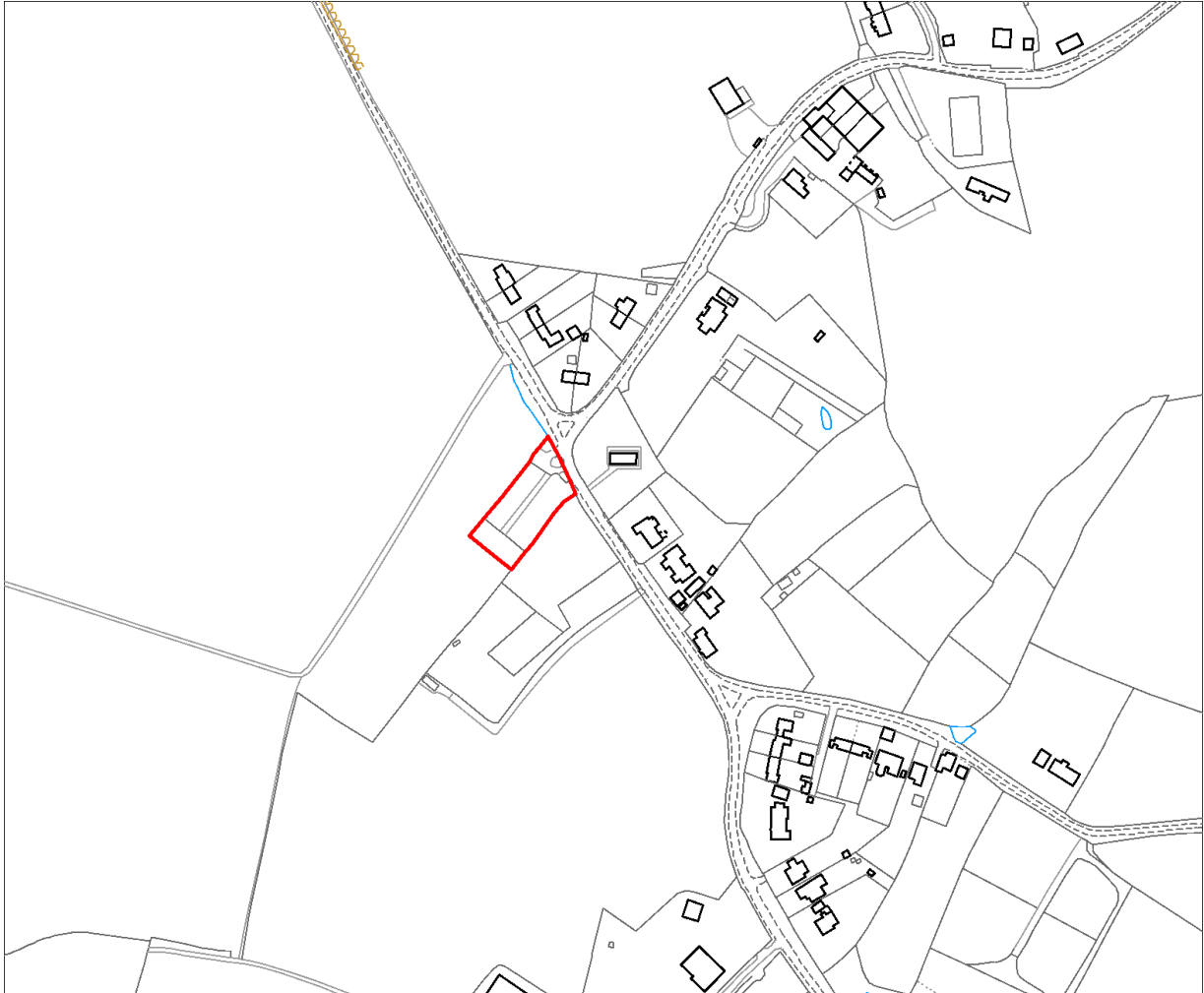
## Change 2 and Change 3 – Perry Green

### Policy CLFR1 – District Plan Policies Map 2018:



**Note** – The above designation wrongly identified a residential area as Policy CLFR1. As such this designation has been deleted and replaced with the originally intended allocation (next page).

**Policy CLFR1 - District Plan Policies Map following 2020 amendment:**



## East Herts Council Report

### Executive

**Date of Meeting:** 6 October 2020

**Report by:** Councillor Linda Haysey, Leader of the Council

**Report title:** Harlow and Gilston Garden Town: Sustainability Guidance and Checklist, draft for consultation

**Ward(s) affected:** Hunsdon

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### RECOMMENDATIONS FOR EXECUTIVE:

**(a)that the draft Harlow and Gilston Garden Town Sustainability Guidance and Checklist be agreed for a six-week period of public consultation between October and December 2020.**

### 1.0 Proposal(s)

- 1.1 The purpose of this report is to enable consideration of the draft Harlow and Gilston Garden Town (HGGT) Sustainability Guidance and Checklist and that it be agreed to go forward for a period of consultation. Throughout this report the document is referred to as the 'Guidance and Checklist'. The document is attached as **Appendix 1**.

### 2.0 Background

- 2.1 The Guidance and Checklist document provides practical and technical guidance on how relevant sustainability indicators and policies (environmental, social, and economic) in the HGGT Vision, HGGT draft

Transport Strategy and Garden Town partner authorities' Local Plans will be applied to new strategic developments in the Garden Town.

- 2.2 The Guidance and Checklist is to be used by applicants and partner authority officers when preparing and discussing masterplans, pre-application proposals, planning applications and the discharge of conditions applications. This will ensure coordinated and integrated consideration of sustainability principles and targets at an early stage across the Garden Town. The Guidance and Checklist is to be applied to major developments (10 homes and above).
- 2.3 Once consultation has taken place and any appropriate amendments made, the document will be reported back for endorsement and become a material planning consideration in the assessment of planning applications for developments coming forward within the Garden Town. It will inform pre-application discussions and assist decision-makers in sustainability matters. The document will also be utilised by HGGT Quality Review Panel reviews to help form the basis of environmental and socio-economic sustainability discussions.

### **3.0 Reason(s)**

- 3.1 The Guidance and Checklist has been prepared in-house by the HGGT team, with input from all partner authorities<sup>1</sup> and external expertise where appropriate. The Guidance and Checklist is intended to provide practical and technical guidance for applicants and officers, in relation to environmental, social and economic sustainability within the Garden Town.
- 3.2 The Garden Town seeks to set the agenda for

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<sup>1</sup> East Herts, Epping Forest and Harlow District Councils, Hertfordshire and Essex County Councils.

sustainable living through ensuring growth that will be net carbon neutral by 2030, and building strong and integrated communities across new and existing places.

- 3.3 The Guidance and Checklist relate directly to the principles and indicators within the HGGT Vision, draft HGGT Transport Strategy and the Garden Town Local Planning Authorities adopted and emerging Local Plan policies and SPDs. In particular, the Guidance and Checklist will support the Sustainability SPD being produced by East Herts Council. The Guidance and Checklist will have the status of guidance – and therefore attract less weight in decision making than the SPD, once it is finalised. However it addresses in a more fine grained way, the matters that need to be considered and addressed to ensure that sustainability is achieved.
- 3.4 There has been extensive input from officers from all partner authorities into the draft Guidance and Checklist. It has also been subject to assessment by the HGGT Quality Review Panel and through topic focussed workshops (developers, members, local groups, charities and organisations). Expert advice has also been commissioned from the UK Green Building Council (UKGBC), through the facilitation of two Sustainability Workshops, to review and discuss the draft Guidance and Checklist with over 30 experts in Sustainability in attendance.
- 3.5 Following agreement at this meeting, the Guidance and Checklist will be published for a six-week period of public consultation between October and December 2020. Following consultation and any subsequent revisions to the document, it is intended that the final Guidance and Checklist will be agreed as a material consideration in planning decisions including for the preparation of masterplans, pre-application advice, assessing planning applications and any other

development management purposes.

- 3.6 The Garden Town is also aiming to simultaneously consult publicly on the HGGT Healthy Town Framework (this was endorsed through a non-key decision in April 2020).

#### **4.0 Options**

- 4.1 The feasible alternative options in this matter include either proceeding with the finalisation of the Guidance and Checklist without consultation or halting further work on the preparation of the document at this stage.
- 4.2 In the case of the first of these options, this would not appear to be an appropriate way forward. Third parties could challenge the content of the document as they would not have been afforded a formal opportunity to comment. As a result, any finalised document could only be assigned less weight than one that has been subject to consultation. Pursuing this as an option would likely undermine the value of the final document.
- 4.3 With regard to the second, halting further preparation work is not a reasonable option, there being no reason to do so. With the value invested so far in the document, there is no apparent reason not to seek to pursue the work to a conclusion.

#### **5.0 Risks**

- 5.1 Risks are considered to be minimal. Issues raised through consultation will be subject to technical assessment and decisions made about amendment to the draft document as a result.

#### **6.0 Implications/Consultations**

- 6.1 The report seeks endorsement to undertake a consultation exercise.

## **Community Safety**

No

## **Data Protection**

Yes – all information received as a result of the consultation exercise will be handled in accordance with data protection protocols

## **Equalities**

Yes – subject to Equalities Impact Assessment

## **Environmental Sustainability**

Yes – this draft document focusses on measures to be taken, through planning decisions, to address sustainability issues.

## **Financial**

No – there are no direct financial implications.

## **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

No

## **Legal**

No

## **Specific Wards**

Yes – the document is specifically related to the HGGT area within the Hunsdon ward.

## **7.0 Background papers, appendices and other relevant material**

- 7.1 Appendix 1 – Draft HGGT Sustainability Guidance and Checklist

**Contact Member**

Linda Haysey, Leader of the Council

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# HGGT

HARLOW & GILSTON  
GARDEN TOWN

## SUSTAINABILITY GUIDANCE & CHECKLIST

SEPTEMBER 2020

Interactive PDF: best viewed on computer



INTRODUCTION

HOW TO USE THIS GUIDE

SUSTAINABILITY GUIDANCE APPLICATION AREA

DESIGN APPROACH: FIRST PRINCIPLES

ENERGY EFFICIENCY & CARBON REDUCTION

RENEWABLE ENERGY

GREEN INFRASTRUCTURE + BIODIVERSITY

SUSTAINABLE MOVEMENT

WATER MANAGEMENT

CIRCULAR ECONOMY

WASTE MANAGEMENT

AIR QUALITY

ASSURING PERFORMANCE

INTRODUCTION

HEALTH & WELLBEING

COMMUNITY STRENGTH & SOCIAL INFRASTRUCTURE

ECONOMIC GROWTH & JOB CREATION

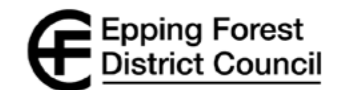
SOCIO-ECONOMIC CHECKLIST

SUSTAINABILITY CHECKLIST

SUSTAINABILITY STATEMENT

GLOSSARY

APPENDICES



# HARLOW AND GILSTON GARDEN TOWN

Harlow and Gilston Garden Town (HGGT) will comprise new and existing communities in and around Harlow. Set in attractive countryside, with transformative investment in transport and community infrastructure, new neighbourhoods to the east, west and south and new villages to the north will be established.

East Herts, Epping Forest and Harlow District Councils are working together with Hertfordshire and Essex County Councils to ensure plans for the Garden Town support sustainable living and a healthy communities and economies, provide a good quality of life for existing and future residents, and respond to local landscape and character.

The [HGGT Vision](#) sets out the principles and indicators for the Garden Town which will ensure its growth and management is high quality and sustainable.

## SUSTAINABLE LIVING

Sustainability focuses on meeting the needs of the present without compromising the ability of future generations to meet their needs. High quality sustainable developments require adopting a holistic approach to environmental, social and economic sustainability; in line with the UN Sustainability Development Goals.

The Garden Town seeks to set the agenda for sustainable living through ensuring growth that will be being net carbon neutral by 2030, and building strong and integrated communities across new and existing places, with social equity.

## COVID-19 RECOVERY

This Guidance has been developed during the pandemic of COVID-19. The pandemic has highlighted stark health inequalities which relate closely to environmental, social, and economic inequalities.

Now more than ever, high quality, sustainable and resilient design and development is needed to ensure that existing and new residents of the Harlow & Gilston Garden Town recover from this pandemic in a long term and locally-led manner.

Opportunities to foster community strength, provide job opportunities, support green and local economies and bolster residents health must be taken. All stakeholders are therefore expected to work collaboratively to contribute to this recovery, and ensure that the Garden Town is a joyful and sustainable place to live, work, and play.



The pioneering New Town of Gibberd and Kao will grow into a Garden Town of enterprise, health and sculpture at the heart of the UK Innovation Corridor. Harlow and Gilston will be a joyful place to live with sociable streets and green spaces; high quality homes connected to fibre optic broadband; local centres accessible by walking and cycling; and innovative, affordable public transport.

It will set the agenda for sustainable living. It will be adaptable, healthy, sustainable and innovative.

# Introduction



# INTRODUCTION



## 1 | THE CLIMATE EMERGENCY

The UK Government and all five HGGT Partner Authorities have declared a Climate Emergency/ Actions.

This Sustainability Guidance supports the primary commitment across the Garden Town Authorities; to become Carbon-Neutral by 2030.

The global climate is changing, primarily as a result of greenhouse gas emissions from human activity.

Communities, businesses, and the natural environment are already feeling the impacts of the changing climate. Continued change is now unavoidable and will disrupt everyday life, with higher average temperatures and more extreme weather events.

There is a strong and committed national and local policy context for planning environmentally, socially, and economically sustainable places and developments, and climate adaptation.

## 2 | PURPOSE OF THIS GUIDANCE

The Garden Town will set the agenda for Sustainable living, making it easy for residents to adopt sustainable lifestyles.

The three district authorities have a combined carbon emission contribution of **2,048 CO<sub>2</sub> (kt) across all industries**. With the goal of reducing carbon emission contributions, and planning for significant growth in the Garden Town, new developments must have exemplar placemaking and long term sustainability.

This document provides practical and technical guidance on how to apply sustainability indicators and policies (environmental, social, and economic) in the HGGT Vision and partner authorities Plans to new major developments in the Garden Town.

The purpose of this guidance is to help applicants meet the Garden Town goals of becoming net zero-carbon by 2030, and, to build strong and integrated communities across new and existing places.

## 3 | WHO USES THIS GUIDANCE

### Applicants + Agents:

The document is to be used by developers, design teams, consultants and contractors in shaping development proposals, This will guide the design of proposals and ensure coordinated and integrated consideration of sustainability principles and targets at an early stage.

### Local Authority Officers and decision-makers:

This document will be endorsed to have material planning weight and the Checklist will help guide the assessment of planning applications for developments coming forward within the Garden Town. It will inform pre-application discussions and assist decision-makers in sustainability matters.

### The HGGT Quality Review Panel (QRP):

This Checklist will be utilised for QRP reviews to help form the basis of Sustainability and Garden Town discussions. The QRP panel members are independent experts and applicants are advised to be in a position to discuss issues on all categories raised in this guidance.

## 4 | WHEN TO USE GUIDANCE

### Masterplanning

This guide should be used at as early a stage as possible in the design process in order to reduce costly and time-intensive re-design at later stages.

### Pre-Application

The Sustainability Checklist and relevant evidence should accompany pre-application discussions to ensure applications have considered and incorporated sustainability measures from the outset of their design.

### Planning Application

A Sustainability Strategy incorporating the Checklist, with relevant evidence / certification, is to be submitted alongside planning applications.

### Post-Planning

Planning conditions and obligations will be aligned to ensure that sustainable measures are secured through to delivery and beyond. Tools such as Post-Occupancy Evaluation for ongoing monitoring will be expected relating to key indicators.



## 5 | HOW TO USE GUIDANCE

High quality and sustainable development requires environmental, social and economic sustainability to be holistically considered. This document is split into two sections, with sustainability categories cross-referencing each other, and co-benefits indicated throughout as pop-ups.

1. The Environmental Section
2. The Socio-Economic Section

These Sections consists of Categories, noting:

1. Objectives & Requirements
2. Key Local Policy & Guidance
3. Case studies: with links to external sources
4. Checklist: to be completed and submitted.

## 6 | TO BE SUBMITTED

1. Collated Sustainability Quality Checklist
2. Sustainability Statement

A Sustainability Statement or Strategy will be required; this guidance and checklist will assist applicants to provide the information for this, in order to meet the Garden Town principles and local policies.

## 7 | APPLICATION OF GUIDANCE

The guidance is applicable to:

- Strategic Masterplan / Village Masterplan areas
- All major residential developments (≥ 10no.)
- Change of Use resulting in a major development
- Council-led housing within the Garden Town

## 10 | RELATIONSHIP TO LOCAL PLANS

This document will be endorsed to have material planning weight when determining applications.

This guidance should be read in conjunction with the policies in the most recent versions of the [Epping Forest DC](#), [East Herts DC](#), and [Harlow DC](#) Local Plans.

This guidance compliments to the policies and relevant SPDs by providing a practical tool for enhancing and assessing the sustainability of development in the Garden Town.

## 11 | PARTNERSHIP WORKING

In addition to cross-boundary working as part of the Councils' Duty to Cooperate, the Councils are committed to working with relevant organisations, service providers and community groups to ensure proposals are developed collaboratively and with thorough consideration of local priorities.

## 12 | REVIEW & MONITOR

This document will be reviewed regularly (maximum every three years) to ensure that it remains fit for purpose, and updated as necessary.

## 13 | INCENTIVES FOR SUSTAINABILITY

### Design and Planning

Compliance with these sustainability standards will lead to a smoother planning process and faster assessment time.

### Awards and recognition

Exemplar schemes will be hosted on the HGGT website and shared as case studies, promoting the most ambitious projects. The Garden Town will work with applicants to put their schemes forward for Local and National awards and partnership opportunities.

### Incentives: Cost Benefit

By 2030 all new buildings will need to operate at annual net zero carbon, which means that by 2025 100% of all new buildings must be designed to net zero-carbon.

In the Garden Town, 16,000 new homes are expected over the next plan period, with more to follow. If the standards highlighted in this guidance are not met when homes are first constructed, they will require retrofit before 2050 just to keep up with changing legislation; this is likely to be five times more expensive than building them to be zero-carbon in the first place.

Net zero carbon homes can be achieved at a capital cost uplift of between 3.5%-5.3% for residential developments ([Link](#)), or, at equal cost - depending on economies of scale.

This capital cost of sustainable buildings is likely to decrease over time as legislation improves, our electricity grid decarbonises, our supply chain upskills, and as cost of technology decreases.

Costs can be offset by value benefits, including; increased rental premiums (6-11% [Link](#)), lower tenancy void periods, and lower offsetting costs. Furthermore, long-term operation costs of new homes are vastly reduced due to the lower energy demand from homes, eliminating challenges such as fuel poverty ([Link](#)), and providing cost savings of 30%-40% ([Link](#)) over 30 years.

Finally, in a post covid society, more people are working from home, and look to live more sustainable lifestyles, making sustainable homes and communities more attractive to homeowners, thereby, providing a commercial benefit to developers ([Link](#)).

## 8 | THE QUALITY CHECKLIST

The Checklists indicate the quality of development in line with the Garden Towns' standards through a red/amber/ green approach. These work together across categories and will be assessed alongside each other to ensure a holistic approach to sustainability is being taken.

Minimum Requirements (Low Quality)	Net Zero-Carbon by 2050 (Medium Quality)	Net Zero-Carbon by 2030 (Garden Town High Quality)
These are policy-compliant / Building Regulations compliant, but do not meet Climate Declaration targets	These targets meet ultimate goal, but 20 years slower	These targets meet HGGT goal and Climate Declarations
This sets out what HGGT consider low quality standards / outcomes	This sets out what HGGT consider medium quality standards/ outcomes	This sets out what HGGT consider high quality standards/ outcomes

## 9 | RELATIONSHIP TO VISION

This document should be read in conjunction with the Harlow and Gilston Garden Town [Vision](#), and [Design Guide](#). The Sustainability Guidance takes the principles and objectives of the Vision as its starting point and provides guidance and checklists to help deliver these principles, and sustainability indicators.

The HGGT Design Guide sets out Design Quality Questions which applicants are expected to follow. The information in this document aim to build on these and provide further guidance and detail as appropriate.



# SUSTAINABILITY GUIDANCE APPLICATION AREA

The Garden Town comprises strategic development sites both within the Harlow administrative area and within East Hertfordshire District and Epping Forest District. This includes:

## Gilston Area:

- Located in East Hertfordshire District
- Across 7 villages,
- 10,000 homes in total
- 3,000 built by 2033, a further
- 7,000 to follow post-2033

## East of Harlow:

- Located in Harlow and Epping Forest Districts
- 3,350 new homes
- 2,600 within Harlow District
- 750 within Epping Forest District

## Water Lane Area:

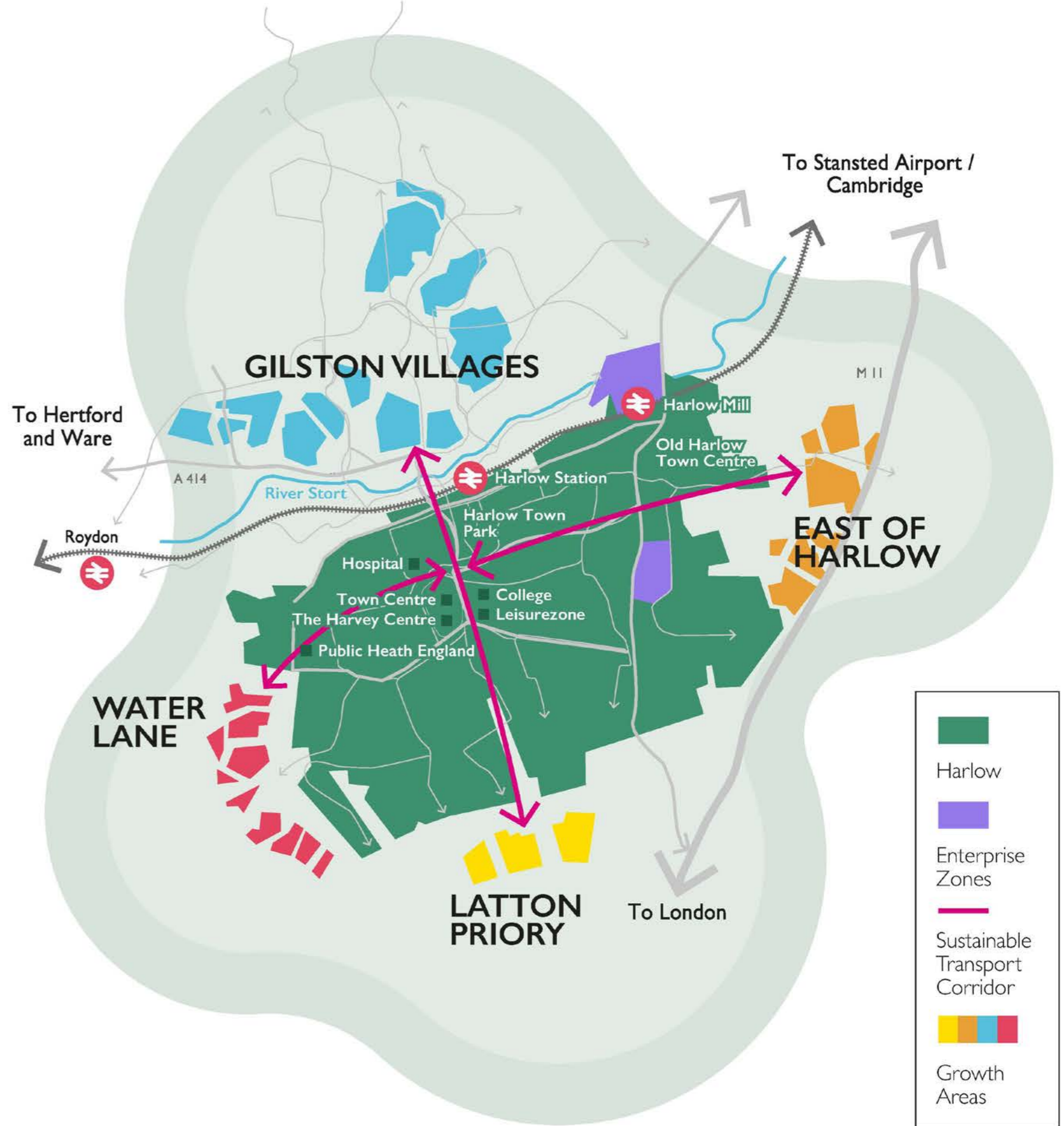
- Located in Epping Forest District
- 2,100 new homes

## Latton Priory:

- Located in Epping Forest District
- 1,050 new homes

## Draft Harlow Local Plan:

A further 21 sites, which together total 1,147 dwellings, are allocated in the draft Harlow Local Plan



# Environmental Sustainability

Goal: Net Zero-Carbon by 2030





# DESIGN APPROACH: FIRST PRINCIPLES

These 'First Principles' are to be followed to ensure new Garden Town developments are sustainable, and evolve through good design. The First Principles act as a structured design process, and are iterative, with observations made to be referred back to when navigating the varying scales of design. Use of these principles will significantly benefit the proposal when assessing against the remainder of the Guidance.

