

ESSENTIAL REFERENCE PAPER 'E'

East Herts District Plan: Frequently Asked Questions

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1. What is the current plan?

The Local Plan 2007 is the current statutory development plan for the district, together with the Minerals and Waste plans prepared by Hertfordshire County Council. It includes a number of site allocations, as well as development management policies, and policies relating to specific designations such as employment areas, leisure and recreation, and Green Belt. It also contains place-specific policies covering the towns and villages. It may be found at www.eastherts.gov.uk/localplan. The Local Plan is used as the basis for decisions taken by the Development Management Committee. Legislation requires that decisions at Development Management Committee are made in accordance with the development plan, unless material considerations indicate otherwise.

2. Why do we need a new plan?

A plan ensures that there is clarity about where and how much development will happen in the future. This enables local people and businesses to make decisions about their own activities. The 2007 Local Plan is now out of date and although the majority of the topic-based policies are saved, there is no plan to identify locations where development should be focused, or where it should be restricted.

It also means that 'larger than local' decisions to do with infrastructure planning can be addressed between all the relevant bodies. For example, investment in utilities and hospital facilities may take many years to plan and build. Since there is currently no higher tier plan to set out which areas of cross-boundary infrastructure are necessary to support development, the District Plan will provide important information to enable the relevant parties to make capacity enhancements. It will also allow the District Council to lobby central government and other funding bodies as necessary to provide the necessary infrastructure to support growth.

Without a plan it is likely that development proposals would be advanced which are inappropriate in terms of their location and poorly supported by infrastructure. Should the Council refuse proposals of this nature and in the absence of more appropriate development, there would be significant risk of applicants making successful appeals to the Planning Inspectorate to overturn the Council's decisions. This would be an expensive and time consuming process.

3. Where is the evidence underlying the Plan?

The evidence can be found in five main locations on the Council's website:

- Technical studies: www.eastherts.gov.uk/technicalstudies
- A Supporting Document explains the process of defining and shortlisting options: www.eastherts.gov.uk/supportingdocument

- The Interim Development Strategy Report draws on the evidence in the Supporting Document and the Technical Studies and explains the selected strategy: www.eastherts.gov.uk/strategyreport
- An Infrastructure Topic Paper explains the approach to infrastructure planning and the further work to be done before Examination in Public: www.eastherts.gov.uk/infrastructure
- The Sustainability Appraisal of the draft District Plan assesses alternative options: www.eastherts.gov.uk/sa

The evidence underlying the plan runs to thousands of pages, but is considered proportionate to the needs of a strategic plan. All the evidence will be clearly signposted as part of the consultation on the draft District Plan.

4. What is the scope of the plan?

Most detailed issues can only be addressed in relation to specific proposals put forward in a planning application and scrutinised through the Development Management process. The plan should be viewed as part of an end-to-end process. Examples of issues which are beyond the scope of the plan include detailed environmental health issues, ecological surveys, and detailed transport and infrastructure issues. The District Plan provides a framework for consideration of detailed matters through the planning application process.

5. Who has made the decisions on the draft plan?

East Herts Council is the Local Planning Authority and its responsibilities include production of a statutory plan to guide development. Officers prepare the plan, but have no power to make decisions.

All decisions are made by Full Council, comprising all 50 elected Ward Members of East Herts Council. All work on the District Plan has been presented to the District Planning Executive Panel for scrutiny before being passed to the Executive and then Full Council. The District Planning Executive Panel is open to all East Herts Members to attend and ask questions. The sessions are all public meetings. The agendas, Minutes, and webcasts are all posted on the Council's website.

The District Planning Executive Panel is constituted of three Members of the Executive: Councillor Mike Carver, Executive Member for Strategic Planning and Transport and Chair of the Panel, Councillor Linda Haysey, Executive Member for Health, Housing, and Community Support, and Councillor Suzanne Rutland-Barsby, Executive Member for Community Partnership and Liaison. The three Members of the Panel make recommendations to Executive and Full Council but do not make policy decisions.

