

**Bishop's Stortford Town Council  
Neighbourhood Plan for  
All Saints, Central, South and part of Thorley**

**The Report by the Independent Examiner**

Richard High BA MA MRTPI

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## Summary

The preparation of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2031 has been a very major undertaking. The Plan contains a large number of very detailed policies carefully designed to address the specific issues faced by the area. It has also had to address the uncertain strategic context because the emerging District Plan contains major allocations for new development in the Plan area, but these have yet to be confirmed. Another important consideration has been the existence of a made neighbourhood plan covering the other two Bishop's Stortford Wards.

The Plan has adopted a constructive approach to dealing with the possibility of changes to the Green Belt boundary and development on land South of Bishop's Stortford and East of Manor Links. The adjoining neighbourhood plan is in some ways helpful as many of the policies in this Plan mirror those in the neighbouring plan, and together the two plans will provide a coherent set of policies for the town. However, adding the specific requirements for this plan, while maintaining consistency where possible, has been a challenge, particularly as in some cases the policy or legislative background has changed since the preparation of the earlier plan.

I have found the documentation submitted with the Plan clear and comprehensive and this has helped me greatly. It is also clear that the preparation of the Plan has involved a very full programme of public consultation which has been very carefully documented and presented.

I have found it necessary to recommend quite a large number of modifications. Many of these are to provide clearer wording so that the policy can be applied consistently. In other cases, they have been necessary because there has been insufficient justification for some of the policy requirements. This has particularly been the case with some of the more specific policies which aim to influence the form of development if the potential new allocations in the emerging neighbourhood plan are confirmed. In some instances the policies seek a greater degree of control than is available through the planning system.

The preparation of the Plan has been in accordance with the legislation and subject to the modifications I have recommended, I am satisfied that the Plan:

- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
- having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;
- the making of the Plan would contribute to the achievement of sustainable development;
- the making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
- The making of the Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

**I am therefore pleased to recommend that the Bishop's Stortford Town Council Neighbourhood Plan for All Saints Central, South and part of Thorley should proceed to a referendum subject to the modifications that I have recommended.**

I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area.

In my examination of the neighbourhood plan for the Silverleys and Meads Wards I considered this carefully because, as the plan area included the majority of the town centre, there was clearly the potential for some of the policies to have influence beyond the neighbourhood plan area.

I concluded that it was not necessary to extend the referendum area because many of the policies in that plan would not have been of relevance in the remaining wards

of the town and there were no representations suggesting that the referendum area should be extended.<sup>1</sup> .

As that plan has already been to referendum and contains many of the policies in the All Saints, Central, South and Part of Thorley Plan, which would be of relevance for that area I have not found any reason to extend the referendum area in this case. While some of the new policies in this Plan could have implications outside the area, notably those relating to the Goods Yard, the strategic decisions affecting this site will be taken through the emerging District Plan. Also, policies for the town centre have already been considered in the plan for the Silverleys and Meads Wards. I have concluded, having regard to Planning Practice Guidance <sup>2</sup> that it is not necessary to extend the referendum area.

**I conclude that there is not a clear need to extend the area for the referendum and that the referendum should relate to the neighbourhood plan area.**

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<sup>1</sup> Examiners Report on the Examination of the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards paragraphs 91-96

<sup>2</sup> Reference ID: 41-059-20140306

## **Introduction**

1. The Localism Act 2011 has provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans which contain policies relating to the development and use of land.
2. The Neighbourhood Plan for the All Saints, Central and South Wards of Bishop's Stortford and part of the parish of Thorley 2015-2031 (which I shall refer to as the Plan) has been prepared by Bishop's Stortford Town Council. It covers the southern part of the town and part of the parish of Thorley. It complements the neighbourhood plan for the Silverleys and Meads Wards 2014-2031 which covered the northern part of Bishop's Stortford, was successful at referendum in March 2015 and made in July 2015. The structure of the Plan and the policies closely follow those of the Silverleys and Meads Wards Plan, but in many cases the policies have been extended and there are many additional policies, If, following a recommendation from this examination, the plan proceeds to a local referendum and receives the support of over 50% of those voting, it can be made and form part of the statutory development plan. As such it will be an important consideration in the determination of planning applications, as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.