## 1 | LANDSCAPE-LED DESIGN

Harlow and Gilston Garden Town is characterised by a number of different landscape characters areas and assets. Study of existing strategies, analysis, survey and mapping should be undertaken of existing green infrastructure and ecological value of features. These include; topography, trees, hedgerows, woodland, grasslands, wetlands, meadowlands, farmlands, hills and lowlands, scarps and valleys, flood plains, views and vistas. Drawings, surveys, site photographs, and precedent images should be utilised.

Design should be landscape led from the start and across all design stages. The best design and development outcomes will be delivered by engaging landscape and ecology consultants at an early stage. Additional spending on design fees will be very likely outweighed by the speed and ease of securing planning permission.

## 2 | SUSTAINABLE MOVEMENT

The Garden Town has ambitious sustainable travel mode shift targets, as set out in the HGGT Transport Strategy. To achieve this, sustainable movement must be considered as a first principle in design, alongside landscape and ecology.

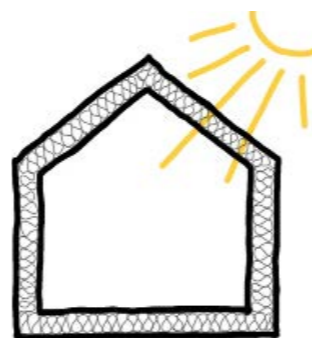
Key destinations and active travel desire lines for journeys to work, schools, shops and leisure should be mapped, to be direct, inclusive, attractive and safe. Opportunities to knit communities together with movement routes and green infrastructure should be maximised.

Follow the HGGT User Hierarchy on routes and access points; ensure walking and cycle networks connect to the Sustainable Transport Corridors and wider networks, and prioritise travelling to further destinations by public transport over private cars.

## 3 | ORIENTATION AND FORM

Solar orientation must inform the topography, scale and massing of development at early stages of masterplanning, with south-facing buildings, fenestration, and amenity being orientated to take advantage of passive solar gain – absorbing the sun's heat energy to warm buildings and spaces. Building axis' can be orientated in the east-west direction to take advantage of maximum daylight and heat from the sun which significantly reduces the energy consumption of a building, and can reduce a homes' heating and cooling costs by up to 85%.

To stay cool in the summer months and avoid overheating, external shading provisions should be made to the buildings and surrounding areas, including the use of green infrastructure.



Solar Orientation

## 4 | FOLLOW ENERGY HIERARCHY

When determining energy strategies for new developments and masterplans, the Energy Hierarchy is to be followed:

### 1. BE LEAN:

Use less energy: minimising the energy demand of new buildings through fabric performance: This step requires design that reduces the energy demand of a development. Energy Strategies need to demonstrate how energy efficiency measures reduce the energy demand in line with performance targets highlighted in this document.

### 2. BE CLEAN & GREEN:

Supply energy efficiently: utilising energy efficiently in buildings including for space heating & cooling: Consideration must be given to how heat and energy will be provided to the development using low-carbon heating networks.

### 3. BE SEEN:

Monitor & Report performance: for at least 5 years post-completion to remove the performance gap: This requires all major developments to monitor and report their energy performance post-construction to ensure that the actual carbon performance of the development is aligned with the Garden Town ambitions of a net zero-carbon target.

## 5 | ADAPTABLE & FUTURE PROOF DESIGN

Building strong communities is aided by giving people and families the opportunity to have accommodation that can adapt to respond to their changing needs and abilities.

This means looking at the macro-scale of large scale green and blue infrastructure and management for climate adaptation, futureproofing infrastructure for technological innovation, provision of a range of house types, adaptable facilities and meanwhile use spaces. And through to the micro-scale; for example the space and ease in ability to extend homes and facilities (physical and digital) to work from home.

While technologies will change, the homes built here will exist for decades - 60+ years, and it is important that strong communities are not broken due to the lack of adaptable design.



A fabric-first approach requires the building envelope to be a high-performance thermal envelope, reducing energy waste. This means the proposed buildings must have external walls, roofs, floors, windows & doors that are: super insulated, airtight, and windtight.

A fabric-first approach includes the windows and doors – which provide significant heat loss and heat gains – depending on solar orientation. Windows and doors must therefore incorporate high-performance glazing to provide comfortable internal temperatures. A high-performance thermal envelope delivers exceptional indoor comfort and building energy efficiency.

## 7 | VENTILATION & OVERHEATING

A mixed-mode (natural and mechanical) ventilation strategy is encouraged for excellent indoor air quality. This involves the incorporation of passive and/or whole-house mechanical ventilation with heat recovery system (MVHR) – which is key to delivering radically energy efficiency and exceptional comfort, through providing clean, filtered air into habitable spaces.

Early stage overheating analysis will be expected to be carried out at design stage to identify key factors contributing to overheating risk; where developments are at risk of overheating, additional detailed assessment and mitigation measures will be expected to be incorporated.

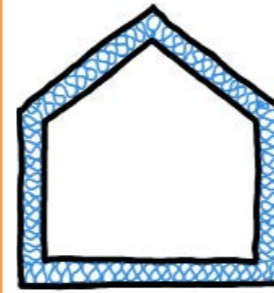
## 8 | EMBODIED & OPERATIONAL ENERGY

Embodied energy is the total energy required for the extraction, processing, manufacture and delivery of building materials to the building site, and the construction of the development.

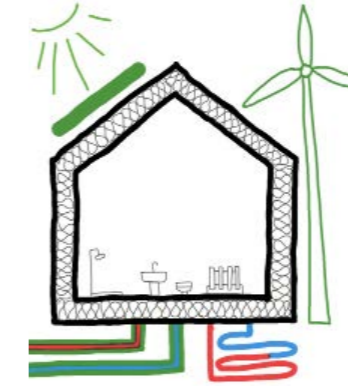
All design teams are expected to think about, and reduce the embodied energy required to develop their schemes. For example, depending on location, height, and site suitability, materials like timber could be favoured over less sustainable alternatives such as concrete.

Operational Energy is concerned with the amount of carbon emissions associated with the building's annual operation. Developments should be aiming for net zero carbon – where energy on an annual basis is zero or negative. A net zero carbon building is highly energy efficient and powered from on-site and/or off-site renewable energy sources.

Developments should be designed using realistic predictions of operational energy to avoid performance gap in a building's energy use.



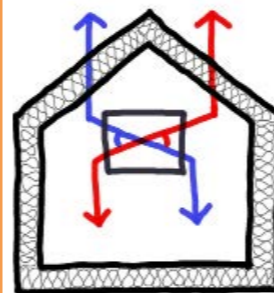
Super-Insulation



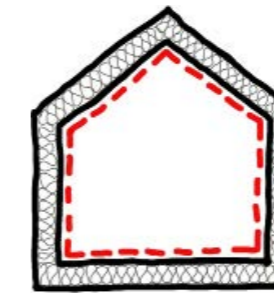
## 9 | RENEWABLE TECHNOLOGIES

Renewable energy uses natural resources such as sunlight, wind, tides and geothermal heat which are naturally replenished. Most forms of renewable energy are cheap to operate, but can be expensive to install.

Examples of technologies include; PV's, solar thermal, biomass, ground/air source heat pumps, wind, hydro. The choice of renewable technologies should be dependent on an assessment on site and development suitability.



Ventilation & Overheating



Air-tightness

## 10 | AIR-TIGHT STRATEGY & THERMAL-BRIDGE FREE

An air-tight strategy focuses on the internal comfort of a building, and will be required to develop a draught-free building envelope. The draught-free building ensures high energy efficiency, internal user comfort, and protects the building envelope.

The airtight strategy must be continuous to ensure there are no unintended gaps in the building envelope that allow uncontrolled air to leak in and out of the building.

Internal comfort is affected by heat loss through the building fabric, and poor thermal bridging – any gaps or thinning of the insulation. Therefore, the design approach must be to design them out.

Post-occupancy evaluation enables air tightness and thermal bridging to be measured, to help close the known performance gap in these areas.

## RETROFITTING

Design Principles for Retrofitting of existing buildings has not been addressed in this guidance. This is in anticipation of the emerging HGGT Sustainability Guidance for Retrofit. This document will signpost to industry standards and guidance regarding retrofitting.

# ENERGY EFFICIENCY & CARBON REDUCTION

## OBJECTIVES & REQUIREMENTS

The transition to net zero-carbon by 2030 must begin with providing **genuinely affordable homes**. All new buildings are therefore expected to adopt a fabric-first approach (i.e. Passivhaus Standards), with the expectation that as our grid system decarbonises, and we build more energy efficient homes, emphasis will be placed on the embodied energy involved in constructing new buildings, utilising more **renewable technologies**.

Currently (2017 figures), all 3 district councils contribute **558CO2kt** from the domestic sector only (electricity, gas and other contributions). This accounts for almost a third (27%) of all CO2 contributions in the districts and represents a significant opportunity reduce our carbon impact and adopt **circular economy** principles.

With the decarbonising of the National Grid, achieving net zero-carbon will mean strategic sites must respond to the two key components of **whole-life carbon**; **embodied carbon** and **operational energy**. Achieving net zero operational energy means the building does not burn fossil fuels and is 100% powered by renewables.

A **Whole Life Carbon (WLC) Assessment** should be undertaken at pre-application, planning application, and after practical completion, as new homes are expected to last 60+years, with carbon emission reduction in line with the targets in the Checklist. **Appendix 2a** highlights the sequence of activities to complete an assessment.

### Embodied Carbon Reduction Strategy:

1. Using circular economy principles of reuse and refurbish, and designing for disassembly at end of life with processes including using offsite construction.
2. Building low-energy homes, using fossil fuel-free technology to supply heating and power to them.
3. Using renewable energy where necessary

### Operational carbon Reduction Strategy:

1. Not burning fossil fuels for supply to homes
2. 100% powered by renewable energy i.e. heat pumps
3. Achieving energy performance in line with checklist

Carbon measuring tools (i.e. **HIB:ERT**) enable analysis.

## SOCIO-ECONOMIC CO-BENEFITS +

## KEY LOCAL POLICY & GUIDANCE

### HGGT Vision

- Placemaking and Homes: B9, B10, D3
- Landscape & Green Infrastructure: D1, D2, D3, D4
- Sustainable Movement: D6
- The emerging Garden Town Transport Strategy
- Building Futures – Hertfordshire Guide

### HDC Local Plan Policy:

- HGT1: Development & Delivery of Garden Town
- PL3: Sustainable Design, Construction & Energy Use
- Harlow Area Action Plan (TC AAP)

### EFDC Local Plan Policy:

- SP4(xvii): Highest standards of energy efficiency
- SP5 Garden Town Communities
- DM9: High Quality Design
- DM19: Sustainable Water Use
- DM20: Low Carbon and Renewable Energy

### EHDC Local Plan Policy:

- CC3: Renewable and Low Carbon Energy
- DES1 Masterplanning
- DES4: Design of Development (a) & (b)
- HOU8 Self-Build and Custom Build Housing
- CFLR9 Health and Wellbeing
- 11.2 Harlow and Gilston Garden Town



## CASE STUDIES (click image to visit website)



**Marmalade Lane, Cambridge**  
Built with fabric-first approach for energy efficient homes, alleviating fuel-poverty.



**Goldsmith Street, Norwich**  
Built to Passivhaus standards, needing little energy for heating and cooling.



**Newhall, Harlow**  
Being highly sustainable with consideration for long-term energy use and incorporating measures to reduce energy use in properties

QUALITY CHECKLIST		Minimum Requirement	Net Zero-Carbon by 2050	Net Zero-Carbon by 2030
En.1	Operational Energy (KWh/m2/y)	146	< 70	< 0 - 35
En.2	Embodied Carbon (kgCO2e/m2)	1000	< 450	< 300
En.3	Space Heating Energy Demand (KWh/m2/y) of net living space	54.26	25	15
En.4	Airtightness (air changes/ hr @ n50)	5	3	≤ 0.6
En.5	Ventilation Strategy (m3/hr/person)	Natural - extract fans	Mechanical - with extract fans	Mechanical Heat Recovery (30)
En.7	What is the on-site reduction in CO2 emissions against Building Regulations Part L (2013)?	0-34%	35%-50%	≥ 50%
En.8	For applications greater than 99no. units, what BREEAM Communities Level is met?	Very Good	Excellent	Outstanding
En.9	Thermal Bridging y-value (W/m2K)	0.0051	0.0039	0
En.10	What Fabric U-Values has the proposal been designed to meet? W/(m2K)			
	External Walls	0.30 - 0.16	0.15 - 0.11	< 0.1
	Floor	0.25 - 0.11	0.10 - 0.08	< 0.07
	Roof	0.20 - 0.13	0.12 - 0.10	< 0.1
	Windows (triple glazing) & Doors	2.00 - 1.4	1.3 - 1.00	< 0.9
Attach Whole Life Carbon Assessment Attach Overheating Design Assessment				
Attach certification of the above chosen standards, and use 'Statement' page for additional information				



# RENEWABLE ENERGY

## OBJECTIVES & REQUIREMENTS

Our recent extreme weather has highlighted the need to ensure that buildings constructed today are fit for the future, and, designed for resilience over the next 60+ years. Other Climate mitigation and adaptation strategies span the breadth of this document, so this section focuses on the use of renewable energy for our heat supply, as heat demand is estimated at more than 40% of the energy consumed across all 3 boroughs.

The nature and scale of the strategic sites make them ideal to ensure that the heating and hot water they generate are fossil fuel free, supporting less demand on the national grid.

On-site renewable technologies such as Heat Pumps, Solar Photovoltaics, and Solar Thermals should be explored for adoption, and paired with each other to provide the greatest benefit to new developments; i.e. heat pumps paired with efficient buildings, and PV's paired with electric charging enabling sustainable travel.

Applicants are to use the LETI Heat Decision Tree (Appendix 3) at concept and developed design stages, to assist them in choosing the most appropriate heating system; where renewable systems should be prioritised over connecting to district heating networks, which depend on fossil fuels.

- New Developments should be designed to;
- Heat Sharing Network: joining a heat sharing network is particularly relevant for these strategic mixed-use development sites where opportunities for load shifting and heat sharing occur.
  - Minimise system temperatures: high temperatures in heating systems are synonymous with fossil-fuel combustion
  - Reduce Heat Demand at point of use: The greatest opportunity to meeting net zero-carbon emissions is to reduce the amount of heat needed: achieved through a fabric-first approach and limited hot water use, coupled with reuse of low temperature waste heat sources.
  - Lean Design: load modelling can predict energy use and help size plant requirement.
  - Harness Waste Heat: heat released as a by-product of an existing process enables otherwise wasted heat to contribute to meeting energy demands.

## KEY LOCAL POLICY & GUIDANCE

### HGGT Vision

- Placemaking and Homes: B9, B10, D3
- Landscape & Green Infrastructure: D1, D2, D3, D4
- Sustainable Movement: D6

### HDC Local Plan Policy:

- HG1: Development & Delivery of the Garden Town
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- Harlow Area Action Plan (TC AAP)

### EFDC Local Plan Policy:

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- DM9: High Quality Design
- DM19: Sustainable Water Use
- DM20: Low Carbon and Renewable Energy

### EHDC Local Plan Policy:

- CC3: Renewable and Low Carbon Energy
- DES4: Design of Development (a) & (b)
- Building Futures: Sustainable Design Toolkit



## CASE STUDIES (click image to visit website)



Project Etopia, Corby  
Uses combined solar PV's and thermal panel to deliver net zero carbon on site.



Active Homes, Neath, South Wales  
Battery technology used to store energy and solar PV & TSC's to generate 60% energy.



Tallack Road, Waltham Forest, London  
Large-scale communal Air Source Heat Pump to feed ambient temperature heat network

QUALITY CHECKLIST		Minimum Requirement	Net Zero-Carbon by 2050	Net Zero-Carbon by 2030
Rn.1	What on-site renewable energy technologies have been included in your development?	PV's + EV charging / CHP's	Low-temperature District Heating	Electric Heat Pumps / Solar Thermal
Rn.2	What percentage of CO2 emission reduction will be provided from on-site renewable energy sources? (SAP 10 carbon emission factors to be used for calculation)	> 20%	> 50%	> 70%
Rn.3	What percentage of household electricity will on-site renewable technology provide? (net zero operational carbon does not burn fossil fuel and is 100% powered by renewables)	> 35%	> 50%	100%
Rn.4	Have any government incentivised schemes been taken advantage of? i.e. Non-Domestic Renewable Heat Incentive (RHI)	None	N/A	Non-Domestic RHI
Rn.5	Photovoltaic Energy Demand (kWh/m2/yr)	-854	-2,563	-2,563
Rn.6	Domestic hot water (kWh/m2/yr)	42	20	6
Please attach Energy Assessment				
Please attach relevant certification of the above standards you have chosen				
Please use 'Sustainability Summary' pages where you are adding any further information				



# GREEN INFRASTRUCTURE

## OBJECTIVES & REQUIREMENTS

The HGGTVision sets out indicators for landscape and green infrastructure: proposals should respond to the distinctive landscape setting; expand and enhance the town's Green Wedge network; improve access to, and the quality of, the surrounding Green Belt; and support a sustainable and biodiverse environment.

The green and blue infrastructure network of the Garden Town and wider area must be protected and enhanced, and considered in an integrated way to meet sustainability, placeshaping and socio-economic objectives. Key assets include the Stort Navigation & Stort Valley; the River Lea & Lee Valley; the Green Wedge and Finger network; Grade II Listed Harlow Town Park; existing and Ancient woodland including Epping Forest; neighbourhood allotments & green spaces; the proposed Gilston Country Park; proposed Suitable Alternative Natural Greenspace; new 'Super Greenways'; sports, play and adventure spaces.

Proposals must be landscape-led from the start, and green infrastructure should be high quality and multifunctional, as set out in the [East Herts Gilston Area Charter SPD](#) and [EFDC Green Infrastructure Strategy](#). Relevant landscape and ecology expertise should be sought early in the design process.

Development should deliver at least 10% [Biodiversity Net Gain](#) (BNG) following the [mitigation hierarchy](#), and then provided on-site where possible, before off-site or compensation are considered, Ecology Reports should set out targeted net gain outcomes, through baseline surveys, then consider protection, mitigation, habitat enhancement/ creation, with stewardship and maintenance for a minimum of 30 years.

Greening of streetscapes and amenity spaces, with street trees, pocket parks, hedgerows, Super Greenways, greens roofs and swales, provide placeshaping benefits as sociable streets and contribute to climate resilience, through biodiversity enhancement and mitigating overheating.

Multifunctional and [inclusive](#) green & blue infrastructure at various scales has an important role to play in [placeshaping](#), [health](#), [wellbeing](#), and [community resilience](#). Play, social spaces, food growing, art and heritage trails should be designed early, considering [ages](#) and [abilities](#), with active frontages to enable [natural surveillance](#).

## KEY LOCAL POLICY & GUIDANCE

- HGGTVision & Design Guide
- HGGT Healthy Town Framework

### Harlow Council: Local Plan Policy:

- WE1: Strategic Green Infrastructure
- WE2: Green Wedges and Fingers
- WE3: Biodiversity and Geodiversity
- PL4: Green Wedges and Green Fingers
- PL5: Other Open Spaces
- PL6: Trees and Hedgerows
- PL7: Green Infrastructure and Landscaping
- PL8: Biodiversity and Geodiversity Assets
- Harlow Area Action Plan (TC AAP)

### EFDC Local Plan Policy:

- SP 3 Place Shaping
- SP 7 The Natural Environment
- DM 1 Habitat protection and improving biodiversity
- DM 2 Epping Forest SAC and the Lee Valley SPA
- DM 3 Landscape Character
- DM 5 Green and Blue Infrastructure
- DM 6 Designated and undesignated open spaces
- DM9: High Quality Design
- DM 15 Managing and reducing flood risk
- DM 22 Air Quality
- EFDC Green Infrastructure Strategy

### EHDC Local Plan Policy:

- DES1: Masterplanning
- DES2 Landscape Character
- DES3 Landscaping
- DES4: Design of Development (a) & (b)
- CFLR1 Open Space, Sport and Recreation
- CFLR2 Local Green Space
- CFLR4 Water Based Recreation
- CFLR9 Health and Wellbeing
- NE3 Species and Habitats
- NE4 Green Infrastructure
- CCI Climate Change Adaption
- East Herts Gilston Area Charter SPD

### Wider Area

- Green Essex Strategy
- Essex Biodiversity Action Plan
- Hertfordshire Strategic Green Infrastructure Plan 2011
- Stort Catchment Management Plan
- Green Arc Strategy

## CASE STUDIES (click image to visit website)



Community cohesion: Drapers Field  
Addresses issues of community cohesion and play, improving wellbeing.



Ecology in Architecture: Barratt Homes  
A progressive approach to wildlife-friendly housing, with 'Swift Bricks' built into homes.



Collaboration: Teignmouth, Devon.  
Partnership with third sector to deliver ongoing BNG and between the LPA & RSPB to deliver strategic compensation.

QUALITY CHECKLIST		Low Quality	Medium Quality	Garden Town High Quality
Gr.1	Has a Landscape-led approach been demonstrated, as set out in the <a href="#">HGGTVision / Gilston Area Charter SPD / EFDC Green Infrastructure Strategy</a> ?	No	Some landscape analysis undertaken	Ecology, topography, vistas, landscape character & features leading design
Gr.2	What % of Biodiversity Net Gain (BNG) will be delivered?	0-9% BNG	10-15% BNG	15%+ BNG
Gr.3	Does Ecology Report show process of mitigation and location hierarchy, with Stewardship and Maintenance strategy provided for green infrastructure and BNG?	No strategy	Yes - Outline strategy provided	Yes - hierarchies followed, and 30 year strategy with input from community
Gr.4	Have play, community amenity and food production opportunities been maximised? All new homes should be within 800m of allotments, and <a href="#">Fields in Trust</a> distances should be followed for play spaces.	No	Yes - locations mapped with walking isochromes	Yes - locations mapped, character of spaces defined, strategies for play / food / active frontages
Gr.5	Have you used recognised tools to assess the value/ quality of green infrastructure? E.g. <a href="#">Natural Capital Tool/ Ecometric/ Building With Nature/ Green Flag Award/ Social Value Calculator</a>	No	Yes - qualitative assessment undertaken	Yes - qualitative assessment/ value calculated with exemplary score
Gr.6	Has an overheating assessment or modelling been provided, as set out in <a href="#">UKGBC's Housing Standards Playbook</a> , taking into account impact of green infrastructure?	No	Yes - some assessment	Yes - UKGBC Playbook followed
Gr.7	Has green infrastructure been proposed at different scales to reinforce the Garden Town Vision indicators, access and <a href="#">inclusive design principles</a> ?	Different scales not explored	Yes - Different scales shown, roles/ function undeveloped	Yes - Different scales designed, with qualities and roles defined, and inclusively designed
Please attach your <a href="#">BNG Report</a> / Biodiversity Impact Assessment with Stewardship & Maintenance Strategy Please use 'Sustainability Summary' pages where you are adding any further information				



## OBJECTIVES & REQUIREMENTS

Sustainable movement and active transport infrastructure are key to the success of sustainable growth in the Garden Town. Positive travel choices that enable sustainable living lie at the heart of the Garden Town's Vision, Transport Strategy, and Healthy Town Framework. The three overarching objectives of the HGGT Transport Strategy are:

1. 50% of all trips originating from and ending within the whole Garden Town should be by active and sustainable travel modes. Within the new Garden Communities, 60% of trips originating from and ending within them should be by active and sustainable travel modes.
2. Mobility options will be based on a hierarchy of importance: Reduce the need to travel > walking and cycling > public transport > private vehicle use.
3. Support and encourage a culture of active and sustainable travel ensuring all journeys will be efficient and safe.

Masterplanning for Sustainable Movement should address: walkable low traffic neighbourhoods, sociable streets and placemaking; cycling, walking and public transport network; behaviour change programmes; rebalancing car use and parking design (including carpooling and car sharing); futureproofing with adaptable technology; deliveries and servicing; and construction impacts.