The draft Plan has 'emerged' from the evidence and national policy requirements, rather than being 'chosen' by any individual or group of individuals. The Council is constrained by the requirements of the National Planning Policy Framework (NPPF) and the legal system within

which planning operates. Compliance with the NPPF is assessed at Examination in Public presided over by a government-appointed Planning Inspector before the Council can adopt the plan as a statutory document. The Inspector may recommend the Council to change any aspect of its plan which is not in conformity with the NPPF or other legal and planning requirements, or may recommend withdrawal of the plan. Failure to follow the Inspector's recommendations would mean that, should the Council nevertheless decide to adopt the plan unchanged, it would be at very high risk of challenge through the courts.

6. Have alternative options been considered?

Yes. The Council has assessed 69 'areas of search'. The details of the assessments are set out in the Supporting Document to the District Plan. The rejected options were assessed through a Sustainability Appraisal of the selected options.

Alternative district-wide growth levels have not been considered as part of the Sustainability Appraisal process because the Council does not have an option in relation to meeting housing requirements (see point 9 below).

7. Why is the plan housing-led? What about employment?

Whilst East Herts has a strong SME (Small and Medium Sized Enterprise) sector, its main economic role is in terms of the sub-regional labour market, providing many workers for major employment centres outside the district, including Stansted Airport, Hatfield Business Park, Stevenage, Harlow, Cambridge, and of course London.

Many skilled professional workers are attracted to East Herts as a place to live by the high quality of life on offer here. The combination of pleasant places to live with skilled job availability provides the foundations of the sub-regional economy.

The East Herts plan should therefore be understood as complementary to plans for economic development in neighbouring districts. Stevenage, Harlow, and Broxbourne all have aspirations to grow their employment offer.

It should be remembered that many of the businesses of East Herts itself depend on local customers, and that there is a strong link between local customers and vitality of the shopping centres. Development in the district will also assist businesses to grow, by enabling the provision of small but attractively located modern business parks at the edges of the market towns.

Further information is available in the Council's Strategic Economic Development Advice Technical Study (2012).

8. Can the Council reduce the amount of housing and development in the draft plan?

No. The National Planning Policy Framework and associated practice guidance make it very clear that Local Planning Authorities are expected to plan to meet the full extent of housing need in their area. For East Herts this amounts to 15,000 dwellings. The Strategy Report (see link above) explains national housing requirements and their application to the District Plan.

The Council has been examining the outcome of the planning process in other areas, reviewing the outcome of examinations by the Planning Inspectorate. It has also sought external advice on this matter. It is clear that the Planning Inspectorate, backed by the Government, will not allow Local Planning Authorities to reduce their housing requirements without very substantive and clear reasons for doing so. It is not considered that such circumstances are in place in East Herts.

9. Will the necessary supporting infrastructure be provided in a timely fashion?

East Herts Council has prepared the draft District Plan but is reliant on external providers to deliver the majority of the critical infrastructure and services to support development. The Council's role involves dialogue and co-ordination, but is not itself able to commit to delivery of infrastructure. For this reason the Council's plan needs to include a degree of flexibility and monitor the changing position in relation to infrastructure delivery over time.

Whilst there is always an element of uncertainty around infrastructure provision over such a long time period, there is a reasonable level of confidence that the infrastructure can be delivered. Further work over the coming year in the lead-up to examination will assemble further evidence in this respect. The Infrastructure Topic Paper sets out the key issues, and these will be worked up further through a Delivery Study leading to an Infrastructure Delivery Plan to support the District Plan at Examination in Public.