## **Appointment of the Independent Examiner**

3. I have been appointed by East Herts District Council (EHDC), with the consent of Bishop's Stortford Town Council (BSTC) to carry out the independent examination of the Neighbourhood Plan for All Saints, Central, South and part of Thorley.
4. I confirm that I am independent of the Town Council and the Local Planning Authority and have no interest in any land which is affected by the Neighbourhood Plan. I carried out the examination of the Neighbourhood Plan for the Silverleys and Meads Wards in 2014, but I do not consider that this gives rise to any conflict of interests.



5. I am a Chartered Town Planner with over 30 years' experience in local government, working in a wide range of planning related roles, including 15 years as a chief officer. Since 2006 I have been an independent planning and regeneration consultant. I therefore have the appropriate qualifications and experience to carry out this examination.

### **The Scope of the Examination**

6. The nature of the independent examination is set out in Sections 8-10 of Schedule 4B to the Town and Country Planning Act 1990.
7. I must:
  - a) decide whether the Plan complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. These requirements relate primarily, but not exclusively, to the process of preparing the plan and I shall deal with these first.
  - b) decide whether the Neighbourhood Development Plan meets the basic conditions contained in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990. This element of the examination relates to the contents of the Plan.
  - c) make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and whether the area for the referendum should extend beyond the Plan area.
8. The Plan meets the basic conditions if:
  - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan;
  - b) the making of the Plan contributes to sustainable development;

- c) the making of the Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - d) the making of the Plan does not breach, and is otherwise compatible with, EU obligations.
9. Paragraph 9 of Schedule 4B indicates that as a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case. I am satisfied from the documentation that has been submitted to me that the examination can be completed on the basis of written representations and that there is no need for a hearing. However, during the examination I have sought clarification by email on some issues and the email exchanges are attached as Appendix 1
10. The main documents which I have referred to in the examination are:
- Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032 Examination Copy.
  - Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032 Policy Maps.
  - Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032 Evidence Base Summary.
  - Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032 Basic Conditions Statement.
  - Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032 Consultation Statement Summary and Appendices 1-5.
  - Saved policies of the East Herts Local Plan 2007 Second Review
  - East Herts District Plan submitted for examination on 31<sup>st</sup> March 2017
  - Bishop's Stortford Draft Town Centre Planning Framework
  - Responses received to publicity in accordance with Regulation 16 of the Neighbourhood Plan Regulations

- The Neighbourhood Planning (General) Regulations 2012 as amended in 2015 which are referred to as the NPR
  - The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR)
  - The Conservation of Habitats and Species Regulations 2010 (CHSR)
  - The National Planning Policy Framework which is referred to as the NPPF
  - National Planning Practice Guidance referred to as PPG
11. These documents include all of those that are required to be submitted with a neighbourhood plan under regulation 15 of the NPR, with the exception of a determination on the need for a strategic environmental assessment which is considered in paragraphs 32-39.
12. I made an unaccompanied visit to Bishop's Stortford to familiarise myself with the Plan area and its surroundings on 5 May 2017. I spent most of a day walking and driving round the Plan area and visiting all the locations referred to specifically in the Plan.

### **The Preparation of the Plan**

13. The Plan has been prepared by Bishop's Stortford Town Council. In addition to three wards of the town, the Plan includes part of the parish of Thorley. In accordance with Section 61F (2) of the Town and Country Planning Act 1990 (which was inserted by Schedule 9 of the Localism Act 2011) Thorley Parish Council has given its consent to the inclusion of this part of the Parish in the Neighbourhood Plan.
14. On 11 February 2014 Bishop's Stortford Town Council wrote to EHDC to apply for the designation of the area comprising the Bishop's Stortford All Saints, Central and South Wards and part of the Parish of Thorley as a Neighbourhood Area. Following publicity in accordance with Regulation 6 of the NPR the designation was confirmed on 5 July 2014. The designation has subsequently been publicised on the EHDC website in accordance with Regulation 7.

15. Section 38B (1) (a) of the Planning and Compulsory Purchase Act 2004 requires that the Plan clearly states the period to which it relates. The Examination Copy of the Plan, Basic Conditions Statement and Consultation Statement Summary clearly state that the plan period is 2016-2032. However, the Evidence Base Summary indicates 2015-2031.

### **Recommendation**

**Correct the cover page of the Evidence Base Summary document to show the correct timescale**

16. The Plan must not include any provision about development that is excluded development as defined in Section 61K, which is inserted into the 1990 Town and Country Planning Act. Excluded development includes “county matters” such as mineral extraction and waste disposal and major infrastructure projects. I am satisfied that the submitted plan contains no such provision and does not relate to more than one neighbourhood area.