Sustainable Transport Corridors (STCs) will be a series of strategic public travel routes through the Garden Town providing inclusive, coherent, safe, direct, convenient and attractive public and active travel options that will connect neighbourhoods quickly with key destinations such as the town centre and Harlow Town railway station. The design of these should follow the [HGGT STC Placeshaping Principles](#) and Transport User Hierarchy.

'Mobility Hubs' provide transport interchange as well as social and community focal points. All new homes should be within 800m (10 minute walk) of a hub and within 400m of a bus stop.

Designs must futureproof for change in travel habits, including reallocating parking and road space, innovation in travel technology, last mile deliveries and appropriate provision for electric charging .

## KEY LOCAL POLICY & GUIDANCE

- HGGT Vision & Design Guide
- HGGT Transport Strategy (draft)
- HGGT Healthy Town Framework (draft)
- HGGT Local Cycling & Walking Infrastructure Plan (LCWIP) (emerging)
- HGGT STC Placeshaping Principles (draft)
- HGGT Hubs 'How To' Guide (draft)
- HGGT Parking Strategy (emerging)

### Essex County Council

- Local Transport Plan 3
- Sustainable Modes of Travel, Speed & Traffic Management Strategies
- Essex Design Guide
- Harlow Cycling Action Plan

### Hertfordshire Council Council

- Local Transport Plan 4
- Hertfordshire Active Travel Strategy/Sustainable Modes of Travel Strategy
- Roads in Hertfordshire: A Design Guide

### Harlow Local Plan Policy:

- HGT1 Dev & Delivery of the Garden Town
- PL3 Sust. Design, Construction & Energy Use
- IN1 Development and Sustainable Modes of Travel
- WE2 Green Wedges and Green Fingers
- Harlow Town Centre Area Action Plan (emerging)

### EFDC Local Plan Policy:

- SP 3 Place Shaping
- SP 4 Garden Communities in HGGT
- T 1 Sustainable transport choices
- T 2 Safeguarding of routes and facilities
- DM 9 High Quality Design
- DM 22 Air Quality

### East Herts Local Plan Policy:

- GAI The Gilston Area
- TRA1 Sustainable Development
- TRA3 Vehicle Parking Provision
- DES4 Design of Development
- CFLR9 Health and Wellbeing
- DEL2 Planning Obligations
- EHDC Sustainability SPD

### Other:

- UK Government Policy Paper: Gear Change
- Sport England Active Design Principles
- Sustrans Cycling For Everyone

## CASE STUDIES (click image to visit website)



Dunsfold Park Masterplan, Surrey  
Designing a walkable village entirely within 10 minutes' walk of the Market Square.



St Chads Development, Essex  
Shared surface 'home zones' are designed to prioritise pedestrians and cyclists, while reducing vehicular speed.



VeloCity, National Infrastructure Commission.  
Enriching village life while creating new homes and employment in healthy and socially cohesive places.

QUALITY CHECKLIST		Low Quality	Medium Quality	High Quality
Tr.1	Have walkable low traffic neighbourhoods been designed as a first principle, based on the <a href="#">HGGT Transport User Hierarchy</a> ?	No - vehicle access design prioritised	Transport hierarchy considered	Yes - desire lines, permeability, topography, user hierarchy leading design
Tr.2	Have safe and high quality connections to active travel networks beyond the development boundary been proposed with green infrastructure considered?	Ongoing connectivity not considered	Some connectivity - lacks GI consideration	Strong connections to networks, with clear relationship to GI/ ecology
Tr.3	Have you followed the <a href="#">STC Placeshaping Principles</a> when designing the STC and its transport interchanges?	Not shown	Some achieved	Yes - all achieved
Tr.4	Are bus stops and hubs accessible and attractive for new and existing residents, offering appropriate shelter and including provision of a regular bus service?	Hubs and bus stops not meeting requirements	STC hubs within 800m, bus stops within 400m of all new homes	STC hubs co-located with facilities/sheltered bus stops within 800m/ 400m of all homes with regular service
Tr.5	Has cycle parking designed to be high quality, safe and with ease of access?	Cycle parking not provided	Suitable quantity of spaces provided	Quantity and quality of environment provided
Tr.6	Have <a href="#">inclusive design principles</a> / accessibility for all regarding sustainable movement routes been achieved?	Does not meet Equalities Act	Inclusive Design Statement provided	Exemplary inclusive design provided
Tr.7	Has a <a href="#">Transport Assessment</a> been provided that clearly demonstrates how the <a href="#">mode split target</a> is being achieved, as defined by HGGT?	Yes - minimum TA provided	Yes - but multi modal modelling not included	Yes - multi-modal modelling, and roadmap for achieving HGGT targets
Tr.8	Has a thorough Sustainable Travel Plan been provided? Has <a href="#">Modeshift Stars accreditation</a> been explored?	No	Sustainable Travel Plan provided	Yes - including behaviour change programme, travel coordinator, monitoring

Please use 'Sustainability Summary' pages where you are adding any further information



# WATER MANAGEMENT

## OBJECTIVES & REQUIREMENTS

The combined challenges and opportunities of growing populations within the Garden Town, changing land uses, the finite supply of water, action is required now to ensure the availability of water for the future without having a detrimental impact on the environment. There is likely to be less water available for future generations and therefore a greater need for water demand management and water efficiency in the area. New development should therefore not lead to an overall increase in demand for water.

The strategy therefore looks for new developments to:

i) Reduce the risk of flood through the use of sustainable drainage infrastructure and robust green infrastructure design - including the use of biophilic design and permeable hard landscape.

ii) Minimise use of mains water by incorporating water saving measures and equipment, and, designing residential development so that mains water consumption is reduced in accordance with requirements found in the table overleaf.

iii) Promote the use of rainwater harvesting and using dual potable and grey water recycling measures

To avoid increased flood risk, and make the most effective use of the existing and planned drainage infrastructure, rainwater should be managed as a valuable resource, rather than a waste product and innovative ways of using water can be incorporated into community infrastructure.

There is a drive towards sustainable drainage systems that mimic the way nature manages rainwater. As a result, designing new developments for optimal sustainable water consumption has become even more important, with the Garden Town enabling ambitious targets for water efficiency in all new developments.

Existing homes and workplaces should become more water efficient through metering and water efficiency retrofits.

New developments should embrace carbon reduction systems such as a waste water heat recovery.

## KEY LOCAL POLICY & GUIDANCE

### HGGT Vision

- Placemaking and Homes: B9, B10, D3
- Landscape & Green Infrastructure: D1, D2, D3, D4
- Sustainable Movement: D6
- HGGT Watercycle Study 2018
- The emerging Garden Town Transport Strategy

### HDC Local Plan Policy:

- HGT1: Development & Delivery of Garden Town
- PL3: Sustainable Design, Construction & Energy Use
- PL10: Water Quality, Water Management, Flooding and Sustainable Drainage Systems
- Harlow Area Action Plan (TC AAP)

### EFDC Local Plan Policy:

- SP4(xvii): Highest standards of energy efficiency
- DM9: High Quality Design
- DM19: Sustainable Water Use
- DM20: Low Carbon and Renewable Energy

### EHDC Local Plan Policy:

- CC3: Renewable and Low Carbon Energy
- DES4: Design of Development (a) & (b)
- Building Futures: Sustainable Design Toolkit
- WAT3 Water Quality and the Water Environment
- WAT4 Efficient Use of Water Resources
- WAT5 Sustainable Drainage

### Essex:

- The Sustainable Drainage Systems Design Guide For Essex: [Weblink Here](#)



## CASE STUDIES (click image to visit website)



Waltham Village Square | Rain Gardens  
Full of native shrubs and flowers planted in a depression to temporarily hold and soak-in rain water runoff from roofs & driveways



Knostrop Weir, Leeds | Flood Management  
Provides three new pneumatically moveable weirs that can be lowered to let floodwater discharge quickly downstream.



Ladywell Fields, Lewisham | SuDS  
Creating sustainable drainage and reduce flooding by modifying the river channel with a naturalistic setting incorporating backwaters and

QUALITY CHECKLIST		Minimum Requirement	Net Zero-Carbon by 2050	Net Zero-Carbon by 2030
W.1	Potable Water: What is the expected internal water use (litres/person/day)?	110	95	75
W.2	What water collection or recycling measures will be used?	100% provision of water butts	Rainwater harvesting systems	Grey water recycling & harvesting
W.3	How much of the hard surfaces within the development and conveyance systems will be permeable (i.e streams, swales)	50%	75%	100%
W.4	Will water saving devices be installed in the development? e.g. low flush toilets, smaller baths, taps and showers with flow regulators	N/A	N/A	Yes
W.5	What additional Sustainable Urban Drainage (SUDs) measures have been proposed? (i.e. permeable surfaces, rain gardens, green roofs, ponds/wetlands, soakaways)	Please use 'Sustainability Summary' pages where you are adding any further information		



## OBJECTIVES & REQUIREMENTS

New developments should promote circular economy outcomes and aim to be net zero waste. In the UK, the largest contributor to waste nationally is the construction and demolition industry where a third of all waste is generated.

The strategic sites in the GardenTown are to be designed to reduce construction & operational waste and enable ease of access for future occupants to recycle and reduce waste. This can be encouraged through adopting a circular economy approach (including the use of modern methods of construction (MMC) & Design for Manufacture and Assembly (DfMA) processes) and the Waste Hierarchy found in the DEFRA Guidance.

Building in Layers principles should be adopted to determine realistic lifetimes for the elements of a building, and adapt the structure and fabric. Homes should be designed to be adaptable and flexible by considering the intended lifespan of each independent building layer, optimising building longevity and maximising material reclamation at end-of-life.

3 Key Principles expand the Circular Economy process:  
1. Conserve Resources, Increase Efficiency, Source Ethically:

- Minimise the quantities of materials used: by specifying low embodied carbon materials
- Minimise the quantities of other resources used: including energy, water, and land
- Source materials responsibly and sustainably: including all materials to be reusable

2. Eliminate waste and ease maintenance by:

- Long-life & Loose fit: build to adapt to changing social, physical and economic environments.
- Design for Disassembly: at the commencement of the project, set out deconstruction plan and capture asset value.

3. Manage waste sustainably and at the highest value:

- Construction, demolition & excavation waste
- Operation & Municipal waste

A Circular Economy Statement should be provided to demonstrate chosen strategy.

## KEY LOCAL POLICY & GUIDANCE

### HGGT Vision

- Placemaking and Homes: B9, B10, D3
- Landscape & Green Infrastructure: D1, D2, D3, D4
- Sustainable Movement: D6

### HDC Local Plan Policy:

- HGT1: Development & Delivery of the Garden Town
- PL3: Sustainable Design, Construction & Energy Use
- PL9: Pollution and Contamination
- Harlow Area Action Plan (TC AAP)

### EFDC Local Plan Policy:

- SP4(xvii): Highest standards of energy efficiency
- DM9: High Quality Design
- DM19: Sustainable Water Use
- DM20: Low Carbon and Renewable Energy
- DM 7 Heritage Assets
- DM 8 Heritage at Risk
- DM 11 Waste recycling facilities on new development
- DM 18 On site management of waste water and water supply

### EHDC Local Plan Policy:

- CC3: Renewable and Low Carbon Energy
- DES4: Design of Development (a) & (b)
- HA1 Designated Heritage Assets
- HA2 Non-Designated Heritage Assets
- HA3 Archaeology
- HA4 Conservation Areas
- HA7 Listed Buildings
- HA9 Enabling Development



## CASE STUDIES (click image to visit website)



Illford Community Market, London  
Designed for five year and will be dismantled and reconfigured on future meanwhile sites.



London Olympic Park, London  
A waste target of 90% diversion from landfill of demolition waste by weight



Clarion Housing, Merton Regeneration  
Zero-carbon development of 208 homes, achieving Code for Sustainable Homes Level

QUALITY CHECKLIST		Minimum Requirement	Net Zero-Carbon by 2050	Net Zero-Waste by 2030
CE.1	How much of the materials used on site are sourced from ethical and responsible supply chains?	80%	95%	100%
CE.2	How much of the materials used are non-toxic?			100%
CE.3	How much of the materials used can be easily extracted, recycled, and manufactured?	80%	90%	95%
CE.4	The new buildings are circular-by-design to what amount?	20%	40%	65%
CE.7	How much of the materials used are 'reusable'?			>80%
CE.8	How much of the materials used are 'reused'?			>50%
CE.9	How much biodegradable and recyclable waste will be diverted to landfill?			0
Please attach Circular Economy Statement (see guidance Here)				
Please use 'Sustainability Summary' pages where you are adding any further information				





# WASTE MANAGEMENT

## OBJECTIVES & REQUIREMENTS

In line with becoming net zero carbon by 2030, the Garden Town want to ensure that the amount of waste produced by residents and visitors, as well as landfill waste, will be significantly reduced. There is also the ambition for waste to be recycled and used as a resource.

Developments should therefore be designed to ensure that residents and visitors to the Garden Town reduce the amount of waste they produce; with an overall ambition that no waste will end up in landfill.

This section ties strongly to the [circular economy](#) section regarding the necessity of designing buildings and places in a way that maximises the lifespan of a building and its' components, before its' components can be reused.

Innovative solutions for recyclable waste management including underground refuse systems are encouraged and applicants are expected to work closely with county councils in encouraging use.

While both Essex and Hertfordshire County Councils are responsible for making decisions on how waste is managed, the Garden Town have a clear ambition to prevent waste going to landfill, therefore applicants are expected to explore innovate ways to reduce waste at design and operational stages, increase efficient recycling opportunities, and reduce residual household waste (including designing-in opportunities for local food production through allotments); and, the waste strategies should consider the [Essex Waste Local Plan](#), [Hertfordshire Waste Local Plan](#), and, the emerging Hertfordshire Circular Economy Guidance should be referred to.

Developers are expected to provide Operational Waste Strategies including management of recyclable waste, residual waste, and food waste. Alongside this, developers are encouraged to be innovative in contributing towards waste reduction campaigns (i.e. collaborating with education providers such as Harlow College)

## KEY LOCAL POLICY & GUIDANCE

Hertfordshire County Council

- Waste Local Plan, consisting of:
- Waste Core Strategy and Development Management Policies document
- Waste Site Allocations document

Essex County Council

- Waste Local Plan:



## CASE STUDIES



**Eddington, Cambridge**  
Underground chutes replace thousands of traditional wheelie bins in an innovative waste disposal system.



**London Olympic Park, London**  
A waste target of 90% diversion from landfill of demolition waste by weight



**Millerhill, Midlothian**  
Residual waste recycling and energy recovery facility

QUALITY CHECKLIST		Minimum Requirement	Net Zero-Carbon by 2050	Net Zero-Waste by 2030
W.1	How much construction, demolition and excavation (CD&E) waste will be recycled? This is to be incorporated in your Construction Management Plan			≥ 95%
W.2	How much municipal waste (operational waste) will be recycled or composted vs sent to landfill or energy recovery?			65% : 35%
W.3	Has early engagement been undertaken with LPA waste management teams to ensure due processes are taken into consideration?	No: LPA not engaged		Yes: demonstrated
W.4	Have developments been designed to encourage ease in waste recycling?			
Please attach <a href="#">Construction, Demolition and Excavation Waste Strategy</a>				
Please attach <a href="#">Operational Waste Strategy</a>				
Please use 'Sustainability Summary' pages where you are adding any further information				



# AIR QUALITY

## OBJECTIVES & REQUIREMENTS

In this section, pollution focuses on air pollution as it acts as the single largest influence on air quality to human health in the districts. This section should not be used as a substitute for work otherwise undertaken in any normal full planning application.

Every new development will have an impact on air quality, usually by increasing emissions from buildings or from traffic generation. The links between poor air quality, human health, and the environment are well documented and is classed by Public Health England as a major public health risk alongside cancer, heart disease and obesity.

**Air pollution causes more harm than passive smoking and is responsible for the early deaths of an estimated 40,000 people in the UK.**

Air Pollution arises from sources and activities including; traffic and transport, industrial processes, domestic and commercial premises, energy generation, agriculture, waste storage/treatment and construction sites.

This section adopts Public Health England's 2019 "net health gain" principles to improve outdoor air quality and public health. New developments should adopt a strategic approach, in line with each Boroughs' Air quality policy and guidance, including any requirements on Air Quality Management Areas, Local Air Quality Action Plan, and development Air Quality Assessments.

### Clean by Design: Better by Design:

The following net health gain principles should be incorporated in design to reduce emissions and contribute to better air quality management; applicable irrespective of air quality assessments:

1. Reduce the need to travel by car to destinations
2. Provide zero and low-emission travel options (EV's)
3. Not siting buildings with vulnerable users (i.e. schools, nurseries, care homes) in areas where pollution levels are likely to be higher.
4. Incorporate Clean Air Zones in larger developments
5. Avoid creating 'street canyons' which encourage pollution to build up
6. Incorporate green infrastructure to promote carbon and pollution sequestration
7. Orientate and design buildings to rely less on heating and cooling systems
8. Siting living accommodation away from roadsides
9. Incorporate whole-house ventilation systems for good indoor air quality

### KEY LOCAL POLICY & GUIDANCE

**HDC Local Plan Policy:**

- HG1: Development & Delivery of the Garden Town
- PL3: Sustainable Design, Construction & Energy Use
- PL9: Pollution and Contamination
- Harlow Area Action Plan (TC AAP)

**EFDC Local Plan Policy:**

- SP4(xvii): Highest standards of energy efficiency
- DM9: High Quality Design
- DM19: Sustainable Water Use
- DM20: Low Carbon and Renewable Energy
- DM 22 Air Quality

**EHDC Local Plan Policy:**

- CC3: Renewable and Low Carbon Energy
- DES4: Design of Development (a) & (b)
- Building Futures: Sustainable Design Toolkit
- EQ4 Air Quality



# ASSURING PERFORMANCE

## OBJECTIVES & REQUIREMENTS

Post-construction energy and quality monitoring is required to bridge the 'performance gap' found in new developments and achieve net zero-carbon . Achieving this requires a true understanding of a buildings' operational energy . The performance gap is the difference between predicted design and as-built performance of a building.

Addressing the performance gap in new homes and buildings is critical, as this affects both the 'happiness' of residents, as well as the performance quality of through; residents comfort in terms of poor thermal comfort, indoor air quality, health challenges such as respiratory issues. Furthermore, a poor performing building leads to higher energy bills due to poor building fabric, and exasperating challenging health conditions.

Findings from studies undertaken by Innovate UK and the Zero Carbon Hub consisting over 300 homes, results showed that none met their intended performance targets when tested, with the majority falling even short of Part L and Part F of the Building Regulations by a margin of over 50% post-completion.

The main challenges found in the studies are highlighted in the green box, and design teams and applicants are therefore required to undertake Post Occupancy Evaluation (PoE); assessing both performance standards and quality of life, to address these issues.

All major developments will therefore be required to monitor and report on residents' wellbeing, and the actual operational energy performance in order to close this performance gap and meet the net zero carbon by 2030 targets committed to by each partner authority.

A template PoE form can be found in Appendix 8 and should be used to show compliance. Broadly, evaluation will be required at the following stages:

1. Planning: predicted performance assessment
2. As-built: performance assessment
3. In-use: quality of life / happiness assessment

Further information can be found on the GLA website and the Zero Carbon Hub website.

### PRIORITY ISSUES

1. Energy Literacy
2. Improving Quality Output
3. Demonstrating Performance
4. Evidence Gathering & Dissemination

### QUALITY STANDARD

In line with the RIBA **Post Occupancy Evaluation** is expected for submission and should cover these key areas of Building in Quality:

1. **Build Quality:** performance of the completed buildings
2. **Functionality:** how useful the building and places is in achieving its purpose
3. **Impact:** how well these developments adds social, economic, cultural, and environmental value and improves human wellbeing



# Social & Economic Sustainability

**Goal:** Enabling integrated communities



## OBJECTIVES & REQUIREMENTS

This section looks at the direct impacts of places and people. Specifically, dealing with how new strategic sites (The East of Harlow site, Gilston Villages 1-7, Waterlane, Latton Priory) will affect the existing diverse communities they connect to.

Designing for **Social Sustainability** requires a collaborative approach between the private and public sector in order to create new communities that thrive. With the scale and pace of new development, communities must be socially, and economically, as well as environmentally sustainable, and critically, reflect the needs of existing communities. The Draft **Harlow Town Centre Area Action Plan** should be referred to in knitting existing community requirements with new development.

Addressing social sustainability at the beginning of development, helps manage the long-term costs and consequences of decline and failure in new settlements - an issue of public value and political accountability.

The issues raised in the **HGGT Healthy Towns Framework** must be addressed; as these highlight that significant proportions of the adult population in Harlow, East Herts, and Epping Forest are not physically active enough, are overweight, or have diabetes - with Harlow having the third highest rate of diabetes in the country.

All three districts have ageing population with an increasing number of people living with dementia. Child poverty and poor outcomes for children and young people are significant issues in Harlow and parts of Epping Forest.

It is therefore essential that all developments create opportunities for daily physical activity for all members of the community; as well as opportunities for supporting a healthier food environment.

Community Ingredients cut across different stages of developments including:

1. Planning & Design
2. Construction & Occupation
3. Long-term Stewardship

In implementing the high-quality Socio-Economic Sustainability Principles, developments ready themselves for strong communities that are well-integrated to the existing Harlow socio-economic fabric.

### KEY LOCAL DOCUMENTS

- HGGT Healthy Town Framework
- Essex Health & Wellbeing Strategy: priorities for planning, transport and housing
- Hertfordshire Health & Wellbeing Strategy: priorities for improving mental health and encouraging healthier lifestyles
- NHS Healthy New Towns: Design, Deliver and Manage

#### Harlow Council:

- Draft Harlow Town Centre Area Action Plan
- Harlow Health & Wellbeing Partnership Strategy
- Harlow Economic Development Strategy
- Livewell Essex
- Harlow Agewell Guide
- HGGT Infrastructure Delivery Plan (IDP)
- HGGT Vision
- HGGT Design Guide
- HGGT Transport Strategy
- HGGT Stewardship Commission
- Essex & Hertfordshire Digital Innovation Zone
- Gilston Area Charter
- Harlow Health and Wellbeing Strategy
- EFDC / HDC / EHDC Statement of Community Involvement (SCI)
- Harlow Sculpture Town
- EFDC Youth Projects interactive map
- Visit Epping Forest
- EFDC Green Infrastructure Strategy
- The Essex Map



Herts & Essex Community Farm.  
Photo credit: H&E Community Farm



Herts & Essex Community Farm.  
Photo credit: Harlow Livewell Campaign



TBC



TBC

## OBJECTIVES & REQUIREMENTS

To promote a **healthy lifestyle**, active travel should be encouraged and invested in, including ensuring good accessibility to sustainable transport and transportation; embedding the design of high-quality public and green spaces; the use of green infrastructure and biodiversity to promote good mental and physical health; and investment in long-term resilient buildings and infrastructure.

The Harlow Health & Wellbeing Strategy highlights the following key priorities that should be embedded in new developments:

1. Early Help and Startwell
2. Bewell, Staywell, Workwell
3. Agewell
4. Physical Activity and Mental Health

Additional information on other partners in Essex can be found on the **Livewell website** and **Agewell Guide**.

The following actions are therefore required from all new developments:

- Look for how this new development can increase physical activity, active living, active travel, and sport - refer to the Green Infrastructure page in this Guidance.
- Promote mental health and wellbeing through clear connections to existing support services
- Encourage older people to "Agewell" by living independent lives through increased community support and reduced winter pressures
- Support children and young people through "Startwell" by incorporating access to affordable activities such as outdoor gyms, community allotments, travelling farms, and urban farming - helping to grow local fruits & vegetables - which also allow them to Eatwell.
- Incorporating flexible workspaces such as co-working, as part of the social infrastructure in new developments to help residents Workwell, particularly in light of pandemics like Covid-19 which will change the way we work moving forward.

### VOICE & INFLUENCE

This involves governance structures to represent existing residents and engage new ones in shaping local decision-making and stewardship.

### RESILIENCE & ADAPTABILITY

Provision of flexible forward-planning; including housing, infrastructure, and services that can adapt over time; and the incorporation of meanwhile use of buildings and public spaces.



# COMMUNITY STRENGTH & SOCIAL INFRASTRUCTURE

## OBJECTIVES & REQUIREMENTS

Ensuring the existing social fabric is protected from disruption, and can benefit from new neighbouring development through shared spaces, collective activities and social architecture to foster local networks, belonging and community identity. A strong sense of local ownership; ensuring new communities are well-integrated into the surrounding area, including utilising critical measures such as stakeholder engagement and post-development governance; ensuring the social infrastructure to promote thriving social networks; and a diversity of building and non-building uses and tenures.