In some cases, critical infrastructure such as new schools will need to be built, and this will take a number of years. In such cases interim solutions to expanded school capacity are normally available to enable the gradual scaling up of capacity to the point where the new school can be filled. The plan also identifies options for potential provision of new school sites, which have the capacity to grow and expand over time. The provision of new sites is essential to enable the provision of high-quality educational facilities, given the identified limitations to the amount of capacity which can be provided at existing schools. The draft plan identifies potential new secondary school sites at Bishop's Stortford, the Gilston Area (north of Harlow), north of Ware, and east of Welwyn Garden City.

10. What about water supplies and waste water capacity?

The Council has worked with Affinity Water as the water supply company and Thames Water as the waste water company.

Supported by Affinity Water and the Environment Agency, the draft East Herts Plan includes water efficiency targets for new development in excess of Building Regulation requirements. However, East Herts Council has expressed concerns to Affinity Water and the Department for the Environment, Food and Rural Affairs (DEFRA) in respect of the company's draft Water Resources Management Plan (WRMP), which relies on increased water efficiency measures to offset the projected increase in consumption from population increases. The issue of water resources is a matter for the national regulatory framework. The Planning Inspectorate does not view general water resources issues as a reason to reduce the housing requirement. Reflecting this, the Council cannot view water supply issues as a basis for seeking to lower the amount of development in the plan.

Thames Water operates the waste water network and sewage treatment facilities. The company has advised that there is currently capacity in the network. The company has also advised where new sewers and upgraded treatment works will be needed to support development. Promoters in the Gilston Area (north of Harlow) have proposed a new sewage treatment works. Further details are provided in the Infrastructure Topic Paper.

11. What about the transport impacts?

East Herts Council takes advice on transport matters from Hertfordshire County Council as transport and highways authority for the county. Advice has also been sought from the Highways Agency, which is responsible for the motorway network, and from Essex County Council, since aspects of the draft plan will have impacts beyond Hertfordshire. Transport modelling has been undertaken to inform the plan-making process and understand the cumulative impacts of development not just in East Herts but also across administrative boundaries.

Paragraph 32 of the NPPF states that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.*" However, it may not be possible to resolve this issue through the District Plan. The Council is not aware of any other examples where the Planning Inspectorate has accepted transport severity as a reason to reduce the level of development in a Local Plan. Highways safety rather than speed of traffic flow is emerging as the main concern of the highways and transport authorities. This will need to be kept under review as work on the plan progresses and further evidence is assembled.

Hertfordshire County Council has provided a Transport Update (November 2013) which sets out the available evidence in relation to the options underlying the draft District Plan. Further work will be produced

during 2014. However, the District Plan is an early part of the end-to-end planning process. Detailed assessment of site-specific transport matters occurs through a Transport Assessment as part of the planning application process.

The proposed Development Plan Documents (see below) at strategic scale growth locations will allow for further detailed testing of transport impacts, working with landowner and developer transport consultants.

12. Have landowners and developers been involved in the preparation of the draft plan?

In order to produce an effective plan it is essential to take into account whether there is any party that will actively bring a site forward, what they are proposing, and what other information they may have which could inform the plan. Given the large number of site options remaining at shortlisting stage (summer 2012) a questionnaire was issued to all known owners and responses were collected and reviewed. There have been no direct meetings between site owners and Planning Officers or Members from East Herts Council. However, the Council asked ATLAS, the Homes and Communities Agency's planning experts, to gather further information through targeted landowner meetings, sufficient to the requirements of this stage in the plan-making process. The notes of all these meetings, and the landowner responses to the questionnaire, are all on the Council's website at www.eastherts.gov.uk/developerinfo.

13. Why does the plan include development proposals in the Green Belt?

The National Planning Policy Framework (NPPF) requires all Local Planning Authorities to meet their development needs. Housing and development needs may constitute the required exceptional circumstances to review the Green Belt. Local Planning Authorities have the power to review the Green Belt in their Local Plans.