### **Public Consultation**

17. The preparation of the Plan has involved a very extensive and wide ranging process of public consultation and involvement which is reported in detail in the Consultation Statement which comprises a Summary and five Appendices. From the outset the process has been open and inclusive. The preparation of the Plan has been co-ordinated by a neighbourhood plan team with 16 members made up of town councillors, representatives of Thorley Parish Council, a wide range of community organisations, the potential developers of the land south of Bishop’s Stortford and volunteers who did not represent any organisation.
18. Consultation started with a questionnaire distributed to all households and businesses in autumn 2014 to which 1,744 responses were received. This was followed by 8 focus group meetings each addressing a particular topic between November 2014 and February 2015. In the second half of 2015 there were continuing initiatives to engage the wider community and specific interest groups, including businesses, commuters, young people, disability groups and mother and toddler groups in the development of the Plan.

Consultation days were held in June and September and further focus group meetings were held to consider the emerging Plan.

19. Formal Regulation 14 consultation took place between 3 March and 19 April 2016. Over 200 organisations were individually consulted, advertisements were placed in the local press, posters and flyers were displayed in public buildings, leaflets were distributed to commuters at the railway station and a summary document, leaflet and flyer were distributed to all households. Consultation days were held on 17, 19 and 20 March.
20. The response to all stages of the consultation is summarised in the Consultation Statement and presented in more detail in the appendices.
21. In accordance with Regulation 16, EHDC publicised the submitted Plan and invited representations in November/December 2016. 13 responses were received and have been sent to me with the other documents required under Regulation 17. Although I have not referred directly to all of them, I have taken all of these representations into account in my examination.
22. I am satisfied that the preparation of the Plan has involved extensive and inclusive consultation which more than meets the requirements of Regulation 14. I am also satisfied that the Consultation Statement including Appendices 1-4 fully meets the requirements of Regulation 15(2).

## **The Development Plan**

23. The statutory development plan is made up of:
  - The Saved Policies of the East Hertfordshire Local Plan Second Review 2007. (EHLP 2007)
  - The Hertfordshire Minerals Local Plan adopted in 2007.
  - The Hertfordshire Waste Local Plan which comprises the Waste Core Strategy and Management Policies adopted in 2012 and the Waste Site Allocations Document adopted in 2014.
  - The Saved Policies of the Hertfordshire Minerals Local Plan Review 2002-2016 and the Hertfordshire County Waste Local Plan 2010.

The Plan must be in general conformity with the strategic policies of these plans.

24. The time horizon for the East Herts Local Plan was 2011 and it is thus now clearly out of date. Where there is any conflict with the National Planning Policy Framework of 2012 (NPPF) the latter will take precedence. The 2007 Local Plan will be replaced by the East Herts District Plan 2011-2033 which is now at an advanced stage of preparation. It was submitted for examination on 31 March 2017. While there is no requirement for the Plan to be in general conformity with it, PPG indicates that *“the reasoning and evidence informing the Local Plan process is likely to be relevant in the consideration of the basic conditions against which a neighbourhood plan is tested”* and *“The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan.”*<sup>3</sup> This guidance applies with particular force where the emerging Local Plan has reached a fairly advanced stage as in this case and there is clear evidence in the submitted material that there has been substantial co-operation in this case.

### **The Basic Conditions Test**

25. The consideration of whether the Plan meets the basic conditions is the main focus of the independent examination process. It is therefore essential to be absolutely clear on the meaning of each of the basic conditions.

***“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”.***

26. There are two important points to emphasise in relation to this. The first is that I must consider this requirement in relation to the making of the Plan; it thus applies to the Plan as a whole rather than to individual policies. The second

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<sup>3</sup> PPG Can a neighbourhood plan come forward before and up-to-date Local Plan is in place? Reference ID 41-009-20160211

point is the use of the phrase “*having regard to*”. This means that I must consider the national policy and advice but it does not mean that each policy should be in absolute conformity with it. It provides for an element of flexibility. PPG explains that “*having regard to national policy*” means that “*a neighbourhood plan must not constrain the delivery of important national policy objectives*”. The Plan as a whole is clearly the sum of its policies and it is therefore necessary to consider the extent to which each policy complies with national policy and guidance. However, in reaching my conclusion on this basic condition it is the relationship of the Plan as a whole with national policies and guidance rather than individual policies which is the key consideration.