Incorporating the right (formal and informal) amenities to enable social inclusion. This section focuses on applicants having a thorough understanding of the local community. Applicants are therefore expected to undertake meaningful engagement with the local communities, particularly those closest to the relevant strategic site, ensuring members, local charity groups, local networks' comments are taken on board and responded to. The applicant will need to demonstrate what stakeholder engagement have been undertaken, beyond the requirements of the Statement of Community Engagement requirements. The Garden Town undertook high-level engagement and an initial list of stakeholders to be engaged can be found using the The Essex Map.

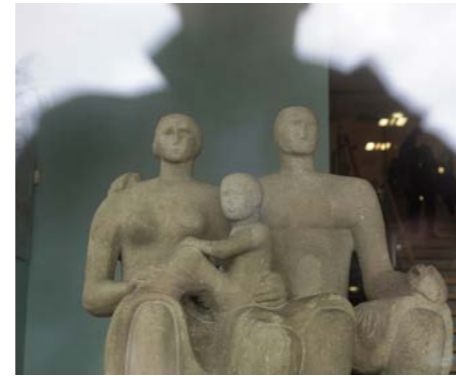
Development should tie into, and extend the rich art culture of Harlow's sculptural town - including engagement with the Harlow Art Trust.

Discover Harlow should be engaged through the development of communities; and can highlight key existing local businesses, organisations, and individuals who can share insight to the needs of Harlow residents.

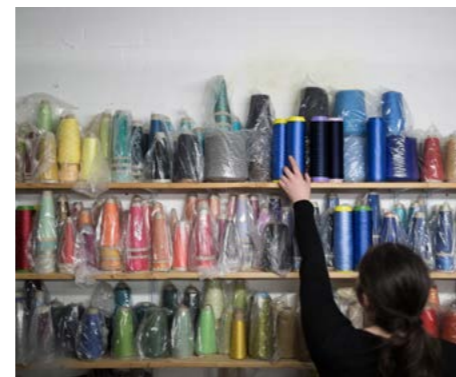
Additionally, documentation, including those found in the HGGT Infrastructure Delivery Plan (IDP), Harlow Infrastructure Delivery Plan, EFDC Infrastructure Delivery Plan, EHDC Infrastructure Delivery Plan; should be referred to and addressed in accordance with the infrastructure needs associated with planned housing and employment growth for each strategic site. Within the documents, these have been prioritised as:

- Critical
- Essential
- Desirable

Developments should therefore highlight what infrastructure will be provided alongside contributions to ensure a holistic approach to development.



Henry Moore; Harlow Family Group: part of the extensive public art collection in Harlow. Photo credit: Discover Harlow



TBC. Photo credit: Discover Harlow



Harlow community tree planting day. Photo credit: Harlow Council



Harlow hatches used during covid-19 to respond to community needs. TBC.



TBC. Photo credit: Discover Harlow



TBC. Photo credit: Discover Harlow



TBC. Photo credit: Discover Harlow



TBC. Photo credit: Discover Harlow

# ECONOMIC GROWTH & JOB CREATION

## OBJECTIVES & REQUIREMENTS

This theme focuses on outcomes including local residents having comfortable homes that are affordable to operate; thriving local businesses; decent jobs for local people, including hard to reach groups; long-term employments for skilled local labour. But also, embedding the fabric necessary to promote long-term growth and development opportunities and develop new skills, including the incorporation of principles found in the Essex & Hertfordshire Digital Innovation Zone (DIZ); and specifically, in the DIZ Strategy.

Harlow Council have been successful in developing business \_\_\_ as highlighted in Harlow's Economic Development Strategy planned for the next 5 years.

Economic priorities and Objectives:  
Business & Jobs:

Delivering on these priorities will lead to the following outcomes:

- Securing more investment and jobs from key industries such as Life Sciences, MedTech, ICT & digital and Aerospace.
- More jobs and investment by businesses that are part of the supply chain of key industries.
- Continued growth in the business base.
- A healthy business start-up and survival rate.
- Young people and adults gaining entrepreneurial skills and experience to help with future career success and entrepreneurship.

Place:

- Delivering on these priorities will lead to -
- An outstanding location and environment for businesses, particularly those where Harlow has existing strengths - including ICT, Advanced Manufacturing and Life Sciences industries.
  - Attract and retain more jobs in Harlow.
  - A world class Public Health Campus.
  - A sufficient, high quality, viable employment land supply to meet future demand and provide a credible offer to prospective inward investors.
  - New managed workspace and a mix of premises sizes and styles that cater for existing and future demand.
  - A vibrant, inclusive Town Centre that attracts and retains existing and new residents and workers and where expenditure and footfall increases.



## QUALITY CHECKLIST

For each response, describe design responses within the Sustainability Statement and/or identify details on your plans (250no. words / question max).

Se.1	Has an audit (social mapping) of existing local amenities (shops, parks, school, pubs, playspace) been undertaken? Demonstrate how the outcome informed the development of compact neighborhoods including provision of a wide range of amenities (employment & retail spaces, community facilities and spaces) designed to be accessible by walking and cycling and encourage community interaction, cultural and civic life. <a href="#">Essex Map</a> offers a good tool to assist with finding local services, groups, and activities available in the local area.
Se.2	Demonstrate how proposals have been informed by key stakeholders (including: youth, unemployed, ethnically diverse groups, local support organisations) to contribute to a more integrated community. (include in response: the stakeholders you have engaged with, the findings from these sessions, and how you have implemented stakeholder recommendations). Include community activation strategy (Ref: HGGT Engagement Strategy) produced as part of planning process to secure community engagement and cohesion.
Se.3	Demonstrate how your proposal has provided health and care assets or support the delivery of health and care priorities as set out in the local Health & Wellbeing Strategies. (include the ease of accessibility for existing Harlow communities to use new facilities and networks). Use of the <a href="#">Essex Map</a> offers a good tool to assist with finding local services, groups, and activities available in the local area.
Se.4	What early wins / meanwhile uses are planned for existing Harlow residents during construction stage of strategic sites? And how are they to be implemented?

## QUALITY CHECKLIST

Se.5	Demonstrate how your proposal includes allotments and community gardens that are easily accessible from homes and spaces for fresh food markets; and how your development has connected with local food partnerships to agree strategies and actions to enable community accessibility to these assets.
Se.6	Demonstrate how your proposal supports of deliver initiatives (physically and/or socially) which focus on integration between new and existing communities (including Harlow Town Centre, and network of existing local centres) - this to include your engagement with LPA Community Liaison Officers, and Community Representatives (i.e. <a href="#">Discover Harlow Ambassadors</a> ).
Se.7	Demonstrate how the HGGT Economic Growth Strategy have been incorporated in this scheme through; design stage, construction stage, and post-completion (identify what jobs have been created / will be created through this development)

## ADDITIONAL CASE STUDIES



**Manor House Development Trust**  
A community centre managed by MHDT, a resident-led social enterprise, which uses the space to provide art programmes, employment and workshops



**The Big Lunch (Eden Project)**  
The Big Lunch is an annual national event where people organise lunch with their neighbours, at home or in the street.



**Social infrastructure: enabling social inclusion**  
A research inquiry into the role of social infrastructure in enabling social integration in communities.



# Submission:

## 1. Quality Checklist

(SUBMISSION OF: ENVIRONMENTAL & SOCIO-ECONOMIC PAGES)

## 2. Sustainability Statement

(ANY ADDITIONAL INFORMATION)

1. Submit the following as evidence of the completed Quality Checklists

LIST OF SUBMISSION ATTACHMENTS	
<b>DESIGN PRINCIPLES</b>	
Daylight & Sunlight Assessment	
Noise Assessment	
<b>ENVIRONMENTAL SUSTAINABILITY</b>	
Energy Efficiency & Carbon Reduction	
Whole life carbon Assessment	
Overheating Design Assessment	
Renewable Energy	
Energy Assessment	
Sustainable Movement	
Sustainable Travel Plan	
Transport Assessment	
Water Efficiency	
Water Management / SUDs Strategy	
Green Infrastructure	
Ecological Report (to include Biodiversity Impact Assessment)	
Lighting Assessment	
Landscape Character and Tree Surveys	
Circular Economy	
Circular Economy Report (linked to Construction Management Statement)	
Construction Management Statement	
Waste Management	
Operational Waste Strategy	
Pollution: Air Quality	
Air Quality Impact Assessment	
Assuring Performance	
Post-Occupancy Evaluation	
<b>SOCIO-ECONOMIC SUSTAINABILITY</b>	
Health Impact Assessment (HIA) ( <a href="#">Guidance Link</a> )	
Health Framework Action Plan	
Community Engagement and co-creation strategy	
Stewardship Strategy / Long-term Maintenance Strategy	

2. Include any additional strategies that have not been covered by the Quality Checklists:

NB: all submitted assessments / reports will be conditioned to the LPA at post completion / pre-occupation stage to ensure that buildings and communities are being completed to the specified design standards; in order to close the performance gap and create truly sustainable communities.





# Glossary

## GLOSSARY

Harlow & Gilston Garden Town (HGGT): refers to all partner authorities highlighted above

Carbon Neutral = Net zero carbon (both are used interchangeably throughout this guidance)

UKGBC: UK Green Building Council

Net zero-carbon (construction): When the amount of carbon emissions associated with a building's product and construction stages up to practical completion is zero or negative, through the use of offsets or the net export of on-site renewable energy. - UKGBC

Net zero-carbon (operational): When the amount of carbon emissions associated with the building's operational energy on an annual basis is zero or negative. A net zero carbon building is highly energy efficient and powered from on-site and/or off-site renewable energy sources, with any remaining carbon balance offset. - UKGBC

Social Sustainability: a process for creating sustainable, successful places that promote wellbeing, by understanding what people need from the places they live and work; combining design of the physical realm with design of the social world, to support citizen engagement and space for people and places to evolve. - Social Life

[GLOSSARY:  
TO BE COMPLETED]



# Appendices



## EPPING FOREST DISTRICT COUNCIL

Declaration: Climate Emergency  
Date of Declaration: 19th September 2019  
Motion Link: Here  
Cllrs: S.Nevile + J.Phillip

Adopted Motion / Commitment:

1. Declare a 'Climate Emergency';
2. Pledge to do everything within the Council's power to make Epping Forest District Council area **Carbon Neutral by 2030**;
3. Call on Westminster to provide the powers and resources to make the 2030 target possible;
4. Work with other governments (both within the UK and internationally) to determine and implement best practice methods to limit Global Warming to less than 1.5°C;
5. Continue to work with partners across the district and region to deliver this new goal through all relevant strategies and plans;
6. In the special circumstances of this district, resolves to protect the Special Area of Conservation through the Local Plan and every other means;
7. **Implement** an Air Quality Strategy and bring forward **Sustainability Guidance** on planning; and
8. Engage with young people when considering the issue of climate change and appoint a 'Youth Ambassador' from the Epping Forest Youth Council."

## EAST HERTS DISTRICT COUNCIL

Declaration: Climate Change Action  
Date of Declaration: 24th July 2019  
Motion Link: Here  
Cllrs: Graham McAndrew

Adopted Motion / Commitment:

1. Join with other councils in recognising and declaring formally the necessity to do everything within the authority's power to reduce its impact on the climate and moreover do everything we can in supporting the whole of East Herts District to become **carbon neutral by 2030**,
2. Develop an ambitious sustainability strategy for reducing the council's own emissions, with an objective that the council becomes carbon neutral by 2030,
3. Work with national and regional partners to ensure that where at all possible we support climate friendly planning and building control regulations and seek where possible to include the very best measures into the Local Plan to minimise any negative impact on the environment,
4. Call on National Government for more powers and resources to make this pledge possible, and ask the council's Leader to write to the Secretary of state for Environment, Food and Rural Affairs to this effect,
5. Continue to work with partners across the district, county and region to deliver this new goal, through all relevant strategies and plans,
6. Take account of climate impacts within existing decision-making processes,
7. Set up an Environmental and Climate Forum, in line with the recommendations from the Task and Finish Group, which were approved by this Council on 5th March, 2019,
8. The Environmental Forum to monitor progress regularly, and to report back,
9. Commit to making available the appropriate training to members and officers to promote carbon neutral policies in order to achieve these aims.

## HARLOW DISTRICT COUNCIL

Declaration: Climate Emergency  
Date of Declaration: 11th July 2019  
Motion Link: Here

Adopted Motion / Commitment:

1. Reducing the council's net carbon emissions as far as possible and **reducing the carbon footprint** at a greater rate than it is already committed to do so. Other actions include:
  2. Planting 1,000 new trees and hedgerows across the town in the next year.
  3. Encouraging the council's trading company HTS (Property & Environment) Ltd to switch over from petrol and diesel vehicles, plant and machinery to electric power vehicles, plant and machinery.
  4. Encouraging HTS to source battery technology for its electric vehicles from companies who ensure environmentally friendly lithium mining techniques.
  5. Reaffirming the council's commitment to the Garden Town development's principles of sustainable transport.
  6. Eliminating the use of single use plastics across all public council buildings by January 2020 ahead of the national implementation date of April 2020.
  7. Actively promote schemes to encourage children to walk to school such as the Walking Bus initiative and WOW (walk on Wednesdays).
  8. Installing electric car charging points across all council car parks within the next five years where possible.
  9. Developing a strategy which looks at the feasibility of:
    - i) Installing photovoltaic panels on all public council buildings within the next two years where possible; and
    - ii) **New council built houses having a minimal carbon footprint**; and
    - iii) An action plan is created to focus on reducing the impact of day-to-day living on the environment beyond that caused by greenhouse gas emissions.

## HERTFORDSHIRE COUNTY COUNCIL

Declaration: Climate Emergency  
Date of Declaration: 16th July 2019  
Motion Link: Here  
Cllrs: David Williams

Adopted Motion / Commitment:

Hertfordshire County Council's sphere of influence is broad with the ability to influence carbon emission reductions, improve air quality, promote energy efficiency, seek more sustainable sources of energy, reduce waste production, promote better land use practices, make links to health and wellbeing and influence procurement practices.

The Council's existing initiatives include an Air Quality Strategy, Energy Strategy, a Climate Change Resilient Communities Strategy, a Pollinator Strategy and the Leading by Example working group.

To fortify and coordinate the Council's existing initiatives, contribute to the national imperatives and provide local leadership:

- This Council agrees the declaration of a **"Climate Emergency"**;
- Calls upon the Leader of the Council to commit to the development and implementation of an overarching Sustainable Hertfordshire Strategy. This will set out the policies, strategies, implementation plans and resourcing requirements to embed the values of sustainability into the Council's service delivery, operations, procurement and supplier management as well as the basis for engaging proactively with the County's many stakeholders, including the 10 Local Planning Authorities, who can contribute to a sustainable Hertfordshire; and
- Seek Cabinet approval of an ambitious **Sustainable Hertfordshire Strategy** by the end of 2019."

## ESSEX COUNTY COUNCIL

Essex Climate Action Commission  
Set up to tackle climate change making recommendations on how to improve the environment and economy of Essex. The Climate Action Commission will:

- Identify ways where we can mitigate the effects of climate change, improve air quality, reduce waste across Essex and increase the amount of green infrastructure and biodiversity in the county
- Explore how we attract investment in natural capital and low carbon growth

# APPENDICES LIST

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**Appendix 2a: Whole Life Carbon Assessment Flowchart**

RICS Whole life Carbon Assessment Flowchart  
<https://www.rics.org/globalassets/rics-website/media/news/whole-life-carbon-assessment-for-the--built-environment-november-2017.pdf>

**Appendix 2b: Whole Life Carbon Assessment**

RICS Whole life Carbon Assessment Tables 12 & 13  
<https://www.rics.org/globalassets/rics-website/media/news/whole-life-carbon-assessment-for-the--built-environment-november-2017.pdf>

**Appendix X: Overheating Design Assessment: Risk Tool**

GHA Overheating in New Homes  
<https://goodhomes.org.uk/wp-content/uploads/2019/07/GHA-Overheating-in-New-Homes-Tool-and-Guidance.pdf>

**Appendix 8: Post Occupancy Evaluation Report**

RIBA Sustainable Outcomes Report:  
<https://www.architecture.com/-/media/GatherContent/Test-resources-page/Additional-Documents/RIBASustainableOutcomesGuide2019pdf.pdf>

**Appendix X: Circular Economy Statement**

GLA Circular Economy Statement:  
[https://www.london.gov.uk/sites/default/files/ggbd\\_circular\\_economy\\_statement\\_guidance\\_2020\\_web.pdf](https://www.london.gov.uk/sites/default/files/ggbd_circular_economy_statement_guidance_2020_web.pdf)

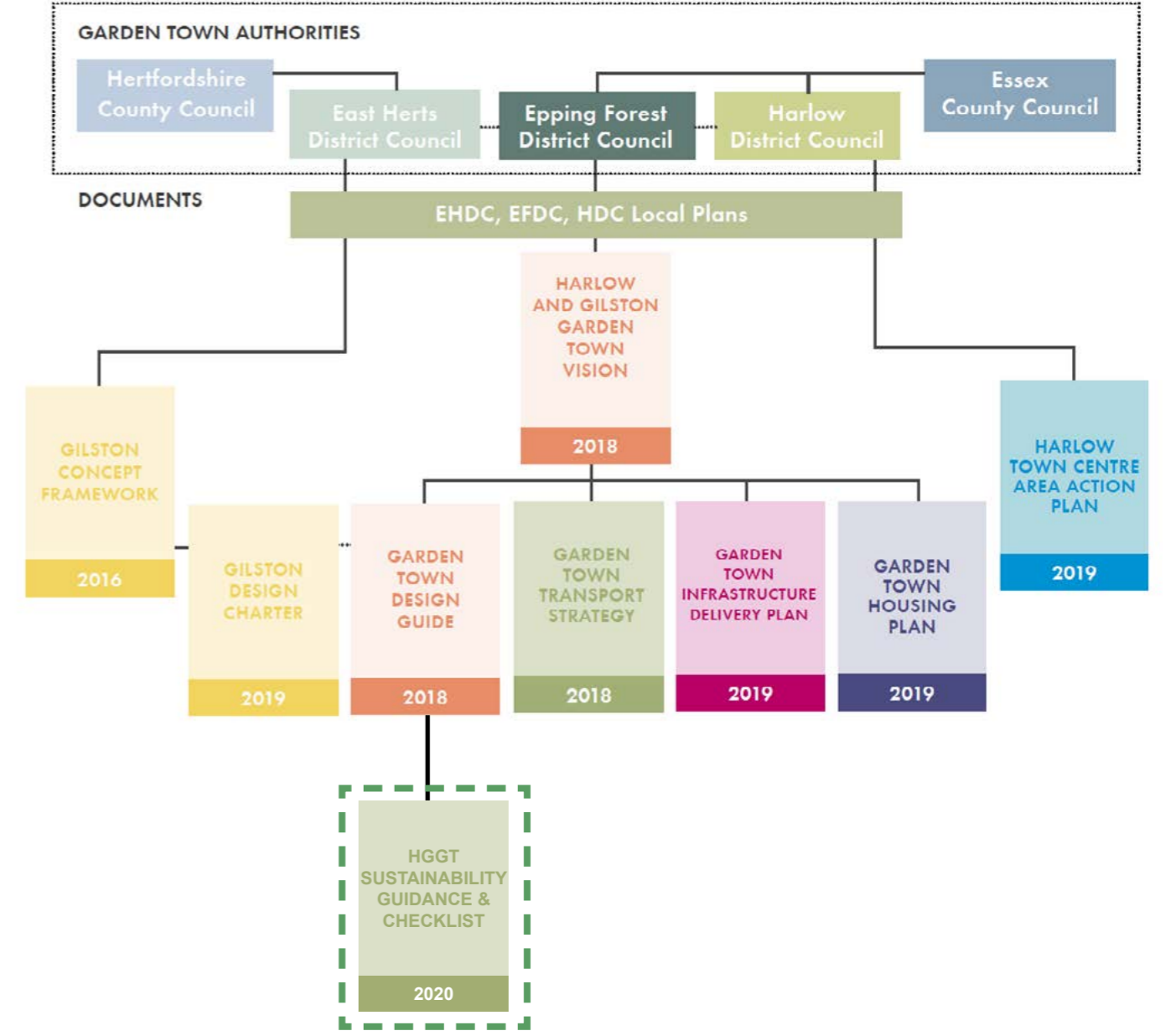
**Appendix X: Draft Pre-Occupation Planning Condition / Obligation**

Wording To Be Agreed

**Appendix X: Heat Decision Tree**

LETI Climate Emergency Design Guide: Heat Decision Tree (pgs 76 - 77)  
[https://b80d7a04-1c28-45e2-b904-e0715cface93.filesusr.com/ugd/252d09\\_3b0f2acf2bb24c019f5ed9173fc5d9f4.pdf](https://b80d7a04-1c28-45e2-b904-e0715cface93.filesusr.com/ugd/252d09_3b0f2acf2bb24c019f5ed9173fc5d9f4.pdf)

# APPENDIX X: FAMILY OF DOCUMENTS



**APPENDIX X: LIST OF KEY PERFORMANCE STANDARDS & GUIDANCE REFERENCED**

This list is not exhaustive and there are additional documents used in the creation of this Guidance.

- Energiesprong: Performance requirements: Part L UK vs Energiesprong vs Passivhaus.
- Pasivhaus Trust
- BREEAM Communities
- BREEAM Home Qualities Mark (HQM)
- UKGBC Net Zero Carbon Buildings
- First Steps Urban Air Quality
- Mayor of London Energy Assessment Guidance
- London Plan Energy Hierarchy
- RIBA Climate Challenge
- The Future Homes Standard
- National Design Guide
- London Plan: Monitoring - Be Seen
- Transport for New Homes
- GLA: Urban Greening Factor
- Zero Carbon Hub: Closing the Gap between Design & As-built: July 2014
- Innovate UK: Building Performance Evaluation Programme: Findings from non-domestic projects

# Acknowledgements

This document has been developed with the assistance of HGGT partner authorities and industry experts, participating in workshops, focused sessions and reviews. HGGT would like to sincerely thank all participants, alongside all involved stakeholders and consultation respondents for their feedback, assistance and contributions to the HGGT Sustainability Guidance & Checklist.



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## East Herts Council Report

### Executive

**Date of Meeting:** 6th October 2020

**Report by:** Councillor Peter Boylan – Executive Member for Neighbourhoods

**Report title:** Policies for Enforcing Standards for Private Sector Landlords

**Ward(s) affected:** All

---

### Summary

#### RECOMMENDATIONS FOR Executive:

(a) That the proposed new policies relating to housing standards enforcement and the adoption of the powers introduced in the Housing and Planning Act 2016 be recommended to Council for adoption.

#### 1.0 Proposal(s)

- 1.1 It is proposed that the new policies covering the areas below, are recommended by the Executive to Council for adoption:
  - 1.1.1 Issuing of Civil Penalties
  - 1.1.2 Applications for Rent Repayment Orders
  - 1.1.3 Applications for Banning Orders, and
  - 1.1.4 Use of the Rogue Landlords and Property Agents database
- 1.2 It is proposed that the Executive reviews the draft policies prior to recommendation to Council for adoption.

## 2.0 Background

- 2.1 The Housing and Planning Act 2016 (“the Act”) introduced a range of measures to help local housing authorities tackle rogue landlords and drive up standards in the private rented sector.
- 2.2 Guidance produced by the Ministry for Housing, Communities and Local Government (MHCLG) supports officers in the use of the measures and states the expectation that Local Housing Authorities will develop and document their own policy on aspects of their use.
- 2.3 Any amounts received through civil penalties or rent repayment orders can be retained by the Authority for use in relation to private sector housing enforcement activities.

### ***Policy 1 Issuing of Civil Penalties***

- 2.4 The introduction of civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences will allow enforcement against those landlords who seek to manipulate or ignore the legislation and provide substandard, non-compliant and/or unsafe residential properties.
- 2.5 The legislation requires that both the decision to use civil penalties as opposed to prosecution and the level of civil penalty charged are decided on a case by case basis and that the level is not set as a fixed fee. The policy together with the associated financial penalty matrix, which has been developed with other authorities in Hertfordshire and Bedfordshire, will help ensure the council uses civil penalties consistently and in a transparent way. Among other things, the penalty matrix considers the culpability of the offender together with the actual or potential harm caused to the tenants.
- 2.6 Whilst the level of proof remains the same as in a criminal case, providing an alternative to prosecution through the courts will improve the efficiency of our



housing standards enforcement.

- 2.7 Policy 1 included in the document at Appendix 1 explains the factors that will be considered in determining both whether to impose a civil penalty and the level of that penalty. The financial penalty matrix uses these factors in the setting of the penalty.