Housing need in East Herts amounts to 15,000 dwellings. Within the existing built-up areas of the towns there is capacity to accommodate around 1,500 dwellings at identified sites, with around another 1,200 at 'windfall' sites (i.e. permissions granted at previously unidentified sites through property conversions and demolitions for example). Whilst the northern part of the district includes areas not in the Green Belt, delivering the required level of development in this area, away from the infrastructure and facilities of the main towns, would not represent a realistic development strategy.

The Council has undertaken a Green Belt Review technical study which assesses the role of all areas of the District's Green Belt against the purposes of Green Belt as a strategic planning tool, as set out in the NPPF, and looked in detail at potential boundaries at those locations shortlisted by the Council for further study (see the Supporting Document).

The Interim Development Strategy Report takes account of the technical recommendations of the Green Belt review and compares this with national housing requirements, which form the exceptional circumstances needed to justify Green Belt release. The proposed new Green Belt boundaries are shown on the draft Policies Map which accompanies the draft District Plan.

14. How can the draft District Plan include development north of Bishop's Stortford when this is currently the subject of planning applications?

The District Plan addresses the principles of development with regard to scale and location of development over the long term. The current planning applications are advancing specific development proposals put forward by the landowners and developers. They are being assessed within the context of the Local Plan 2007 and the National Planning Policy Framework. The draft District Plan is informed by a review of relevant evidence from the planning application process. This review has confirmed that there are no in-principle reasons why development north of Bishop's Stortford should not be included as a site allocation within the plan, irrespective of the Council's decisions in relation to detailed matters of the planning application.

15. Didn't the Council previously reject the County Council's schools proposal south of Whittington Way, Bishop's Stortford?

Yes. The Council rejected the proposals within the context of the Local Plan 2007. The Planning Inspector and Secretary of State agreed that Hertfordshire County Council had not sufficiently explored alternative options for school expansion to justify the very special circumstances to allow development to take place in the Green Belt.

There is currently no finalised strategy in place from the County Council, as the Education Authority, to ensure the provision of education capacity in the town. Until such time as this issue has been resolved, it is necessary for the District Plan to keep open the range of possible options for the provision of enhanced educational capacity in the town. Since this land has been identified as a possible residential development site, that includes the possibility of educational development here.

Aside from school provision, the other major consideration relates to housing requirements arising from the National Planning Policy Framework (NPPF). The NPPF requires Local Planning Authorities to meet their housing needs, particularly in the first five years (2016-2021). The Council has had regard to the Hertfordshire Way and the sloping nature of the site amongst other considerations. However, in the absence of less harmful sites elsewhere, and considering the unmet need the Housing Market Area, these concerns are considered to be outweighed by NPPF housing requirements.

16. Doesn't the Council oppose development in the Gilston Area (north of Harlow) any more?

The Council opposed the imposition of large-scale development north of Harlow through the East of England Plan, and endorsed the conclusions of the Independent Panel which rejected the concept. However, the Panel's recommendations were subsequently rejected by the Secretary of State, who retained the policy to enable development here in the final Regional Plan. East Herts Council has reiterated its opposition to development north of Harlow since that time.

However, all Local Planning Authorities are obliged to seek to meet their housing needs (see Section 8 above). After extensive consideration of the full range of options, and taking unmet need into account, development in the Gilston Area (north of Harlow) is considered to be the least unfavourable location where those needs could be met to achieve the housing requirement in full. The alternatives have been examined through the strategy selection process and sustainability appraisal (see Section 6 above) and are either not feasible at the present time, or are less sustainable.

The Localism Act 2011 contains a Duty to Co-Operate which requires Local Planning Authorities to take account of the needs of their neighbours. Harlow Council supports large-scale growth in the Gilston Area (north of Harlow), providing that the necessary supporting infrastructure is provided. Harlow Council's aim is to attract skilled workers to the local area and achieve critical mass to enable the transformation of the town. This position has been confirmed through a recent Member-level meeting, the agreed notes of which will be published alongside the draft District Plan for consultation.