***Policy 2 Applications for Rent Repayment Orders***

- 2.8 A Rent Repayment Order is an order made by the First-tier Tribunal (part of the Ministry of Justice Courts and Tribunals Service) requiring a landlord to repay a specified amount of rent where the landlord has been convicted of or has committed one of the specified offences.
- 2.9 The maximum amount that can be recovered is capped at 12 months' rent. Where the landlord has been convicted of one of the specified offences the tribunal must award this maximum however, where the landlord has not been convicted, the Council will consider a series of factors to determine the amount that we will seek to recover.
- 2.10 Policy 2 included in the document at Appendix 1 gives the outline process to be followed and explains the factors that will be considered in determining both whether apply for a rent repayment order and the level rent we will seek to recover.

***Policy 3 Applications for Banning Orders***

- 2.11 Banning Orders are intended to be used for the most serious offenders and have the effect of banning a landlord or property agent from renting out property for a specified period of time. An application for a banning order can be made to the First Tier Tribunal for offences committed after April 2018.
- 2.12 Banning orders can only be applied for where the landlord or agent has been convicted of a banning order offence as specified in regulations to the Act. These

include both housing related offences and others not directly related to housing, such as fraud, sexual assault, misuse of drugs, theft and stalking. If the council intend to apply, a notice of intention must be served within 6 months of the day that the landlord or agent is convicted.

- 2.13 Policy 3 included in the document at Appendix 1 gives the factors that will be considered in determining both whether to apply for a banning order and our recommendation to the First Tier Tribunal for the period of that banning order.

***Policy 4 Use of the database of rogue landlords and property agents***

- 2.14 This been introduced as a tool to keep track of rogue landlords and property agents especially those operating across council boundaries. The database has been developed and is hosted by the MHCLG and Local housing authorities are responsible for maintaining the content of the database.
- 2.15 The authority is required to make an entry on the database where a person or organisation has received a banning order. We also have discretion to make entries either for a person or organisation who has been convicted of a banning order offence or where a person or organisation has received two or more financial penalties in respect of a banning order offence within 12 months. For either situation the offences must have been committed at a time when the offender was a residential landlord or a property agent.
- 2.16 Policy 4 included in the document at Appendix 1 gives the factors that will be considered in determining both whether apply make an entry onto the database and the period that the entry will remain on the database.

***Consultation***

- 2.17 Public consultation commenced on 6<sup>th</sup> August 2020 and

continued until 15<sup>th</sup> September. Known landlords and letting agents were advised of the consultation by email and it has been featured on the council's social media platforms. No landlords or agents made responses with one response received from a tenant. The tenant was supportive of the policies although raised some concerns about the potential impact of banning orders on existing tenants and the possibility of support to prevent homelessness. This concern has been noted but does not require a reframing of the proposed policies.

- 2.18 The proposed new policies relating to housing standards enforcement and the adoption of the powers introduced in the Housing and Planning Act 2016 were considered by members of the Overview and Scrutiny Committee on the 15 September 2020. The Committee made a number of suggestions to improve clarity and these have been incorporated.

### **3.0 Reason(s)**

- 3.1 The statutory guidance for Civil Penalties and Rent Repayment orders expect policies to be developed and adopted by the Local Housing Authority for determining the use of these measures as does the non-statutory guidance for Banning Orders. Thus, it is here being recommended that the Executive consider the draft policies and endorse their presentation to Council for approval and adoption.

### **4.0 Options**

- 4.1 In exercising its powers, the Executive has the options to:
- signal its contentment with the policies as currently drafted. If this approach is taken, this will be relayed to Council when it considers the final draft version or

- make amendments to the policies to be put to Council; or
- consider that there is an insufficient case for the policies, whether amended or not, to be put to Council for determination in which case the policies will not be put to Council for consideration.

## 5.0 Risks

### ***If the policies were not adopted***

- 5.1 Without these policies being adopted the council would still be able to take prosecutions against landlords who have committed an offence however this can be a time consuming process with costs to both parties. The council could face criticism for not using the alternative enforcement approaches and using court time unnecessarily.
- 5.2 If the council were unable to make Banning Orders this would allow the worst offenders to continue in the private sector rental market possibly causing harm to further vulnerable tenants.
- 5.3 The council would also lose the opportunity to recoup moneys towards the running costs of the enforcement work undertaken with respect of private sector housing

### ***If the policies were adopted***

- 5.4 Should the proposed revised policies ultimately be approved by Council, there are possible reputational risks where an offender challenges our use of these enforcement powers. These policies do however support transparency and consistency in our enforcement, we are required to have evidence at a criminal standard before they are used and there are appeal processes through the Tribunal Service for an aggrieved offender.

## **6.0 Implications/Consultations**

- 6.1 The outcome of the public consultation is discussed in section 2 above.
- 6.2 There are no adverse implications arising from the adoption of these policies and they could allow the council to retain money received from civil penalties of rent repayment orders.

### **Community Safety**

Yes/No

### **Data Protection**

No

### **Equalities**

Following a screening review it is agreed that there is no requirement to complete a full Equalities Impact Assessment as the audience for this is quite narrow

### **Environmental Sustainability**

No

### **Financial**

Yes – No comments or amendments made.

### **Health and Safety**

No

### **Human Resources**

Yes/No

### **Human Rights**

No

### **Legal**

Yes – Having a clear policy in place will help ensure consistency in the application of the law and offer an alternative to prosecution for

appropriate cases.

## **Specific Wards**

No

## **7.0 Background papers, appendices and other relevant material**

### **7.1 Appendix 1 - East Hertfordshire District Council Policies on Additional Housing Standards Enforcement Powers**

This document incorporates the four proposed policies together with a glossary of terms and links to key reference documents.

### **Contact Member**

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Neighbourhoods

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# **East Hertfordshire District Council**

## **Policies on Additional Housing Standards Enforcement Powers**

**Draft for review by the Executive Sept 2020**

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## **Introduction**

### **Central Government context and the introduction of new powers**

The Government has repeatedly stated that it wants to support good landlords who provide decent well maintained homes but that there are a small number of rogue or criminal landlords who knowingly rent out unsafe and substandard accommodation. They are clear that this small minority of rogue landlords and property agents who knowingly flout their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing.

This document incorporates policies for a range of measures aimed at improving standards in housing through the use of:

1. Civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences
2. Extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences
3. Banning orders for the most serious offenders
4. A database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties

### **Local context and enforcement of housing standards**

The council aims to ensure that all residents living in East Herts have a home that provides a safe and healthy environment that is free from any hazards that have the potential to pose a health and safety risk to any occupier or visitor.

Many landlords in our district work well with the Council and where we find problems they will put things right promptly. Others, whilst they will respond, tend to delay and require significant time and effort from our officers to ensure safety standards are met. Before the introduction of these measures prosecution through the criminal courts was the primary enforcement option adding significant delays and additional officer time. Civil penalties, whilst still requiring the same burden of proof provide us with a more timely option to enforce on landlords who knowingly do not maintain safety features or who delay safety checks or improvement work. Time saved from chasing the second group of landlords will free up officers to target those landlords in our district who chose not to work with us and who have more dangerous properties or who are avoiding HMO licensing. For this group significant civil penalties, as an alternative to prosecution will be considered where this is seen to be appropriate.

## **This Document**

The Council's policies have been produced with due regard to the government guidance. There is also a Glossary of key terms and a list of relevant legislation and guidance.

The hyperlinks below will take you to each section.

[Policy 1 - The issuing of a civil penalty under the Housing and Planning Act 2016](#)

[Policy 2 - The application for a Rent Repayment Order under the Housing Act 2004 and the Housing and Planning Act 2016](#)

[Policy 3 - The application for a banning order under the Housing and Planning Act 2016](#)

[Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016](#)

[Glossary of Terms - Housing Enforcement](#)

[Key reference documents](#)

## **Policy 1 - The issuing of a civil penalty under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 enables Local Authorities to impose civil penalties as an alternative to prosecution for certain offences under the Housing Act 2004. This policy supports the use of this enforcement route and specifically identifies the factors to consider when determining the use of civil penalties.

Statutory guidance has been issued by the Ministry for Housing, Communities and Local Government (MHCLG) under section 23 (10) and Schedules 1 and 9 of the Housing and Planning Act 2016. The Council must have regard to this guidance in the exercise of its functions in respect of civil penalties. This guidance can be accessed [here](#).

### **Specified offences for which a civil penalty can be imposed**

The specified offences appropriate to East Hertfordshire District Council are:

- failing to comply with an improvement notice - Housing Act 2004 Section 30
- offences in relation to the licensing of houses in multiple occupation - Housing Act 2004 Section 72
- offences in relation to the contravention of an overcrowding notice - Housing Act 2004 Section 139
- failure to comply with management regulations in respect of houses in multiple occupation - Housing Act 2004 Section 234.

### **Burden of proof**

Civil penalties are an alternative to prosecution and the same criminal standard of proof, that is beyond reasonable doubt, is required. Before taking formal action officers must be satisfied that this is appropriate with respect to the relevant enforcement policies and that if the case was to be prosecuted in a magistrates court there would be a realistic prospect of conviction. This will be determined considering the two stages of the Full Code Test within the Crown Prosecution Service's "Code for Crown Prosecutors" to review both the sufficiency of evidence and whether it is in the public interest to impose a penalty. Due regard will also be given to any potential defences and it may be appropriate to undertake an interview under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) to explore this.

### **Determining whether to issue a civil penalty or to prosecute**

When the Council is satisfied that a relevant offence has been committed and that it is in the public interest to proceed formally we will decide whether to prosecute or issue a civil penalty.

In deciding whether to impose a civil penalty or to proceed to prosecution we will take into consideration factors including the seriousness of the offence; the culpability of the offender; the harm, or potential harm to tenants; and the impact on the wider community.

The following, while not exhaustive, are situations where prosecution may be more appropriate;

- the offence was very serious, for example failure to comply with an improvement notice where there was significant risk of injury or loss of life and/or
- the offender has been prosecuted or previously has been issued with civil penalties for similar Housing Act offences.

The following, while not exhaustive, are situations where the issuing of a civil penalty may be more appropriate:

- no history of previous non-compliance with relevant legislation
- no previous convictions of relevant offences
- breaches of management regulations or licence conditions where there was no imminent risk of injury or loss of life
- the offence was committed as a result of a genuine mistake or misunderstanding, although this will be balanced against the seriousness of the offence
- prosecution is likely to have a serious adverse effect upon the offender's physical or mental wellbeing, although this will be balanced against the seriousness of the offence.

### **Determining the level of civil penalty to be imposed**

The Housing and Planning Act 2016 specifies that the amount of penalty that can be imposed is to be determined by the Council but must not be more than the legal set maximum (currently £30,000 per offence). The Council has developed this policy on determining the appropriate level of civil penalties allowing for each specific case to be determined against the recommended factors. The maximum penalty is reserved for the worst offenders. The guidance states that the penalty should be a punishment which has a real economic impact to the offender.

To aid with consistency we have worked with the other Herts and Beds Councils and developed a financial penalty matrix that takes into account relevant matters including, but not limited to:

- the culpability of the offender
- that the penalty should remove any financial benefit obtained as a result of the commission of the offence
- the severity and seriousness of the offence and the past history of the offender
- the harm, or potential harm, caused to the tenant.

Finally the penalty should act as a deterrent to repeating the offence and to others from committing similar offences. The image below gives an indication of the matrix which is included in full as Appendix A to this policy.

**Appendix 1: Financial Penalty Matrix**

Offender Name:		Ref:			
Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20
<b>1. Culpability</b>	Low; Offence committed with little or no fault on the part of the responsible person	Low/Medium; An awareness of the legal framework and systems in place to ensure compliance but these were not implemented	Medium/High; despite an awareness of the legal responsibilities the responsible person failed to put in place suitable systems in place to ensure compliance	High; There was some awareness of the law but the responsible person still allowed/committed the offence.	Very High; intentional breach by responsible person. For example non compliance with a Formal Notice
<b>2. Removal of Financial Incentive</b>	No Significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2-3 properties). Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.
<b>3. Offence &amp; History</b>	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offences of moderate to large severity or a single instance of a very severe offence or multiple breaches.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.
<b>4. Harm ,or potential harm, to Tenant(s)</b>	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).
<b>Total Penalty (£):</b>		£		-	
<b>Final penalty after mitigating or aggravating</b>					
<b>Reasoning (if changed)</b>					

Figure 1 - Financial Penalty Matrix

**Factors when considering culpability**

In determining the level of culpability we will have regard to the following:

- whether there was the intention to commit the offence
- whether the offence has resulted from reckless behaviour for example where the offender had some appreciation of the effects their actions would have but proceeded regardless
- whether the offender had knowledge of the risks of harm that their actions could cause
- whether the offender’s actions are considered to be negligent.

**Factors when considering the harm, or potential harm, caused**

In determining the level of harm we will have regard to:

- the persons affected in terms of physical injury, negative impacts on their health, and any psychological distress
- any vulnerability of the persons affected
- the number of persons affected
- the community in terms of economic loss and the effects on public health, public complaints and the effects of poor housing condition on the neighbourhood.

The degree of harm will depend on the personal characteristics and circumstances of the person affected, normally the tenant. Where no actual harm has resulted from the commission of the offence we will consider the relative danger and the potential of harm that could have resulted as a result of the offences.

The use of the matrix then generates a score which corresponds to a representative penalty as follows:

Score	Penalty	Possible situation
1-5	£250	Landlord failing to provide certain certificates required under HMO Management Regulations or HMO licence
6-10	£500	
11-20	£750	
21-30	£1,000	
31-40	£2,500	Failure to comply with Housing Act Improvement Notice for Category 1 hazard having previously committed a minor offence
41-55	£5,000	
56-65	10,000	
66-75	£15,000	Portfolio landlord evading HMO licensing and non-compliance with Improvement notices for Category 1 hazards
76-85	£20,000	
86-95	£25,000	
96-100	£30,000	

### Aggravating Factors

The amount of penalty can be increased into the next band if there are any relevant aggravating factors.

### Multiple Offences

Only one penalty can be imposed in respect of the same offence. However, where we are satisfied that more than one offence has been committed multiple civil penalties can be issued, for example for multiple breaches of the Management Regulations in a House in Multiple Occupation. However, we will consider whether the issuing of multiple penalties would result in an excessive cumulative amount and this policy gives discretion in this situation. For instance we could decide that it is appropriate to issue a civil penalty for the most significant offences and warn the offender that continuation or repeating of the other offences may result in further formal enforcement action being taken.

## **Determining the decision**

The decision to continue and serve a civil penalty will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

## **The process for imposing a civil penalty**

Where we have determined that a civil penalty as opposed to prosecution is the appropriate course of action we will follow the following process (references to days are to calendar days):

- 1) a 'Notice of Intent' will be served on the person(s) responsible for the commission of the offence(s). The notice will specify:
  - the amount of the proposed penalty
  - the reasons for the proposed penalty
  - information relating to the right of the recipient to make representation to the Council
- 2) the recipient of the Notice is given 28 days to make representation to the Council regarding the proposal to impose a civil penalty
- 3) following the 28 day period we will decide whether to impose the proposed civil penalty and the appropriate value. This could be varied taking into account any representations received from the recipients
- 4) if we decide that a civil penalty is still appropriate a Final Notice will be served which will specify:
  - the amount of the penalty
  - the reasons for imposing the penalty
  - information on how and when to pay the penalty
  - information regarding the right of appeal against the imposition of a civil penalty to the First Tier Tribunal
  - the consequences of failure to comply with the notice.

## **Consequences of non-payment and miscellaneous provisions**

If the landlord or property agent fails to pay a civil penalty, the Council will seek to recover the penalty by order from a County Court including the costs incurred in taking such action where deemed appropriate.

The Council may at any time withdraw any notices it has served or amend the amount of penalty specified. This would be decided by the Service Manager – Environmental Health in consultation with the Head of Housing and Health.



### **Links with the National Database of 'Rogue Landlords and Letting Agents'**

Where a landlord receives two or more civil penalties, from East Herts Council, over a rolling 12 month period the Council may make an entry on the National Database of 'Rogue Landlords and Letting agents' in accordance with Housing & Planning Act 2016 s30. When considering if this is an appropriate course of action the Council will have regard to its policy on making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016 (Policy 4 in this document) and to the statutory guidance issued by the MHCLG in April 2018 or any updated statutory guidance.

Appendix A – Financial Penalty Matrix

(see excel file Financial Penalty Matrix)

## **Policy 2 - The application for a Rent Repayment Order under the Housing Act 2004 and the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 has extended the powers introduced in the Housing Act 2004 to seek a Rent Repayment Order against landlords in the private rented sector for a range of offences. A Rent Repayment Order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent to either the tenant or the local housing authority depending on whether the rent was paid by the tenant or through a benefit route. This policy supports the use of this enforcement option and specifically identifies the factors to consider when determining whether to apply for a Rent Repayment Order and the level of rent to be recovered.

Statutory guidance has been issued by Ministry for Housing, Communities and Local Government (MHCLG) under section 41 of the Housing and Planning Act 2016. Local housing authorities must have regard to this guidance in the exercise of their functions in respect of Rent Repayment Order. This guidance can be accessed [here](#).

### **Specified offences for which a Rent Repayment Order can be imposed**

The specified offences appropriate to East Hertfordshire District Council are:

- control or management of unlicensed HMO – Housing Act 2004 Section 72
- failing to comply with an Improvement Notice - Housing Act 2004 Section 30
- failure to comply with a Prohibition Order - Housing Act 2004 Section 32
- breach of a banning order – Housing and Planning Act 2016 Section 21
- using violence to secure entry to a property - Criminal Law Act 1977 section 6
- illegal eviction or harassment of the occupiers of a property - Protection from Eviction Act 1977 section 1.

An application for a Rent Repayment Order can be made when the landlord has committed an offence, whether or not a landlord has been prosecuted or received a civil penalty for that offence.

It should be noted that the Council can both impose a Civil Penalty and apply for a Rent Repayment Order for certain offences. Both Civil Penalties and Rent Repayment Orders are available for the following offences under the Housing Act 2004:

- failure to comply with an Improvement Notice (section 30)
- offences in relation to licensing of Houses of Multiple Occupation (section 72(1))
- offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

### **Who can apply for a Rent Repayment Order?**

Either a tenant or the Council can apply for a Rent Repayment Order.

Where a landlord has been convicted of an appropriate offence the Council will consider making an application.

Where a landlord has committed an offence but has not been prosecuted and housing benefit or universal credit has been paid (to the tenant or directly to the landlord) the Council will consider making an application.

The amount of award to be paid to the tenant and/or to the Council where benefit has been paid is determined using a formula given in the MHCLG statutory guidance.

Where a landlord has committed an offence but has not been prosecuted and the tenant has not been in receipt of benefits the Council will consider supporting the tenant in making a claim for rent repayment, subject to the appropriate fee where applicable, and may decide to make the application on their behalf.

### **Determining whether to apply for a Rent Repayment Order**

Where we become aware that a landlord has been convicted of any of the offences for which a Rent Repayment Order can be imposed and where the offence was committed in East Herts, we will consider applying for a Rent Repayment Order. Where there has been no conviction but we are confident that there would be a realistic prospect of the order being granted we will consider making an application. In deciding whether it is appropriate to apply for a Rent Repayment Order for the commission of a relevant offence, we will consider each case individually taking into account:

- the seriousness of the offence
- the culpability of the offender
- the harm, or potential harm to tenants
- the impact on the wider community
- the deterrent effect on the landlord and other landlords.

The following, while not exhaustive, are situations where an application for a Rent Repayment Order may be appropriate:

- the offender has had a civil penalty imposed or was prosecuted and convicted for an offence with actual or significant risk of harm to tenants or significant impact on the community
- the offender has had a civil penalty imposed or was prosecuted and convicted for an offence and has made profit or savings of costs from the action or omission involved in the offence
- the offender has been prosecuted or previously has been issued with Civil Penalties for similar Housing Act offences.

### **Burden of proof**

A criminal standard of proof is required. This means that the First-tier Tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence or the landlord has been convicted in the courts of the offence for which the Rent Repayment Order application is being made.

Before applying for a Rent Repayment Order, officers must be satisfied that this is appropriate with respect to the relevant Enforcement Policies and that, if the offence

leading to the application was to be prosecuted in a magistrates' court, there would be a realistic prospect of conviction. This will be determined considering the two stages of the Full Code Test within the Crown Prosecution Service's "Code for Crown Prosecutors" to review both the sufficiency of evidence and whether it is in the public interest to impose a rent repayment order. Due regard must also be given to any potential defences and it may be appropriate to undertake an interview under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) to explore this.

### **Determining the amount of rent the Council will seek to recover**

Rent repayment orders should have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. Where the offender has been convicted of a relevant offence the First Tier Tribunal must award the maximum amount, capped at 12 months' rent to be repaid. Where the offender has not been convicted the Council will determine an amount up to the maximum that it will seek to be repaid taking into account the published guidance.

Factors that the Council will consider include:

- the conduct of the landlord and tenant
- the financial circumstances of the landlord
- whether the landlord has previously been convicted of similar offences
- the level appropriate to deter the landlord from repeating the offence and to dissuade others from offending
- the level necessary to remove any financial benefit the offender may have obtained as a result of committing the offence.

### **Determining the decision to apply**

The decision to continue and apply for a Rent Repayment Order (and where necessary to respond to an appeal) will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **Use of money recovered**

(This excludes any amount payable to the tenant.)

An amount payable to East Herts under a Rent Repayment Order does not constitute an amount of Universal Credit/benefits recovered. The Council may apply any amount recovered under a Rent Repayment Order to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. Any remaining amount remains with the council.

### **The Process for the Council applying for a Rent Repayment Order**

Where it has been determined that an application for a Rent Repayment Order will be made the Council will follow the process set out in the legislation (references to days are to calendar days):

- 1) a notice of our intention to apply to the First Tier Tribunal for a Rent Repayment Order will be served on the landlord. The notice will specify:
  - the reasons for the application
  - the amount that we are seeking to recover
  - the right of the recipient to make representation to the Council giving a period of at least 28 days for the recipient do so
- 2) following the notice period we will consider any representations made and will decide whether to continue and make the application to the First-tier Tribunal
- 3) After submitting an application we will comply with any Directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Councils Legal Services team
- 4) Following the decision of the First-tier Tribunal to award a Rent Repayment Order the landlord or agent may decide to appeal to the Upper Tribunal. Officers will review the Appeal submission and determine the Councils response. Confirmation of such response will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **Consequences of non-payment and miscellaneous provisions**

Where a landlord fails to pay a Rent Repayment Order awarded to the Council, including after an appeal has been finally determined and the order upheld, we will seek to recover the penalty by order from a County Court including the costs incurred in taking such action where deemed appropriate.

## **Policy 3 - The application for a banning order under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 introduced powers for a local housing authority to seek a banning order against landlords or property agents in the private rented sector for a range of offences. A banning order is an order made by the First-tier Tribunal banning a landlord or agent from

- letting accommodation in England
- engaging in letting agency work in England
- engaging in property management work in England

Breach of a banning order is a criminal offence.

This policy supports the use of this enforcement option and specifically considers the factors to consider when determining whether to apply for a banning order and when recommending the length of any banning order.

This policy takes account of the guidance issued by the Ministry for Housing, Communities and Local Government. This guidance can be accessed [here](#).

### **Offences for which a Banning Order can be imposed**

The specified offences appropriate to East Hertfordshire District Council are given in [The Housing and Planning Act 2016 \(Banning Order Offences\) Regulations 2018](#) they include both specific housing related offences and a number of offences not directly related to housing, such as fraud, sexual assault, misuse of drugs, theft and stalking

A banning order can only be applied for when the landlord or agent has been convicted of one of the specified offences. They can only be considered for offences committed after the introduction (April 2018) and if applying, a notice of intention to apply must be served within six months of the day that the landlord or agent was convicted.

### **Determining whether to apply for a Banning Order**

Where the Council has successfully prosecuted a landlord or where we are made aware that a landlord or agent has been prosecuted by the Police or other enforcement agencies for a banning order offence we will consider making an application. A banning order must be for a minimum period of 12 months. There is no statutory maximum period for a banning order. Whilst the Council will recommend the period of a banning order the actual period is determined by the First Tier Tribunal.

As recommended by the guidance, we will consider the following factors when deciding whether to apply for a banning order and when recommending the period for any banning order:

### **The seriousness of the offence**

All banning order offences are serious. We will take into account the sentence imposed by the Court in respect of the banning order offence itself. The more severe the sentence imposed by the Court, the more appropriate it will be for a banning order to be made. For example, did the offender receive a maximum or minimum sentence or did the offender receive an absolute or conditional discharge?

### **Previous convictions/rogue landlord database**

We will check the rogue landlord database in order to establish whether a landlord or agent has committed other banning order offences or has received any civil penalties in relation to banning order offences. A longer ban may be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords and agents are running businesses and should be aware of their legal obligations. For example, in the case of property agents, they are required to be a member of a redress scheme and any evidence of noncompliance could also be taken into account.

Under Section 19 of the act the Council can require information from a landlord or agent to support determination of whether to apply for a banning order. We will typically use this provision to request details of other private sector rental properties that the landlord or agent has an interest in and may use this information to check with other authorities for any other relevant information.

As indicated by the guidance we will also consider the likely effect of the banning order on the person and anyone else that may be affected by the order. These factors will include;

### **The harm caused to the tenant**

The greater the harm or the potential for harm (this may be as perceived by the tenant), the longer the ban should be. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants, and could therefore be considered more harmful than other offences (such as fraud).

### **Punishment of the offender**

The length of the ban should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. It is, therefore, important that it is set at a high enough level to remove the worst offenders from the sector. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

### **Deter the offender from repeating the offence**

The ultimate goal is to prevent any further offending. The length of the ban should prevent the most serious offenders from operating in the sector again or, in certain circumstances; help ensure that the landlord fully complies with all of their legal responsibilities in future. The length of ban should therefore be set at a long enough period such that it is likely to deter the offender from repeating the offence.

### **Deter others from committing similar offences**

An important part of deterrence is the realisation that (a) the local authority is proactive in applying for banning orders where the need to do so exists and (b) that the length of a banning order will be set at a high enough level to both punish the offender and deter repeat offending.

### **Confirming the Decision to Apply**

The decision to continue and apply for a Banning Order (and where necessary to respond to an appeal) will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **The Process for applying for a banning order**

Where it has been determined that an application for a banning Order will be made the Council will follow the process set out in the legislation:

- 1) a notice of our intention to apply to the First Tier Tribunal for a banning order will be served on the landlord or agent. This notice will specify:
  - the reasons we are applying for the banning order
  - the proposed length of the ban
  - the right of the recipient to make representation to the Council giving a period of at least 28 days for the recipient do so
- 2) following the notice period we will consider any representations made and will decide whether to continue and make the application to the First-tier Tribunal
- 3) After submitting an application we will comply with any Directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Councils Legal Services team
- 4) Following the decision of the First-tier Tribunal to make a Banning Order the landlord or agent may decide to appeal to the Upper Tribunal. Officers will review the Appeal submission and determine the Councils response. Confirmation of such response will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **Implications following the making of a banning order.**

A person who is the subject of a banning order may no longer be involved in letting accommodation in England, engaging in letting agency work in England or engaging in property management work in England. They are also not suitable to hold an HMO licence. The First Tier tribunal may make some exceptions to the order for example allowing a period of time for an agent to wind down their current business or to allow a landlord to continue to let a property until the end of existing tenancies.

This Council must make an entry into the Rogue Landlords database for any landlord or organisation that has received a banning order. We will also consider publicising any



banning orders made taking into account the encouragement to do so in the guidance but also considering the Ministry of Justice guidance that sets out the factors a local housing authority should consider when deciding whether to publicise sentencing outcomes. Where we are aware of the landlord's involvement in properties in other authorities we will inform those other authorities.

Where the landlord/organisation holds an HMO licence or is the manager of an HMO we will revoke the licence and either work with the landlord to issue a new licence with a suitable licence holder or will consider making an interim management order in order to take over the management of any property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and also to ensure that a property is still available to rent, particularly in areas of high demand.

Breach of a banning order is a criminal offence and where we have evidence that a landlord is acting in breach of a banning order we will consider either prosecution or the use of a civil penalty in accordance with our Civil penalties policy. We will also consider making a special interim management order for any properties let in breach of a banning order.

## **Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 (“the Act”) introduced a range of measures to help local housing authorities tackle rogue landlords and drive up standards in the private rented sector. These measures include establishing and operating a database of rogue landlords and property agents (the database).

The database is a new tool for local housing authorities in England to keep track of rogue landlords and property agents. The database is designed and hosted by MHCLG and authorised users will be able to view all entries on the database, including those made by other local housing authorities. This will support work to tackle some of the worst offenders, especially those operating across council boundaries.

Local housing authorities provide input to the database and are responsible for maintaining the entries they make.

This policy supports the use of this enforcement option and specifically considers the factors to consider when determining whether make an entry to the database and in determining the period for which the entry will remain.

This policy takes account of the guidance issued by the Ministry for Housing, Communities and Local Government. This guidance can be accessed [here](#).

### **Circumstances under which an entry to the Database can be made**

Where a person or organisation has received a Banning Order the Council must make an entry onto the database (see our Policy on the application for a banning order under the Housing and Planning Act 2016).

The Council may also make entries for a person who has:

- been convicted of a banning order offence that was committed at a time when the person was a residential landlord or property agent; and/or
- received two or more financial penalties in respect of a banning order offence within a period of 12 months committed at a time when the person was a residential landlord or a property agent.

Before making a discretionary entry to the database (under section 30 of the Housing and Planning Act), we will serve on the person a decision notice and this notice must be served no later than 6 months after the person was either convicted of the banning order offence or received the second of the financial penalties to which the notice relates

## **Determining whether to make an entry to the Database**

In addition to making an entry where a landlord has received a Banning Order this Council will consider whether making an entry on to the database when a landlord has been convicted of a banning order offence or received 2 or more financial penalties over a 12 month period.

Government has issued statutory guidance regarding the criteria that must be made in deciding whether to make an entry and therefore the following factors will be taken into account :

### **Severity of the offence**

All Banning Order offences are serious, where convicted of an offence we will take into account the sentence imposed by the Court. Where the Council has imposed civil penalties we will review the criteria used for determining the level of the penalty and the level of penalty imposed.

### **Mitigating factors**

In cases where there are mitigating factors, the Council will decide on a case by case basis if these are strong enough to justify a decision not to record a person's details on the database.

### **Culpability and serial offending**

Where there is a clear history of the landlord knowingly committing banning order offences and/or non-compliance, there is a stronger justification for making an entry on the database.

The Council will also consider the deterrent effect on both the offender and other landlords of committing banning order offences in the future.

## **Determining the period an entry will remain on the Database**

An entry made where a landlord has received a Banning Order must be maintained for the period for which the banning order has effect and must then be removed.

For discretionary entries and the guidance specifies the following criteria to consider when deciding the period for which the entry will remain on the database (the minimum period for an entry is two years):

### **Severity of offence**

The severity of the offence and related factors, such as whether there have been several offences over a period of time, will be considered.

### **Mitigating factors**

These could include a genuine one-off mistake, personal issues such as ill-health or a recent bereavement. Where this is the case, the Council may decide to specify a shorter period of time.

### **Culpability and serial offending**

A track record of serial offending or where the offender knew, or ought to have known, that they were in breach of their responsibilities may suggest a longer time period would be appropriate.

#### **Deter the offender from repeating the offence**

The data should be retained on the database for a reasonable period of time so that it is a genuine deterrent to further offences.

### **Confirming the Decision to make an entry to the database**

The decision to continue and make an entry to the database will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **The Process for making an entry to the database**

Where it has been determined that an entry to the database will be made the Council will follow the process set out in the legislation (references to days are to calendar days):

- 1) Before making a discretionary entry to the database (under section 30 of the Housing and Planning Act), a decision notice will be served on the person. The decision notice will specify:
  - the reasons for our decision
  - the period for which the person's entry will be kept on the database
  - information relating to the right of the recipient appeal our decision to the First Tier Tribunal
- 2) If no appeal has been made within 21 days of serving the decision notice, the Senior Officer – Environmental Health (Residential) will make the entry in the database by submitting the information required to the MHCLG.
- 3) If we are notified by the First-tier Tribunal that an appeal has been made we will not make the entry to the database until the appeal has been determined or withdrawn and there is no possibility of further appeal (ignoring the possibility of an appeal out of time).
- 4) For an appeal the Council will follow directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Council's Legal Services team.
- 5) On an appeal the tribunal may confirm, vary or cancel the decision notice. Where confirmed or varied the entry will be made in the Database once any period for further appeal has passed.
- 6) Any decision by the Council to vary or remove an entry to the database will be made in accordance with sections 36 and 37 of the Act.

- 7) The entry will be removed from the Database on the specified date or any amended date determined following a decision to vary or remove the entry.
- 8) The Council will update information on the Database when it becomes aware that the information recorded there has changed.

## Glossary of Terms – Housing Enforcement

<a href="#">Housing Act 2004</a>	<p>This act introduced significant changes to the way Housing Standards were assessed and enforced. It introduced the Housing Health and Rating System (HHSRS) and HMO Licensing. This Act also introduced Residential Property Tribunals (now First Tier Tribunals) as an appeal route for housing Notices or appeals against HMO licensing decisions.</p>
<a href="#">The Management of Houses in Multiple Occupation (England) Regulations 2006</a>	<p>These regulations frequently referred to as the HMO Management Regs impose duties on managers of houses in multiple occupation (“HMOs”) and corresponding duties on occupants. The manager’s duties include the duty to take safety measures, the duty to maintain the water supply and drainage, to supply and maintain gas and electricity and have tested regularly gas and electricity installations, the duty to maintain common parts, fixtures and fittings and living accommodation. The Regulations set out what occupiers must do with a view to assisting managers to undertake their duties.</p>
<a href="#">Housing and Planning Act 2016</a>	<p>Part 2 of this Act provides greater powers for local authorities to identify and tackle rogue landlords and property agents</p>
<p>HHSRS</p>	<p>The Housing Health and Safety Rating System (HHSRS) was introduced by the <i>Housing Act 2004</i> and has been in force since April 2006. It is the main system for assessing and enforcing housing standards in England and Wales. The HHSRS is a risk based assessment tool which is used to assess the risk (the likelihood and severity) of a hazard in residential housing to the health and safety of occupants or visitors. The HHSRS is tenure neutral; it can be used to assess hazards in private and social rented housing and also in owner occupied housing.</p>
<p>Improvement Notice (Housing Act)</p>	<p>An Improvement Notice under the Housing Act Part 1 (s11 or s12) is one of the enforcement routes available to the Council where significant hazards are found in a residential dwelling. The notice will explain the nature of the hazard and give a schedule of works and a date by when these works must be completed. Failure to comply with an Improvement is an offence.</p>
<p>First Tier</p>	<p>The Housing Act 2004 changed the need to use the magistrates’</p>

<p><a href="#">Housing Act 2004</a></p>	<p>This act introduced significant changes to the way Housing Standards were assessed and enforced. It introduced the Housing Health and Rating System (HHSRS) and HMO Licensing. This Act also introduced Residential Property Tribunals (now First Tier Tribunals) as an appeal route for housing Notices or appeals against HMO licensing decisions.</p>
<p>Tribunal Property Chamber</p>	<p>courts for various appeals of notices and applications relating to housing and instead moved these to The First tier Tribunal Property Chamber (Residential Property). Which whilst still within HM Courts and Tribunal Service this was intended to give a speedier and more appropriate process in many housing related situations. More information about the process can be found <a href="#">here</a></p>
<p>Upper Tribunal</p>	<p>Appeals against a decision from the First Tier Tribunal Property Chamber is to the Upper Tribunal (Lands Chamber)</p>

## Key reference documents

### Legislation

- [Housing and Planning Act 2016](http://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/2/enacted)  
<http://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/2/enacted>
- [Housing Act 2004](https://www.legislation.gov.uk/ukpga/2004/34/contents) <https://www.legislation.gov.uk/ukpga/2004/34/contents>
- [The Management of Houses in Multiple Occupation \(England\) Regulations 2006](http://www.legislation.gov.uk/uksi/2006/372/contents/made) <http://www.legislation.gov.uk/uksi/2006/372/contents/made>

### Guidance for Local Authorities:

- [Civil penalties under the Housing and Planning Act 2016](#)
- [Rent repayment orders under the Housing and Planning Act 2016](#)
- [Banning Order Offences under the Housing and Planning Act 2016](#)
- [Database of rogue landlords and property agents under the Housing and Planning Act 2016](#)



**Appendix A: Financial Penalty Matrix**

Offender Name:		Ref:	
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Please enter your reasoning and justification for each factor below

Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	18	Reasoning
<b>1. Culpability</b>	Low; Offence committed with little or no fault on the part of the responsible person	Low/Medium; An awareness of the legal framework and systems in place to ensure compliance but these were not implemented	Medium/High; despite an awareness of the legal responsibilities the responsible person failed to put in place suitable systems in place to ensure compliance	High; There was some awareness of the law but the responsible person still allowed/committed the offence.	Very High; intentional breach by responsible person. For example non compliance with a Formal Notice	20	
<b>2. Removal of Financial Incentive</b>	No Significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2-3 properties). Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.	15	
<b>3. Offence &amp; History</b>	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offences of moderate to large severity or a single instance of a very severe offence or multiple breaches.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.	1	
<b>4. Harm ,or potential harm, to Tenant(s)</b>	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	*Score is doubled on this section	
						40	

**Total Score**

**76**

<b>Total Penalty (£):</b>	<b>£ 20,000.00</b>
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<b>Score Range</b>	<b>Fee</b>
<b>1 – 5</b>	£250
<b>6 – 10</b>	£500
<b>11 – 20</b>	£750
<b>21 – 30</b>	£1,000
<b>31 – 40</b>	£2,500
<b>41 – 55</b>	£5,000
<b>56 – 65</b>	£10,000
<b>66 – 75</b>	£15,000
<b>76 – 85</b>	£20,000
<b>86 – 95</b>	£25,000
<b>96 – 100</b>	£30,000

## East Herts Council Report

### Executive

**Date of Meeting:** 6 October 2020

**Report by:** Councillor Geoff Williamson, Deputy Leader and Executive Member for Financial sustainability

**Report title:** COUNCIL TAX REDUCTION SCHEME 2021/22

**Ward(s) affected:** All

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### Summary

To consider the latest available information around the current local Council Tax Support (CTS) scheme at East Herts and whether any changes to the scheme should be considered for 2021/22

### RECOMMENDATIONS FOR EXECUTIVE:

- (a) **To recommend to Council to continue the current local Council Tax Support Scheme for 2021/22.**

### 1.0 Proposal(s)

- 1.1 That Executive consider, in accordance with the Government's requirement for an annual approval of the Council Tax support scheme, to propose to the Council to continue the current local Council Tax scheme for 2021/22.

### 2.0 Background

- 2.1 The Government made provision within the Local Government Finance Bill to replace the former national Council Tax Benefit (CTB) scheme from 1st April 2013 with localised schemes for Council Tax Reduction Schemes (CTS) devised by individual local authorities (LA's). The schemes are valid for one year and must be approved by Council before the 11<sup>th</sup> March immediately preceding the financial year in which it is to take effect.

- 2.2 If the Council were to choose to consider any material revisions to the scheme, this would be the subject of public consultation, which would need to be considered by both those entitled to receive support as well as the general Tax payers of East Herts.
- 2.3 The Government require that major preceptors (County and Police) are consulted each year, and if there is any change to the scheme a full consultation open to all tax payers in the district is required. There is no specific timescale prescribed but the period must allow for meaningful consultation.
- 2.4 Additionally, consideration must be given to providing transitional protection where the support is to be reduced or removed. The financial impact of any decision on Council Tax Support also needs to be included when setting our budget and Council tax levels at the same time.
- 2.5 Since the introduction of CTS in April 2013 various changes have been considered but the scheme has remained the same. Appendix A provides details of the history of the scheme.
- 2.6 The Overview and Scrutiny Committee considered a report at its meeting on 15 September 2020 inviting it to consider options and whether to recommend to Executive that it should recommend continuation of the current scheme to Council. Previously Overview and Scrutiny committee received a presentation on a potential new scheme for 2019/20 based on income bands. The aim was to find a scheme which would simplify the criteria for customers as well as mitigating the impact of changes in circumstances on workload and council tax collection, resulting from universal credit reassessments.
- 2.7 Members were advised that substantial modelling would need to be carried out to avoid any unintended consequences, as well as enabling full consultation with tax payers and major preceptors. Testing was carried out but did not produce the desired outcomes.
- 2.8 This report therefore details the current position on Council Tax, and seeks support to continue the current scheme for 2021/22.

### **3.0 Reasons**

- 3.1 In 2013 the Council initially devised a scheme which replicated the previous Council tax Benefit scheme but limited the Council Tax liability that was used to assess entitlement to 91.5% for working age

customers. The Council has maintained this position for the first 8 years of the scheme.

3.2 The cost of the scheme is reflected in the tax base, in the same way as other discounts which reduce the collectable debit.

3.3 Currently (2020/21) 75.86% of the tax base income is precepted by Herts County and Council and 10.62% by the Police, and accordingly they have a vested interest in the value of the CTS scheme as it directly impacts on their ability to raise funds. The lower the cost of the scheme, the higher the tax base on which they can precept.

3.4 Before the introduction of CTS there had been a number of years of constant case load increases, the caseload has since stabilised and reduced, alongside a growing taxbase due to new developments in the area. The impact on the cost of the scheme is demonstrated below.

Year	Cost of the CTS scheme	
<b>2013/14</b>	£6,448,794	Actual
<b>2014/15</b>	£6,066,188	Actual
<b>2015/16</b>	£5,734,780	Actual
<b>2016/17</b>	£5,670,937	Actual
<b>2017/18</b>	£ 5,813,163 *	Actual
<b>2018/19</b>	£ 6,066,356 **	Actual
<b>2019/20</b>	£5,999,213	Actual

\* The Band D value of the 2017/18 taxbase increased by 4.39% on 2016/17,

\*\*The Band D value of the 2018/19 taxbase increased by 5.76% on 2017/18

3.5 The level of spend on CTS has continued to reduce in real terms since its introduction. This has supported previous recommendations to leave the scheme unchanged.

3.6 The impact of Covid -19 on the economy in the short, medium or long term is as yet unknown. However for the first time since 2009, the case load for working age claimants has begun to rise. This is considered to be as a result of the lockdown. It may be symptomatic of the beginning of a recession as seen in 2008/09, where caseloads rose

continuously for 5 years before reducing, or it may be a short term response to the lockdown and furlough arrangements.

- 3.7 The impact of this growth, although small at present needs to be considered for its impact on the taxbase and the proportion of the cost borne by East Herts Council.
- 3.8 The taxbase for 2020/21 was calculated in October 2019, and assumed Council Tax Support would cost the equivalent of 3410.53 band D values. At 1 July 2020 the actual band D cost of Council Tax support was 3438, which is £51,000 more expensive. In context however the taxbase is set to produce £114.2m and has many variables.
- 3.9 Whilst the working age caseload has seen a modest rise in recent months, the elderly caseload continues to fall and is thus mitigating the impacts of this change.
- 3.10 If the net rate of growth of CTS continues during the year we could have an increase in the caseload of 404. The impact on this years taxbase is mitigated by pro-rata entitlement, but a full year impact, assuming all are band D properties would be in the region of £753k. East Herts' share of the taxbase is 9.33% which would account for £70.3k.
- 3.11 It is perhaps not unreasonable to expect a spike when the furlough scheme becomes less generous and again when it is withdrawn, although the impact or duration of these potential outcomes is unknown. Changes in caseload are monitored so any trend would be promptly identified.
- 3.12 The taxbase is also impacted by other variables, and changes in anyone of them can impact on its ability to generate the expected income levels on which the budget is set. The Covid-19 pandemic may for example have a dampening effect on new builds coming into the taxbase which will further reduce its income raising capacity, or this may be accelerated by reduced housing costs.
- 3.13 Consideration of any variations to the existing scheme needs to consider;
- The cost of CTS
  - The impact of other welfare benefits reforms on the ability to pay
  - The cost of increasing arrears and recovery costs
  - The buoyancy of the taxbase generally

- The unknown budget and finance settlements
- The roll out of Universal Credit

3.14 The CTS scheme for 2020/21 can be summarised as follows:

- That the CTS scheme for all working age claimants will be based on 91.5% of their council tax liability.;
- All local discretions currently in place continue e.g. war pension disregards;
- All other aspects of the new Council Tax Support scheme to mirror the previous Council Tax Benefit scheme.

3.15 A large proportion of customers affected by the introduction of the CTS scheme had not previously had to pay anything towards their Council Tax bill. If they had been 'passportted' under the Council Tax Benefit scheme their liability would have been discharged in full by a credit transfer onto their Council Tax account. Under the CTS arrangements all working age customer have to pay at least 8.5% towards their bill.

3.16 It continues to be a challenge to support and educate these customers into a regular payment arrangement. We have;

- Offered flexible repayment options,
- Given more time to pay,
- Worked on a project with the Citizens advice Bureau to support customers with repeated arrears,
- Promoted other debt and advice agencies.

3.17 The in-year collection rate for working age claimants who had only the minimum 8.5% liability to pay was 67.49% in 2014/15 and 72.42% for 2019/20

3.18 The overall in-year collection rate for all working age CTS customers was 77.43% in 2014/15, and 77.95% in 2019/20. In contrast to the all tax payers in-year collection rate, which for 2014/15 was 98.2%, and 97.8% in 2019/20.

3.19 In recognition of the fact that the additional Council Tax liability is more difficult to collect, a collection rate of 98.9% has been assumed. The liability not paid in-year becomes arrears on which a bad debt provision has to be established, which is a further cost to the council. Where the outturn taxbase exceeds the estimated performance it generates a surplus on the collection fund, and conversely when the

taxbase does not achieve its expected performance because of negative variations in the component elements, the collection fund would be in deficit. The Council is required to make precept payments during the year regardless of any in-year variations.

3.20 Many of these same customers have been affected by other welfare reforms introduced:

- the spare room subsidy scheme
- the new Benefit CAP,
- Reviews of disability benefits etc.

Many families find that they have increasing debts with their councils and landlords for bills that were previously paid for them.

#### 4.0 **Options that could be considered in redesigning a scheme**

4.1 There are a number of options that could be considered when redesigning the scheme, although all revisions would affect working age customers only, given that pensioners have to be fully protected by our scheme.

4.2 The Government continues to make changes to the Housing Benefit regulations which are not currently mirrored in the CTS regulations. This means the schemes are no longer aligned. The frequency of changes to Housing Benefit and Universal Credit schemes, make it almost impossible to mirror these in the CTS scheme, not least of which because of the difference in timing. The Housing Benefit and Universal Credit schemes are changed when needed during the year, and the CTS scheme can only be revised annually.

4.3 Consideration was been given previously to align some of the more significant differences between Housing Benefit and Council Tax support but the financial implications across the caseload have been assessed as small, and the changes would have required a full consultation exercise, to achieve only a temporary alignment, and therefore this was rejected.

4.4 The caseload for CTS indicates that the proportion of working age customers compared to pensioners is changing over time very slightly. It demonstrates a reduction in the proportion of the caseload for Elderly customers and this may be attributed to the rising of the national age threshold for becoming a pensioner. (At 1.4.20, 55.4%% WA: 44.6% Elderly), consequently more customers would be affected by any changes.



- 4.5 Previously consideration was given to an income-band scheme which appeared to offer an opportunity to simplify entitlement criteria and the treatment of income and capital. This was driven by the roll out of 'full service' Universal Credit, (impacting in East Herts from October 2018) so there was a need to look to reduce the impact of monthly changes in universal credit on entitlement to CTS and Council tax collection.
- 4.6 Members were supportive of the approach, however subsequent testing has shown that there are unintended consequences for customers with disability premiums, and to correct for these would make the scheme overly complex and thus not achieve the desired outcomes.
- 4.7 Consideration has previously been given to each of the following changes, but each relies on the basic scheme construction remaining the same.
- a) Changing the level of "minimum payment" for all working age customers
- I. The current scheme assumes that all working age customers are asked to pay at least something towards their Council Tax, and as described earlier the minimum payment is 8.5% of liability. The Council could consider making a change to that amount but in doing so, the full impact of that decision needs to be considered.
  - II. If the Council chose to increase this minimum payment to say 10%, this does not mean a straight line reduction in the amount that the Council will spend out. For individuals already finding it difficult to pay at the current level, it can be seen that increasing this amount could increase their hardship levels further, especially as these customers are likely to be receiving other benefits, which have been affected by the on-going Welfare reforms.
  - III. Given our latest information shows that the collection rate for those working age customers in receipt of CTS is already significantly lower than the overall rate, we would need to consider adding further amounts to our bad debt provision in respect of potential non-collection of our debts. Having done some indicative modelling, we estimate that increasing the minimum payment to 10% could result in a decrease in Council Tax spend of approximately £80k. This would be

virtually wiped out by the need to increase bad debt provision.