If East Herts Council were to proceed to Examination in Public of its own Plan without being able to demonstrate that it has reasonably considered Harlow Council's aspirations, in the absence of demonstrable evidence, then it is likely the plan will be found 'unsound'. Failure to do so would mean that East Herts Council would fail the Duty to Co-Operate and would fail against housing requirements, and so the Council could not produce a plan to guide development anywhere in the district.

Whilst issues remain with regard to highways and transport matters in relation to development at land north of Harlow it is understood that the modelling to date does not provide sufficient evidence to demonstrate that transport solutions could not be found. Therefore, the transport authorities will need to commit to further work to assess potential transport solutions, and to appraise possible solutions based on a mix of schemes put forward by the developers.

Harlow Council and East Herts Council agree that development to the north of Harlow should not come forward without the supporting infrastructure, and recognise that the transport issues remain

unresolved. Harlow Council is concerned about the potential impact of large-scale development on the Harlow road network without the necessary transport infrastructure.

In order to comply with the Duty to Co-Operate, and to ensure rigorous and transparent testing, the Council is proposing to produce a further Development Plan Document to cover the area. The DPD will provide the opportunity for further investigation of the feasibility of development in the Gilston Area (north of Harlow), in consultation with Harlow Council, landowners and developers, Town and Parish Councils and other stakeholders as necessary to ensure a robust framework for considering whether growth is feasible and if so, what scale and form it should take.

If work on the DPD demonstrates that large-scale development in the Gilston Area (north of Harlow) is not feasible, the Council will need to be ready with other development options elsewhere in the district. The draft District Plan contains strong policies to ensure that development does not come forward until there is sufficient evidence to demonstrate that it is sustainable with regard to infrastructure. In the meantime the Gilston Area (north of Harlow) will remain in the Green Belt until at least until 2021.

17. What is the role of Localism and Neighbourhood Planning in the District Plan?

Any Neighbourhood Plans coming forward in the future will need to be in conformity with the District Plan. The draft District Plan will provide a strategic framework within which Parish Councils may prepare a Neighbourhood Plan, should they wish to do so. The District Plan framework provides considerable scope for communities to get involved in local decisions about the location and design of development within each settlement.

Prior to adoption of the District Plan, Neighbourhood Plans will need to be in conformity with the Local Plan 2007. In preparing the draft District Plan, East Herts Council has taken account of the emerging Neighbourhood Plans, as well as non-statutory Parish Plans.

For planning to function, there needs to be a strategic planning tier to enable joined-up decisions about larger-than-local planning issues (see Section 2: Why do we need a plan?). The Government has decided that Districts and unitary authorities are the most appropriate level for strategic plan-making, combining democratic scrutiny from locally elected Councillors with a perspective on strategic issues above settlement level. The Localism Act 2011 contains a number of provisions which embed this strategic planning requirement, including the Duty to Co-Operate.

During 2014 East Herts Council will consider what advice or support it is able to offer to Town and Parish Councils wishing to prepare Neighbourhood Plans. This will update the 2011 Neighbourhood Planning Guidance Note www.eastherts.gov.uk/neighbourhoodplanning

18. What is the difference between a site allocation and a broad location for development?

These are both policy designations found in Paragraph 157 of the National Planning Policy Framework (NPPF). This states that Local Plans should:

- a. *“indicate broad locations for strategic development on a key diagram and land-use designations on a proposals map;*
- b. *“allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and provide detail on form, scale, access and quantum of development where appropriate”*

The draft District Plan Key Diagram shows Site Allocations as red areas and Broad Locations as orange stars enclosed by a dotted line in the form of an ellipse to indicate the general broad extent of the area under consideration without defining a boundary.

Site allocations have defined boundaries on the Key Diagram and on the Policies (Proposals) Map, and each is supported by a policy which will be used in the consideration of applications by the Development Management Committee. Planning applications for site allocations will be encouraged in accordance with the policies set out in the District Plan.