- IV. Conversely, if we were to consider reducing the minimum amount to be paid we would need to consider where we would find the additional amount that we would need to fund Council Tax Support and the impact upon the totality of the funding for the Council and importantly, other precepting bodies too. These impact on their overall funding levels, and given we represent under 14% of the total cost of the scheme, EHC needs to consider the significant financial impact this could have on others. There would still be costs associated with administering the scheme whatever the level of award, as not everyone gets the full benefit so this would not mitigate the additional cost to the Council. On current estimates, we believe the additional burden could be around £300k.

- b) Introducing a band cap (so limiting the amount that we would pay to a value of a lower property band, for example Band D)

In some Local Authorities, they have introduced a band cap where the scheme will only pay up to the equivalent of say a Band D property, even if you are in a higher banded property.

This could disproportionately affect those with a requirement for a larger property as they have children, other dependents due to caring responsibilities or a disability. These groups could already have been hit by other areas of Welfare reform including the Benefit Cap and the Spare Room subsidy limitation.

- c) Introducing a minimum amount that would be paid out

Some Councils have introduced a minimum level at which they will support residents. An example is that you have to be entitled to at least £5 a week to be supported. This means someone who is currently entitled to a lower amount, would not receive it, despite the fact that we have assessed them as currently requiring support. There are no real savings in terms of administrative costs because we would still have to undertake an assessment to find out that we wouldn't award. In addition, the fact that they are currently entitled to support indicates that they are financially vulnerable and the likelihood of being able to collect that additional amount from those residents is low. Therefore the potential reduction in costs overall is minimal and outweighed by an increase in bad debt provision and recovery costs.

- d) Changes around discretions for Disability, Children and other Dependents
- I. This would change the nature of the scheme overall. East Herts, when setting its original scheme were clear that all would contribute equally as the core scheme already differentiates preferentially to those with disabilities, children etc.
  - II. Any complexity that is added to the way in which we calculate entitlement, will make the administration of the scheme both more complex for our officers to manage both in terms of calculation but more importantly, to explain to our residents.
  - III. This would also mean that the general working age population may need to pick up an even greater share of the cost if the scheme is to remain affordable and equitable.

e) Other adjustments

There include; income tapers, non-dependent deductions, income disregards etc. but all carry the same risk to bad debt provisions, potential recovery costs and costs of administration. The more complex the scheme, the more difficult it is to comply with and customers' levels of understanding could be compromised.

4.8 **The impact, challenges and opportunities of Universal Credit.**

4.8.1 Customers claiming UC who apply for Council Tax Support do not require the Council to carry out means testing on their circumstances. They need only provide their UC entitlement letters (details of which can be confirmed through LA's access to the DWP systems). These claims are already means tested and have differential applicable amounts applied by the DWP, and the only income element that is needed for an award of CTS is earnings. Consideration has to be taken of any deductions being made for overpayments or recovery of advances, but these lend themselves to a simplified assessment and processing system, and could be incorporated into a discount scheme.

4.8.2 Universal credit full service roll out took effect in this area in October 2018. This means that customers who would previously have applied for Housing Benefit (HB) and CTS are now applying for UC and CTS. The DWP pilot for moving existing HB claimants on to UC was not successful and therefore they have deferred progressing managed migration until a further pilot or pilots are completed.

- 4.8.3 There is therefore no information available currently to determine when this councils existing working age HB caseload will move to UC.
- 4.8.4 There are certain groups of HB claimant that will not, in the foreseeable future migrate to UC, as they are deemed too complex. This means that in addition to the pensioner case load there will be a residual working age caseload to manage.
- 4.8.5 It has therefore been appropriate to consider if the current CTS scheme is fit for purpose now that a growing number of customers will be in receipt of UC.
- 4.8.6 The reduction in new claims for HB might seem to reduce the services workload, however as the current scheme requires the same preparation and processing to award a CTS claim as an HB one, there is no saving. Currently claims or changes in circumstances are prepared and input and both awards (HB & CTS) are processed simultaneously. Claims not requiring an HB assessment simply produce one output (CTS award) rather than two.
- 4.8.7 UC claimants have to apply to the council for CTS entitlement. There is a common misunderstanding among claimants that it is all covered by their claim for UC. The Council therefore often only gets to engage with these customers when their Council Tax account is in arrears, and additional recovery action has to be taken. Clearly this is an additional administrative burden for the council, and costly for the customer.
- 4.8.8 Universal Credit is reassessed monthly, and those customers who are working (nationally this is estimated at more than 40%) are likely to experience variations in the UC entitlement each month. This is attributed to salary and wages frequencies affecting the 'monthly' assessments. Each time there is a change in the UC award, their entitlement to CTS has to be reassessed. Every time the CTS is reassessed, it produces a new Council Tax Bill. These constant changes in bills and amounts due are not only confusing to the customer trying to budget, but it also resets any recovery action being taken for non-payment.
- 4.8.9 The service has received a significant increase in workload from these monthly changes. They are received electronically from the DWP using an existing process called ATLAS. However development of automation routines has mitigated the impact of this increase workload on resources. Further developments in this area are being pursued.
- 4.8.10 Identifying and acknowledging these challenges from UC requires any potential change to the CTS scheme to consider;

- I. The potential for further automation of UC notices on live CTS claims, thus reducing the new workflow
- II. Mitigations for changes in UC entitlements to revise council tax liability, and thus avoid resetting recovery action.

This could be achieved if the CTS scheme set bands of entitlement, or fixed periods in which changes in income would not result in a change in entitlement, within the scope of a set range.

These options have the potential to be very expensive.

- III. The costs of changing the scheme.

The software supplier is estimating a cost in the region of £25k for each Council moving towards a banded CTS scheme. Herts County Council has already declined to contribute to any costs associated with changing the scheme, despite being the biggest preceptor for Council Tax.

Any changes to the scheme require full and meaningful consultation with all taxpayers in the district and there are significant costs associated with this level of consultation.

#### **4.9 What others are doing:**

- Some councils have moved to a banded scheme, but they still require substantial means testing of each claim.
- St Albans are with a different software supplier and introduced a banded scheme for UC claimants only from April 2019, which run alongside a scheme similar to our existing scheme for all other claimants. This is an interesting option which rather than dealing in % entitlements, specifies how much the customer will pay towards their Council Tax. This means customers on the same income pay the same towards their council tax, regardless of the size of the property they occupy. This also provides a scheme for customers to transition into when migrated from HB.
- Unfortunately we cannot replicate a scheme like this currently as we are unable to have two different live working age CTS schemes at the same time.
- Other councils are considering various options but anecdotally are awaiting more information around migration before changing current schemes.

#### **4.10 Current position:**

The current CTS scheme works and protects the most vulnerable customers by the use of applicable amounts and income disregards.

Work has been carried out over a period of time on developing a banded scheme for all working age claimants. This has included modelling of current claimants into a banded scheme, to assess the impact and identify any unintended consequences.

As it is not currently possible to have a separate schemes for just UC cases, all current working age claimants would have to be included. After testing the data it is clear that the intended simplicity of a banded scheme would be compromised as the need to differentiate between all the many and varied disability premiums and incomes would require too many bands for each category of household, to ensure sufficient protection for these groups.

In addition there would be all the costs of changing the scheme but no savings in administration, or increased simplicity for the customer.

#### **4.11 Conclusion**

The improvement in automation of UC notices is mitigating the increased workflow. It is proposed that we continue with a two stage approach for the future.

- Firstly, instead of looking to change the current scheme in the short term, that further automation of UC change notices continues.
- Secondly, once actual caseload migration is timetabled, consideration of a banded scheme or a discount scheme is revisited. At this time the majority of cases will convert to UC, and will have the means testing carried out by the DWP, thus offering opportunity for administrative savings.
- This will remove the current challenge around protecting the needs of those with disability incomes as this will be incorporated in the DWP assessment of UC entitlement.
- The impact of Covid-19 on the caseload and taxbase be monitored closely and if significant, an early consideration of changes to the scheme for 2022/23 be recommended.
- Members will also be able to review the original principles of the scheme, including that all WA customers pay 8.5% of their liability.
- This approach should ensure that costs associated with the change of schemes will be matched by efficiencies achievable in the administration processes.

**5.0 Risks** No

## **6.0 Implications/Consultations**

6.1 Herts County Council and the Police will be consulted on the proposal.

### **Community Safety**

No

### **Data Protection**

No

### **Equalities**

No

### **Environmental Sustainability**

No

### **Financial**

Finance had been consulted and fully support the proposal.

### **Health and Safety**

No

### **Human Resources**

No

### **Human Rights**

No

### **Legal**

No

### **Specific Wards**

No

## **7.0 Background papers, appendices and other relevant material**

Appendix A details the history of the Council tax support scheme.

### **Contact Member**

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### **Contact Officer**

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## **Appendix A - The origins of Council Tax Support (CTS)**

1. Before April 2013, the service administered Council Tax Benefit on behalf of the Government. This national scheme was specified in legislation and LA's were reimbursed by the Department of Work and Pensions (DWP) through a subsidy claim submitted annually and subject to audit.
2. The level of subsidy reimbursement varied dependant on whether benefit had been awarded, backdated or overpaid, but the point to note is that entitlement and subsidy were based on assessing entitlement on 100% of somebodies council tax liability, net of discounts (like a single person discount).
3. The scheme was means tested and whilst the scheme differentiated between different client groups (providing extra support for disabled groups for example) there was little differential between Elderly and Working Age clients.
4. Clients fell into one of two groups, "passported" and "standard claims." A passported claim was one in which the DWP had already carried out a means test and then notified us that the customers income was at or below the minimum income level for their household composition. They would be automatically entitled to 100% of their Council Tax to be paid by Council Tax Benefit. A deduction would however be made from this entitlement where there were non-dependants living in the home.
5. The second group were called 'standard claims'. These customers had their means testing done by the council and awarded Council Tax benefit in accordance with the national scheme criteria. These customers had income above the minimum requirements and would be required to pay something towards their council tax liability. A deduction

would also be made from this entitlement where there were non-dependants living in the home.

6. In very simple terms entitlement was determined by comparing eligible incomes against relevant applicable amounts. When income equalled or fell below applicable amounts, the maximum entitlement is achieved. If income exceeded applicable amounts, entitlement was reduced by 20% of the excess. The applicable amounts were determined by the DWP in respect of Housing Benefit claims.
7. In more complex terms, every income and capital source had to be assessed in accordance with its type, and then determined if it was included in the assessment. Child benefit, maintenance paid to a child, PiP and DLA, war pensions etc were fully disregarded, whilst earned income was calculated after tax and NI, and 50% of pension contributions, averaged over the relevant period. Payments to certain child care providers were disregarded, whilst capital (excluding the property occupied) included savings, shares etc and if the total exceeded £16k, the customer was excluded from entitlement.
8. In very general terms the full expenditure on the scheme was reimbursed by the DWP.

### **The impact of changes from 1<sup>st</sup> April 2013**

9. The national scheme for Council Tax Benefit ceased, and Councils had to devise their own Council Tax Reduction Schemes for working age claimants. The Government continues to specify the scheme for Elderly customers through prescribed regulations.
10. Instead of the scheme being funded through a subsidy claim based on actual expenditure, the Government moved the funding into the Revenue Support Grant (RSG) settlement, fixing it at only 90% of the subsidy paid in a previous year. RSG

was the amount of grant that Government gave to Councils to support their wider service delivery, and made up one part of the income of the Council in addition to Council Tax receipts, fees and charges and an element of Business rate collection. However the move away from RSG makes this funding element less obvious.

11. From 14/15 the 90% grant that was included in the RSG was no longer individually identifiable. Therefore calculating the total cost of the scheme i.e. the cost of the CTS scheme versus the CTS grant given by Government is now impossible.
12. Each Council had to consider how to fund 100% of the cost of the Elderly 'national' scheme and provide a Working age scheme, whilst receiving 10% less funding.
13. Pensioner claimants are protected from changes through the provision of a statutory scheme.
14. Schemes must support work incentives.
15. The DCLG Policy Statement of Intent did not give a recommended approach to be taken, but indicated the scheme should not contain features which create disincentives to find employment. The current East Herts scheme complies with this statement.
16. Local authorities must ensure that appropriate consideration has been given to support for other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.
17. The DCLG issued Policy Statements that addressed a range of issues including the following:

- Vulnerable People and Key Local Authority Duties;
  - Taking work incentives into account;
  - Information Sharing and Powers to Tackle Fraud.
18. The Local Government Finance Bill stated that a Billing Authority must have regard to any guidance issued by the Secretary of State. Our current scheme has sought to address these requirements.
19. The Council initially devised a scheme which replicated the previous national scheme but limited the Council Tax liability that was used to assess entitlement to 90% for working age customers. The Government offered a one off transitional grant to Councils who would restrict the reduction to 91.5%, and accordingly the Council amended the proposal and took the one off transitional grant. The Council has maintained this position for the first 8 years of the scheme.

## East Herts Council Report

### Executive

**Date of Meeting:** 6 October 2020

**Report by:** Councillor Geoff Williamson, Deputy Leader & Executive Member for Financial Sustainability

**Report title:** Quarterly Corporate Budget Monitor – Quarter 1 June 2020

**Ward(s) affected:** ALL

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### Summary

- To provide a report on financial monitoring for East Herts Council for 2020/21 as at 30<sup>th</sup> June 2020.
- The net revenue budget for 2020/21 is £10.667m as set out in Table 1, this is funded by Council Tax. The forecast outturn as at 30<sup>th</sup> June 2020 predicts an overspend of £100k at the year end.
- The revised capital budget for 2020/21 is £73.985m, of which £100k is estimated to be carried forward to future years.

### RECOMMENDATIONS FOR EXECUTIVE:

- a. The net revenue budget forecast overspend of £100k in 2020/21 be noted (Table 1);
- b. The revised capital budget for 2020/21 is £73.985m, of which £100k is estimated to be carried forward to future years be noted (paragraph 5.1.1);

## **1.0 Proposal(s)**

1.1 Not applicable

## **2.0 Background**

2.1 This report sets out the financial position for the financial year 2020/21 to date and provides forecasts for the outturn position.

2.2 The Council's revenue budget is made up of 5 areas; these are shown in table 1. The report that follows provides details of the forecast outturn position against these areas.

2.3 The 2020/21 Budget was set by Council on 29<sup>th</sup> January 2020. The Council's income and expenditure has been impacted by the Covid-19 pandemic, as previously reported to Executive. This report contains estimates of the Covid-19 income loss scheme funding from the government to support the loss of fees and charges income and also Local Authority support grant.

2.4 The income loss scheme will involve a 5% deductible rate, whereby councils will absorb losses up to 5% of their planned sales, fees and charges income, with the government compensating them for 75p in every pound of relevant loss thereafter.

Table 1 – 2020/21 Revenue Forecast Outturn

	<b>Original Budget 2020/21 £'000</b>	<b>Forecast outturn £'000</b>	<b>Variance £'000</b>
Total Net Cost of Services	15,511	17,228	1,717
Corporate Budgets Total	830	930	100
Capitalising Salaries	(150)	(50)	100
Net Use of Reserves	732	618	(114)
Funding	(6,256)	(7,959)	(1,703)
<b>Net Revenue Spend</b>	<b>10,667</b>	<b>10,767</b>	<b>100</b>
Funded by Council Tax	(10,667)	(10,667)	-
<b>Overspend</b>	<b>-</b>	<b>100</b>	<b>100</b>

2.5 The report contains the following sections and Appendices:

Background Report Sections	
2.6	Net Cost of Services
2.18	Corporate budgets
3.0	Reserves
4.0	Funding
5.0	Capital budgets
6.0	Debtors

Appendices	
A	Capital
B	Debtors

2.6 Net Cost of Services

2.7 The Council's net cost of services budget for 2020/21 is £15.511m. An overspend of £1.717m is forecast in 2020/21. Table 2 overleaf shows this current forecast outturn position broken down by service area.



Table 2 – Net Cost of Services

	<b>Original Budget 2020/21</b>	<b>Forecast outturn</b>	<b>Fees &amp; Charges Grant</b>	<b>Revised outturn</b>	<b>Variance</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Chief Executive & Directors	383	386	-	386	3
Communications, Strategy & Policy	1,255	1,244	-	1,244	(11)
HR & Organisational Development	540	503	-	503	(37)
Strategic Finance & Property	1,556	1,910	-	1,910	354
Housing & Health	2,764	2,826	(13)	2,813	49
Democratic and Legal	1,269	1,338	(41)	1,297	28
Planning & Building Control	915	1,686	(296)	1,390	475
Operations	3,665	5,583	(994)	4,589	924
Shared Revenues & Benefits Service	1,683	1,716	-	1,716	33
Revenues & benefits retained costs	(386)	(604)	-	(604)	(218)
Housing Benefit Subsidy	(550)	(455)	-	(455)	95
Shared Business & Technology Services	2,417	2,439	-	2,439	22
<b>Total Net Cost of Services</b>	<b>15,511</b>	<b>18,572</b>	<b>(1,344)</b>	<b>17,228</b>	<b>1,717</b>

2.8 The use of reserves to fund Net Cost of Services expenditure is included in section 3.0.

## 2.9 Communications, Strategy & Policy

Due to reception areas being closed since the end of March, vacant customer service advisor posts have not been filled and use of agency support has stopped. As a result a significant underspend in salaries is forecast. The majority of this will be used to fund project management costs that were budgeted to be capitalised, this is reflected in the figures in table 2.

## 2.10 HR & organisation development

A forecast underspend of £37k is reported. Most of this relates to an underspend on salary budgets due to having a lower number of apprentices than initially expected.

## 2.11 Strategic Finance & Property

A forecast shortfall in income of £354k is reported. This relates to:

- £50k reduced rental income from Charrington's House in relation to the current nationwide pandemic
- £64k underachievement in expected income from Millstream, as the company have not been able to buy properties in line with the business plan due to the pandemic
- £200k underachievement of the financial sustainability saving target due to delays in acquisitions, again caused by the pandemic

## 2.12 Housing and Health

A forecast shortfall in income of £49k is reported for the

service. This almost exclusively relates to the negative impact of Covid-19 on commercial activity leading to a projected under recovery of premises licence fees, environmental health licence fees and taxi licence fees. The shortfall is net of anticipated compensation due under the Government scheme.

#### 2.13 Democratic and Legal

A forecast shortfall in income of £28k is reported. This is due to reduced land charges fee income following restrictions placed on the housing market, net of Government compensation.

#### 2.14 Planning & Building Control

A forecast shortfall in income of £475k is reported against the service. This is net of anticipated grant income received to cover losses in fees and charges.

#### 2.15 Operations

A forecast shortfall in income of £924k is reported against the Operations service as a result of the impact of covid 19 on income streams, particularly car parking income. This is net of anticipated grant income received to cover losses in fees and charges. Not all income streams are eligible to receive government funding, for example kerbside dry recycling and penalty charge notices.

#### 2.16 Shared revenue and benefits

A forecast overspend of £33k is reported against the Shared revenues and benefits service, this is due to staff turnover and the associated vacancy saving being lower than anticipated.

## 2.17 Revenues and benefits retained costs

The revenues and benefits retained costs budget is forecast to overachieve by £218k. This is primarily due to additional central government new burdens funding.

## 2.18 Corporate Budgets

Corporate budgets are costs and income received by the Council that are not service specific, these include income from the Council's investments, pension deficit contributions and New Homes Bonus grants to Town and Parish Councils. Table 3 shows the forecast outturn position against the corporate budgets.

Table 3 – Corporate budgets 2020/21 forecast outturn

	<b>Original Budget 2020/21</b>	<b>Forecast outturn</b>	<b>Variance</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
NHB Grants to Town & Parish Councils	708	708	-
Interest Payments	207	207	-
Interest & Investment Income	(800)	(700)	100
Pension Fund Deficit contribution	715	715	-
<b>Corporate Budget Total</b>	<b>830</b>	<b>930</b>	<b>100</b>

2.18.1 The interest and investment income budget forecasts an underachievement in income of £100k. This is an estimate based on the current Covid 19 impact on interest rates and property fund returns.

2.18.2 The Interest Equalisation Reserve has a balance of £1.785m as

at 31<sup>st</sup> March 2020. This reserve will be utilised to smooth the impact of any under achievement of interest income. Table 4 includes use of this reserve to cover the £100k shortfall.

### 3.0 Reserves

3.1.1 The Council holds earmarked reserves to fund unpredictable financial pressures and to smooth the effect of known spending over time. Table 4 reflects the forecast outturn position as at 30<sup>th</sup> June 2020.

3.1.2 In previous years the use of reserves to fund Net Cost of Services expenditure has been shown in table 2. A different presentation is being used in 2020/21, to aid transparency, and the use of reserves to fund Net Cost of Services expenditure is now shown in table 4.

Table 4: Use of reserves 2020/21

	<b>2020/21 Budget</b>	<b>2020/21 Forecast Outturn</b>	<b>Variance</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Contributions to reserves	42	42	-
Contributions from reserves	(817)	(931)	(114)
Use of General reserve	(96)	(96)	-
Contribution to Priority spend Reserve	1,603	1,603	-
<b>Use of Reserves:</b>	<b>732</b>	<b>618</b>	<b>(114)</b>

3.1.3 It is forecasted that there will be a contribution from reserves of £931k in 2020/21. This is made up of:

- £831k to fund items included in the Net Cost of Services such as Gilston Garden town project costs, expenditure on the IT shared service and the smoothing of the leisure contract costs, approved as part of the 2020/21 budget setting
- £100k use of the interest equalisation reserve to smooth the impact of anticipated shortfall in investment returns

#### 4.0 Funding

These income budgets are general and non-service specific income sources. The table below shows the value and source of these funding streams as at 30<sup>th</sup> June 2020.

Table 5: 2020/21 funding

	<b>Original Budget 2020/21</b>	<b>Forecast Funding 2020/21</b>	<b>Variance</b>
Business Rates	(3,124)	(3,124)	-
(Surplus)/Deficit on collection fund	(300)	(300)	-
Government support grant	-	(1,703)	(1,703)
New Homes Bonus	(2,832)	(2,832)	-
<b>Total Funding</b>	<b>(6,256)</b>	<b>(7,959)</b>	<b>(1,703)</b>

4.1.1 The impact on collection rates for both Council Tax and Business Rates as a result of covid-19 is being closely monitored by officers. A contribution to the Collection fund

reserve of £2.554m was made in 2019/20. This can be utilised in this and future years to mitigate the impact of reduced collection in year.

- 4.1.2 The Council received £1.703m grant from central government, as Local Authority support grant to enable us to manage increased expenditure as a result of covid-19.

## 5.0 Capital Programme

- 5.1.1 The revised capital budget for 2020/21 is £73.985m, this includes £30.898m carried forward from 2019/20. It is currently forecast that £100k is to be carried forward to future years. Appendix A provides an analysis of the projects and their budgets.

- 5.1.2 A review of the capital programme is currently being undertaken, and any resulting amendments to the budget or spend profiling will be reported in the Quarter 2 budget monitoring report.

## 6.0 Debtors

- 6.1.1 The total outstanding debt as at 30<sup>th</sup> June 2020 is £1.778m, which has increased by £578k from the 19/20 outturn position.

- 6.1.2 The outstanding debt over 120 days totals £868k.

Due to the current nationwide pandemic there has been an increase in aged debt. However officers have been proactively working by agreeing payment plans/deferrals with debtors in order to pursue the debt.

In calculating the bad debt provision as at 31 March 2020, officers were prudent and allowed for potential non collection of debts due to the pandemic.

Appendix B analyses the profile of aged debtors

## **7.0 Reason(s)**

7.1 As part of its budget monitoring process, the Council is required to produce budget monitoring reports in order to provide effective financial and performance management.

## **8.0 Options**

8.1 Not applicable

## **9.0 Risks**

9.1 Not applicable

## **10.0 Implications/Consultations**

Consultation was undertaken with budget managers/finance contacts to assist in writing this report.

### **Community Safety**

No

### **Data Protection**

No

### **Equalities**

No

### **Environmental Sustainability**

No

### **Financial**

All financial implications are included in this report.

### **Health and Safety**

No



## **Human Resources**

No

## **Human Rights**

No

## **Legal**

All statutory requirements have been considered in preparing this report.