Broad locations do not have identified site boundaries and further work will be required to determine the practicalities of delivery. District Plan policies on the Broad Locations will set out the high-level issues and define the scope of the DPD. Planning applications in relation to the Broad Locations are not encouraged until a full planning framework is in place in the form of a DPD (see below).

Three Broad Locations for Development are identified in the draft District Plan: the Gilston Area (north of Harlow), North and East of Ware, and East of Welwyn Garden City. Each of these sites has outstanding issues which will need to be tested further. There is also uncertainty at each of these locations about the scale and mix of development, and in the case of Welwyn and Harlow, how it may relate to other strategic development in the area. All this will need further testing through a DPD (see below).

In the case of both Site Allocations and Broad Locations there will need to be a considerable amount of evidence gathered by the site promoters and submitted to the Local Planning Authority in support of any planning application.

19. What is the difference between a DPD and an SPD?

A Development Plan Document (DPD) is a statutory document prepared in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. A DPD must comply with the plan-making regulations for consultation and Examination in Public prior to adoption as policy by a

Local Planning Authority. The East Herts Local Plan 2007 and the proposed District Plan are examples of DPDs.

The draft District Plan proposes a DPD to address the three Broad Locations for Development. A DPD will ensure that there is an appropriate vehicle for thorough testing of the Broad Locations, including options for scale, mix and infrastructure provision. Given the complex and challenging nature of delivery at these locations a DPD will offer an open and transparent basis for evidence gathering and testing with a range of stakeholders including the site promoters, Town and Parish Councils, and others as appropriate.

A DPD is considered an appropriate policy vehicle to support the Broad Location designation, to enable the Local Planning Authority to retain control and ensure that local communities have a stake in the development process.

In relation to SPDs, the National Planning Policy framework (NPPF) Glossary states: *Supplementary planning documents: Documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan... (Paragraph 153): Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.*

Two SPDs are proposed in the District Plan to support the site allocations for large sites to the north and south of Bishop's Stortford. These will enable detailed consideration of design and layout. For Bishop's Stortford North, it may be that a decision has already been made and resolved prior to Examination of the District Plan. However, it may also be the case that there will still be outstanding matters to address through further planning applications, and therefore the option to move forwards with an SPD linked to a policy in the District Plan DPD.

As with the DPDs, the SPDs will be subject to public consultation and working with stakeholders including site promoters, Town and Parish Councils, and others as necessary.

20. What is the difference between a Group 1 village and a Group 2 village?

These are both local policy designations forming part of the proposed strategy for the District Plan. They have been introduced as a way of identifying the more sustainable villages with a wider range of services and facilities which are capable of accommodating some development.

Group 1 villages are those considered capable of accommodating a 10% increase in dwellings over the 2011 Census (when these figures are aggregated and published by Hertfordshire County Council). They are shown on the Key Diagram as orange circles with a black dot in the middle.

Group 2 villages are villages with a smaller range of services or which are otherwise constrained, and are considered to be capable of accommodating infill development only. No specific housing requirement will be apportioned to these villages, although it is expected that some development will be acceptable.

All other villages will be identified as Group 3 villages where development would be unsustainable.

It is anticipated that the Group 1 villages combined will be capable of providing around 500 new homes by 2031.

When the District Plan is adopted the Group 1, Group 2, and Group 3 designations will replace the Category 1, 2 and 3 village designations in the Local Plan 2007.

21. How can I have my say?

There is a statutory requirement on Local Planning Authorities to consult for 6 weeks. East Herts Council will be consulting on the draft plan for 12 weeks in spring 2014. The Council's agreed procedure for handling consultations is set out in the Statement of Community Involvement (SCI). Three copies of the draft Plan will be sent to each Town and Parish Council prior to the start of the formal consultation period. The consultation portal is at <http://consult.eastherts.gov.uk> (note: no 'www'.)