## **Specific Wards**

No

## **11.0 Background papers, appendices and other relevant material**

Appendix A: Capital

Appendix B: Debtors

## **Contact Member**

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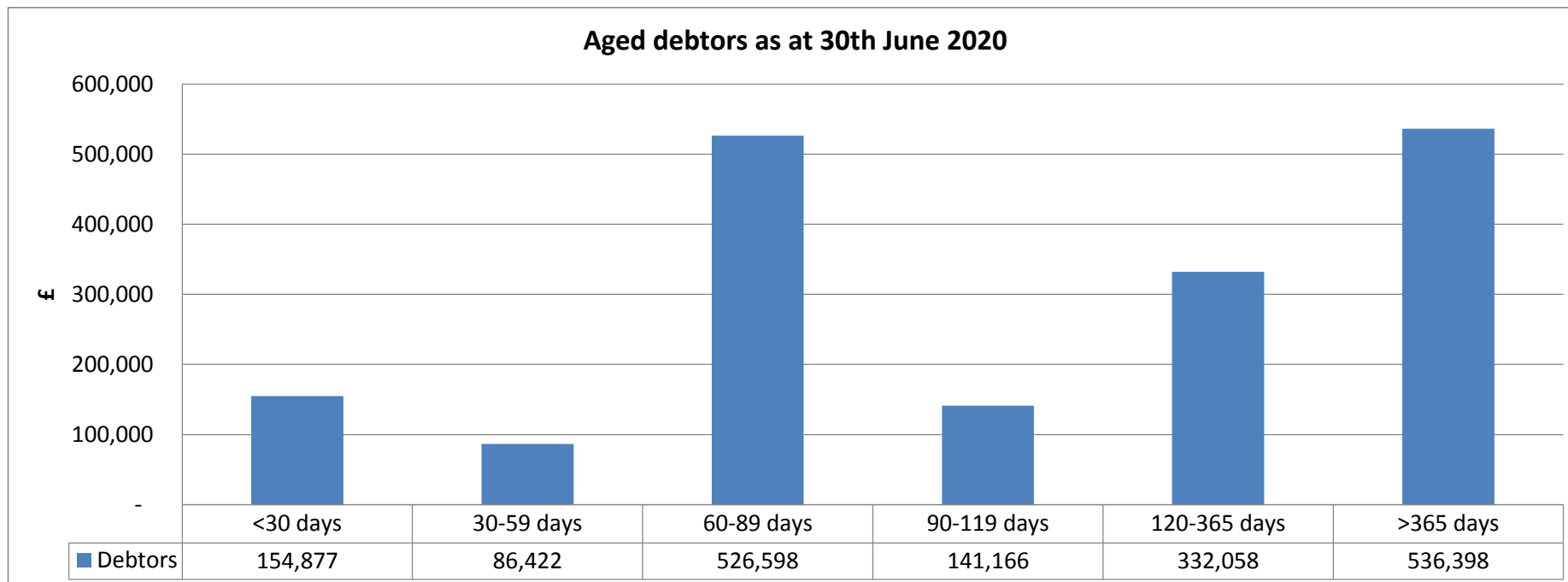
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<b>Capital Forecast Outturn Quarter 1 June 2020</b>
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	<b>Revised Budget 2020/21 £'000</b>	<b>Forecast Outturn 2020/21 £'000</b>	<b>Variance 2020/21 £'000</b>
<b>Strategic Finance &amp; Property</b>			
Investment in operational assets	319	319	0
Car Park Resurfing	155	155	0
LED Lighting Upgrades	290	290	0
Improve & renew structures along rivers and watercourses	82	82	0
Land Management Asset Register & Associated Works	50	50	0
ORL - LEP	6,081	6,081	0
Arts Centre - ORL	250	250	0
Northgate End	19,033	19,033	0
Financial Sustainability	6,120	6,120	0
Repayment of Loan	6,000	6,000	0
<b>Shared Business &amp; Technology Services</b>			
Rolling programme to be utilised on ICT projects subject to ITSG review	1,164	1,164	0
<b>Operations</b>			
Grange Paddocks Leisure Centre	15,612	15,612	0
Bridge Works	250	250	0
Hartham Leisure Centre	9,185	9,185	0
Hartham pool filtration works	420	420	0
Ward Freman Leisure Centre	881	881	0
Hertford Theatre	1,066	1,066	0
Hertford & Beyond	8	8	0
Replacement play equipment across the district (in response to the Condition Audit to be reviewed in 2018/19)	50	50	0
Play Area and other projects, Hartham Common, Hertford	280	280	0

Castle Park - HLF	1,509	1,509	0
Trinity Close - Open Space Project	100	100	0
Buntingford Depot site works for Residual Waste	208	208	0
Heat Detection Unit at Buntingford Depot	305	305	0
<b>Housing &amp; Health</b>			
Decent Home Grants	120	120	0
Future Housing Schemes (6 Water Lane, Hertford)	5	5	0
Colebrook Court (Network Housing)	33	33	0
Energy Grants	20	20	0
Community Capital Grants	155	155	0
<b>Planning &amp; Building Control</b>			
Historic Building Grants -	20	20	0
Improvements to The Wash, Maidenhead Street & Bull Plain, Hertford	2	2	0
<b>Communications, Strategy &amp; Policy</b>			
Launch Pad 2	202	102	(100)
<b>Millstream Property Company</b>			
Capital Loan (10 x properties per annum)	4,010	4,010	0
<b>Current Capital Programme Budget Total</b>	<b>73,985</b>	<b>73,885</b>	<b>(100)</b>

The following graph shows the age of the £1.778m of debts outstanding as at 30th June 2020



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## East Herts Council Report

### Executive

**Date of Meeting:** 6 Oct 2020

**Report by:** Councillor Linda Haysey, Leader of the Council

**Report title:** Use of Compulsory Purchase Powers (CPO) in the Gilston Area

**Ward(s) affected:** Hunsdon

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### Summary

#### RECOMMENDATION FOR EXECUTIVE:

- (a) That the Executive recommend to Council that, in principle, (and subject to Harlow District Council resolving to follow the same course of action) the Council be prepared to use powers available to it under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily purchase land in the Gilston area, as generally shown on the plans at Appendix 1, to enable the construction of transport infrastructure to support the delivery of the Gilston Area allocation in the East Herts District Plan (The Gilston Area Allocation) and the achievement of the wider strategic planning benefits referred to in the report.**
- (b) That the Executive delegate authority to the Head of Legal and Democratic Services, in consultation with the Head of Planning, to enter into a Compulsory Purchase Order Indemnity Agreement (CPO IA) in relation to this matter, on behalf of the Council.**
- (c) That the Executive and Council note that Officers will undertake the work needed to prepare for a possible Compulsory Purchase Order (CPO) together with the**

**associated documentation and, if necessary, will bring a further report back to the Executive and Council seeking authority to make a CPO.**

## **1.0 Proposal(s)**

- 1.1 It is proposed that the Council determine, in principle, that it will make use of the compulsory land purchase powers available to it, under section 226(1)(a) of the Town and Country Planning Act 1990, in order to secure land to deliver transport infrastructure in the Gilston area, to support the delivery of the Gilston Area Allocation and the achievement of the wider strategic planning benefits referred to in this report. If agreed, this is a decision for Council (rather than a decision that can be taken by a meeting of the Executive).

## **2.0 Background**

- 2.1 The principle of development of land in the Gilston Area has been established by the East Herts District Plan. Development in this location will form part of the Harlow and Gilston Garden Town (HGGT).
- 2.2 As part of the allocation of the land, the District Plan identified the need for significant supporting infrastructure (policies GA1 and GA2). Two key elements of this are
  - the expansion of the existing A414 road crossing over the River Stort between the Gilston area and Harlow to provide dedicated sustainable transport capacity, and
  - the creation of a new crossing over the River Stort (either to the east or west of the existing).In this report these two elements of infrastructure are referred to as 'the Transport Infrastructure'.
- 2.3 The owner of the majority of the land which comprises the Gilston Area Allocation, Places for People (PfP) (the Applicant) has submitted three related planning



applications (the Applications) to the Council for parts of the Gilston Area Allocation, as follows:

- Outline planning application for a residential-led mixed use development of 8,500 homes across six distinct villages directly north of the A414 and Eastwick Road, with all matters reserved except for three 'Strategic Accesses' into the Gilston Park Estate (Village Development) (ref 3/19/1045/OUT)
- Full planning application for enhancements and widening of the existing vehicular crossing over the River Stort (Central Stort Crossing) (ref 3/19/1046/FUL); and
- Full planning application for a new crossing over the River Stort (Eastern Stort Crossing) (ref 3/19/1049/FUL).

The last two include the Transport Infrastructure element.

- 2.4 The two full planning applications have also been submitted to Harlow District Council (HDC) as the application sites straddle the boundary between East Herts and Harlow Council areas (the two Local Planning Authorities).
- 2.5 Members should be aware at this stage that the determination of the three planning applications (and any future planning applications for the Gilston Area Allocation) is a separate and distinct matter for the Local Planning Authorities to consider in due course. Any decision made on the use of CPO powers at this stage cannot influence any decision to be made on the planning applications, which will be determined on their planning merits.
- 2.6 The Applicant controls the land required to implement the Village Development (if planning consent is granted) However, the Applicant is not in control of all of the land which is required in order to be able to deliver the Transport Infrastructure (again if planning consent is

granted) . The Applicant is seeking to conduct ongoing negotiations with the owners of land outside its control to seek to acquire the land required for that by agreement. In addition to land located in the East Herts district, implementing the Transport Infrastructure may also require for land in the Harlow District area to be acquired compulsorily. If that is necessary, the same powers would be utilised by Harlow District Council.

- 2.7 This report is submitted to set out the current position and to seek authority, in principle and where negotiation to acquire land by agreement is not successful, for the use of CPO powers available to the Council.
- 2.8 The Council first considered the possible use of CPO powers in the lead up to the adoption of the District Plan in 2018. Through engagement with landowners at that stage, it became aware of potential land ownership constraints which may impact on the delivery of the Transport Infrastructure. A report in relation to the matter was presented to the 21 Sept 2017 meeting of the District Plan Executive Panel. The report sought agreement 'in principle' to the use of Planning Act CPO powers. The recommendation in this respect was agreed and was subsequently endorsed by the Executive at its meeting of 16 October 2017 and Council of 18 October 2017.
- 2.9 It is appropriate for the Council to consider this matter again now as, in the course of the last three years, development proposals for the first elements of the Gilston Area Allocation have been crystallised in the three planning applications and there is now clarity over the land take required to accommodate the Transport Infrastructure.
- 2.10 Turning to the issue of CPO powers, Section 226(1)(a) of the Town and Country Planning Act 1990 enables acquiring authorities with planning powers to exercise

their compulsory acquisition powers if they think that acquiring the land in question will facilitate the carrying out of development, redevelopment or improvement on, or in relation to, the land being acquired and it is not certain that they will be able to acquire it by agreement. The wide power in section 226(1)(a) is subject to subsection (1A) of section 226. This provides that the acquiring authority must not exercise the power unless they think that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area for which the acquiring authority has administrative responsibility.

- 2.11 The latest version of the MHCLG Guidance on the compulsory purchase process (The Guidance) includes the following guidance on the use of this power: -
- “This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate”*
- 2.12 The Guidance confirms that compulsory purchase is intended as a last resort measure to secure the assembly of all the land needed for the implementation of projects and acquiring authorities will be required to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the CPO by agreement.
- 2.13 The Guidance also includes key policy tests which need to be satisfied before a CPO can be confirmed. Crucially, before progressing a CPO, members must be satisfied

that there is a compelling case in the public interest for making and promoting a CPO, that the use of the powers is necessary and proportionate, and that the public benefits associated with the proposals will clearly outweigh the interference with the rights of those affected. These matters are referred to below, and will be considered further in detail in any future report to the Executive and Council to seek authority for a CPO to be made.

2.14 Taking into account this guidance and following on from the October 2017 'in principal' resolution, it is considered that the use of Planning Act powers would be appropriate as a last resort measure to assemble land to implement proposals in the Local Plan, secure the delivery of the Transport Infrastructure and facilitate the delivery of the Gilston Area Allocation and the achievement of the wider strategic planning benefits referred to below.

2.15 Turning to the public benefits associated with the delivery of the Transport Infrastructure, these include the following benefits referred to in the East Herts District Plan and in the HGGT Vision:

- Supporting and accelerating the delivery of a significant quantum (10,000) of the new homes required to be delivered in the District in the period up to 2033. The new homes to be delivered will include a mix of house sizes and types to cater for all including those most in need and the next generation of residents who want the opportunity to stay and work in the area.
- Significant housing and employment growth in the immediate area around Harlow and the wider London-Stansted-Cambridge Innovation Corridor.
- New transport routes that will provide genuine alternatives to car travel within the Garden Town and help to tackle congestion, air quality impacts and support healthy lifestyles for current and future

residents.

- Enable the transport priorities and aspirations of the Garden Town partners to be achieved, prioritising healthy and active travel over other modes and seeking to achieve targets of 60% of all journeys undertaken by those residing in the Gilston area development and 50% of all journeys of those residing in the wider Garden Town by healthy and active modes.
- Provide new and improved crossings across the River Stort to link new communities to existing communities and provide better access to the Stort Valley.
- Enable the delivery of new homes and neighbourhoods built around self-sufficient local centres.
- Enable the delivery of appropriate levels of new social infrastructure and public services including schools and health services.
- Enable the creation of a network of green open spaces to include walking and cycling links across the Garden Town and connecting out to the wider countryside and Stort Valley.
- Enable the creation of new green 'wedges' between communities to help ensure individual identities for new and existing communities and villages.

### **3.0 Reason(s)**

- 3.1 As set out above, this report relates to the potential requirement for the use of CPO powers to acquire land in the Gilston area necessary for the implementation of transport infrastructure to support the Gilston Area Allocation and to deliver wider strategic planning benefits referred to in this report.
- 3.2 The planning applications referred to above, if permitted, will comprise the majority of the development anticipated in the Gilston area through the allocation of

the site in the East Herts District Plan. The outline application proposes the development of 8,500 new homes across 6 distinct villages. Each of these villages will be provided with and supported by relevant transport, social and other necessary infrastructure.

- 3.3 A further outline planning application, also under consideration, has been submitted by a separate landowner (Briggens Estate no 1/CPP). It proposes a further 1,500 new homes and further supporting infrastructure. The two proposals together comprise the total 10,000 new homes to be delivered as part of the Gilston Area allocation. The separate proposals submitted by CPP also require delivery of the Transport Infrastructure to enable them to be implemented.
- 3.4 The two full applications comprise, as indicated, the Transport Infrastructure. In relation to the existing (or Central) A414 river Stort crossing, the proposal is to expand the current road carriageway by an additional lane in each direction. The additional capacity will be provided for sustainable transport modes only, buses and any future innovative transport provision which may be implemented, between the Gilston area and Harlow. Dedicated provision will also be made for walking and cycling.
- 3.5 The application proposals also include for the development of a new bridge over the current Eastwick Road to enable walking and cycling provision to connect directly with the new development in the village to be implemented closest to Harlow (village 1). Changes are also proposed to the existing Eastwick junction roundabout, to enable a direct, sustainable transport modes only junction to be created to access the new development. A separate all vehicle access to the new development will also be created to the east of this junction.
- 3.6 The application for the additional river Stort road

crossing (the eastern crossing) proposes a single carriageway road way which will leave the current alignment of Eastwick Road to the east of the Eastwick roundabout and pass through the current gap between development at Terlings Park and Pye Corner. The road will be routed south eastwards to a new junction with a new northward leg (see below), then curve south over the river to join up at a new junction with River Way in Harlow. River Way allows an onward connection to be made to Edinburgh Way, the east-west route of the A414 in Harlow.

- 3.7 The additional northward leg, referred to above, will make a connection back to Eastwick Road at a point north east of Pye Corner, effectively forming a by-pass to this existing area of development.
- 3.8 Should planning permission be secured, the development in the area will comprise part of the Harlow and Gilston Garden Town (HGGT). The Garden Town partners<sup>1</sup> (Partner Councils) have been working together to support the successful implementation of development to deliver the combined Vision for the Garden Town. As part of the combined work and as a result of land constraints identified at various sites across the Garden Town, the Partner Councils commissioned consultants (Cushman and Wakefield) to draw up a land acquisition strategy.
- 3.9 In respect of the Gilston Area and its infrastructure requirements, the strategy of the Partner Councils is, in the first instance, to allow the Gilston area landowners/ developers to negotiate with third party landowners, as necessary, to acquire by agreement any additional land which is required in order for the Transport Infrastructure to be delivered. This role has been taken up by the Applicant as they are the majority landowner in the area and have submitted the associated planning

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<sup>1</sup> East Herts DC, Epping Forest DC, Harlow DC, Essex CC and Herts CC

applications.

- 3.10 If the outcome of those negotiations are unsuccessful, the strategy is then to revert to the use of powers available under the Town and Country Planning Act 1990 to compulsorily purchase the land required. The Guidance makes it clear that it is sensible to progress preparatory work on CPO action in parallel with negotiations with landowners so that valuable time is not lost.
- 3.11 The land which is likely to be required for the development of the Transport Infrastructure is shown on the plans attached as **Appendix 1**. Together with the associated ownership schedules, these plans set out which organisations or private individuals are currently in control of land required to enable the delivery of the Transport Infrastructure.
- 3.12 Members will note that the land required is located both within the East Herts District Council area and the Harlow District Council area. Neither Council is able to exercise the CPO powers available to it in relation to land that is located outside of its administrative area. As a result, if acquisition by use of compulsory powers is required in relation to land in both Council areas, then both Councils will need to exercise their CPO powers. In this respect a parallel report on this matter is being submitted to the Cabinet and Council at Harlow Council. Members will note that the recommendation to this report is provisional on Harlow District Council also resolving to proceed with the use of powers available to it.
- 3.13 In relation to the Transport Infrastructure referred to here, and wider transport infrastructure across the Garden Town, Herts CC led a bid for government funding under the Housing Infrastructure Funding (HIF) programme. The bid was successful, albeit under the separate Housing Investment Grant (HIG) scheme. The successful outcome has led to the availability of funding,



to a value of £172m, for the implementation of wider transport infrastructure. This delivery programme for the use of that funding includes the transport infrastructure referred to in this report.

- 3.14 HCC are now in negotiation with central government, through Homes England, to resolve the contractual arrangements relating to the use of the HIG funding. An important element of that for all involved, is the programme of delivery. HIG funding has been awarded on the basis that it will accelerate the delivery of housing in the Gilston and wider Garden Town area.
- 3.15 HIG programme arrangements remain to be resolved. The broad elements of the programme see a construction timescale of not less than 2 years. It is not possible to commence construction until all the land required to implement it is under the control of either the Applicant or the Council(s). In that respect, if the use of CPO powers is necessary, the Partner Councils consultants advise that a period of not less than 2 years should be also be allowed for this. This gives a combined programme timescale of 4 years. Given the objective of the HIG funding is to accelerate delivery timescales, it is therefore appropriate to commence CPO action, if required, without delay.
- 3.16 This report is submitted to set out the current circumstances in relation to this matter. It seeks authority, in principle, for the use of CPO powers available to the Council. The Applicant will continue to negotiate with third party landowners to seek to acquire land, as required, by agreement. If that process is unsuccessful, then a further report will be submitted to the Executive and Council to seek authority to commence CPO processes.
- 3.17 Undertaking CPO action has the potential to result in budget implications for the Council. These implications range from the modest, eg officer time involved in

preparing reports and other background work, through to the more substantial, eg if the powers are utilised successfully and compensatory payments are required to be made for land acquired.

- 3.18 As a result, the Council has sought an Indemnity Agreement (the CPO IA) with the Applicant, such that it (the Applicant) will cover all costs incurred by the Council. The Agreement is currently in preparation. Authority is also sought through this report to finalise the terms of the CPO IA and, once satisfactory, to enter into it. No further work in relation to this matter will be undertaken until the Agreement is concluded and all further costs incurred by the Council are indemnified.

#### **4.0 Options**

- 4.1 The alternative options to the use of CPO powers are either to continue to seek to acquire the necessary land for the Transport Infrastructure by negotiation (with no potential for subsequent CPO activity) or to pursue alternative infrastructure delivery arrangements.
- 4.2 In relation to the first of these (continue to seek to acquire by negotiation with no potential for subsequent CPO activity), the information provided by the Applicant indicates that action to seek to acquire the necessary land by agreement has been undertaken. Given the timescales referred to above in relation to the HIG funding, pursuing this option, with no quantifiable prospect of certainty of outcome, is considered to represent a significant risk to the delivery of the infrastructure.
- 4.3 If Members agree to the approach set out in this report, negotiation to seek to acquire by agreement will continue during the course of any CPO action. The option of ruling out the use of CPO powers at this stage is not considered realistic however.
- 4.4 The second option referred to above relates to the

possibility of identifying other options for the delivery of transport infrastructure which would only require land already in the control of either the applicants, the Council or another party that would allow it to be acquired by agreement.

- 4.5 Policy GA2 of the East Herts District Plan requires the delivery of an additional River Stort crossing either to the east or west of the existing crossing. The route to the east has been preferred by ECC because it better mitigates the impact of the Gilston development in relation to traffic flows within Harlow.
- 4.6 No detailed proposals are before the Council in relation to any alternative additional crossing. In the absence of any alternative proposals and given delivery timescales it is considered that there is no reasonable prospect of any alternative option coming forward, which does not have its own land ownership constraints, in an acceptable timescale.
- 4.7 In addition, this would not resolve any land acquisition requirements which may be necessary in relation to the enhancement of the existing A414 river crossing. Because this is an enhancement of the existing facility, it is not possible to avoid land acquisition issues which may be related to this as the infrastructure cannot be located anywhere else.

## **5.0 Risks**

- 5.1 There are risks associated with undertaking CPO action. Any such action is subject to scrutiny through public inquiry and decisions are subject to legal challenge. However, given the requirement to acquire the necessary land to deliver the Transport Infrastructure to support the delivery of homes, such risks are considered to be outweighed by the need to ensure that housing development takes place and the public benefits associated with the delivery of the Transport Infrastructure are realised.

- 5.2 Budgetary risks are considered to be mitigated subject to the completion of the necessary indemnity Agreement as referred to above.

## **6.0 Implications/Consultations**

- 6.1 Owners of land of which acquisition has been sought will be aware of the circumstances set out in this report because of the negotiations between themselves and the Applicant. No separate consultation arrangements are required.

### **Community Safety**

No implications

### **Data Protection**

No specific implications. All information required and utilised in undertaking any CPO activity will be used and safeguarded in accordance with normal data protection protocols.

### **Equalities**

All public sector acquiring authorities are bound by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. This means that they must have 'due regard' or think about the need to:

- eliminate unlawful discrimination
- advance equality of opportunity between people who share a protected characteristic and those who don't
- foster or encourage good relations between people who share a protected characteristic and those who don't

Having 'due regard' means public authorities must consciously consider or think about the need to do the three things set out in the PSED.

In exercising their compulsory purchase and related powers (e.g. powers of entry) acquiring authorities must have regard to the effect of any differential impacts on groups with protected characteristics.

To date, equality implications have been considered through the undertaking of an Equalities Impact Assessment.

In progressing the Orders and carrying out any further consultations the Council will take into account the needs of persons with protected characteristics and the requirements of the PSED.

### **Environmental Sustainability**

The transport infrastructure being enabled by the acquisition of land is that considered necessary to support the Partner Councils Garden Town Vision. A key element of this Vision is to achieve a target of 60% of journeys undertaken by residents in the new garden communities by active, healthy and sustainable modes. Delivery of the infrastructure has significant implications in relation to the transport sustainability of the new development.

### **Financial**

As set out above, it is anticipated that any budgetary impacts will be mitigated by the action of securing an Indemnity Agreement

### **Health and Safety**

None

### **Human Resources**

None

### **Human Rights**

Whilst this report only seeks an 'in principle' decision from the Council that it is prepared to authorise the use of CPO powers, officers would provide the following guidance at this stage on the human rights implications of pursuing CPO action. The Guidance confirms that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European

Convention on Human Rights (ECHR) (right to the peaceful enjoyment of property) and, in the case of a dwelling, Article 8 of the ECHR (right to respect for private and family life, home and correspondence. Before deciding whether to authorise a CPO, the Council will need to consider the balance and compatibility between the compulsory powers sought and the rights enshrined in the ECHR and whether there is a compelling case for a CPO in the public interest which means that the acquisition of land to enable the scheme to proceed, brings benefits to the area, which could not be achieved without the use of compulsory purchase powers.

## **Legal**

All actions will be taken within and ensuring that full legal requirements are met.

## **Specific Wards**

Yes - Hunsdon

## **7.0 Background papers, appendices and other relevant material**

7.1 Appendix 1 – plans and associated details of ownership

***The information set out in Appendix 1 is exempt from publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 in that it provides details of the owners of land to which this report relates.***

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