27. The Basic Conditions Statement explains how the Plan responds to the core planning principles of the NPPF. It then goes on to consider how the policies of the Plan relate to the main themes of the NPPF. This is very helpful, but it would be even more helpful in some cases to identify the specific paragraphs of the NPPF that are of particular relevance for the Plan because these explain in more detail how the principles are to be applied.
28. Also relevant to the basic conditions test is “guidance issued by the Secretary of State” as set out in PPG. The Basic Conditions Statement does not consider the relationship of the Plan to PPG but I have had frequent need to relate aspects of the Plan to it.

***“The making of the plan contributes to sustainable development”***

29. Sustainable development is the fundamental principle guiding the planning process and the assessment of this basic condition is therefore of prime importance.<sup>4</sup> The NPPF spells out the three dimensions of sustainable development: economic, social and environmental, and emphasises the interdependent nature of these. Again, it is important to note that the assessment to be undertaken relates to the Plan as a whole, but clearly the contribution of each policy needs to be considered to enable a conclusion to

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<sup>4</sup> NPPF Paragraph 6

be reached and policies which fail to contribute to sustainable development are likely to require modification or deletion. As the NPPF points out local circumstances vary greatly and that influences the way in which contributions to sustainable development can be made.<sup>5</sup>

30. The Basic Conditions Statement briefly explains how the Plan contributes to the three dimensions of sustainable development. The whole structure of the NPPF is based on elements of sustainable development and there is thus a substantial overlap between the first and second basic conditions as both are concerned with the relationship of neighbourhood plans to the NPPF.

***“The making of the plan is in general conformity with the strategic policies contained in the development plan for the area”.***

31. As with the previous two conditions the test applies to the Plan as a whole, but this requires consideration of individual policies against relevant strategic policies in order to reach an overall conclusion. The test of “*general conformity*” is fundamentally that the neighbourhood plan policies should not undermine the strategic policies of the Local Plan. The test is spelt out more fully in PPG<sup>6</sup>. It does not preclude some variation from a strategic policy to reflect local circumstances providing the proposal upholds the general principle that underlies the strategic policy. The Basic Conditions Statement clearly shows how the Plan relates to the saved policies of the East Herts Local Plan Second Review 2007 and does not identify any significant conflicts. I shall consider this in more detail in relation to individual policies. The absence of up to date strategic policies on many issues reduces the importance of this test and means that more reliance is placed on conformity with national policy and guidance.

***The making of the order does not breach and is otherwise compatible with EU Obligations***

**Strategic Environmental Assessment**

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<sup>5</sup> NPPF Paragraph 10

<sup>6</sup> PPG What is meant by ‘general conformity’? Reference ID: 41-074-20140306



32. PPG indicates that *“where a neighbourhood plan is likely to have significant environmental effects it may require a strategic environmental assessment”*<sup>7</sup>, subsequently referred to as SEA. A SEA requires the preparation of an environmental report. In order to determine whether the plan would have a significant environmental effect, a screening assessment is necessary.
33. Regulation 15 of the NPR requires that the submission of a neighbourhood plan must include:
34. *” (i) an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans Regulations (EAPPR) or*
35. *(ii) where it has been determined under regulation 9(i) of these Regulations that the proposal is unlikely to have significant environmental effects (and accordingly does not require an environmental assessment), a statement of reasons for the determination”.*
36. In the case of the Plan, a screening assessment of the need for a SEA was carried out by the Town Council and is included as Appendix 2 to the Basic Conditions Statement. The screening assessment followed the flowchart set out in the Practical Guide to the Strategic Environmental Assessment Directive<sup>8</sup> and concluded that the Plan is not likely to have significant environmental effects and that a SEA is therefore not necessary. Appendix 1 to the screening sets out the reasons for the answers to individual questions on the flow chart.
37. The relationship between the Neighbourhood Plan and the emerging Local Plan is crucial in the conclusion that a SEA is not required. Although the Plan contains policies relating to the development of new allocations of land for housing and other development, these policies relate to the form of the development if the allocations are confirmed and do not allocate these sites

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<sup>7</sup> PPG Does a neighbourhood plan require a strategic environmental assessment? Reference ID: 11-027-20150209

<sup>8</sup> Fig 2 on Page 13 of A Practical Guide to the Strategic Environmental Assessment Directive. Office of the Deputy Prime Minister 2005.

for development. The sites concerned are either allocated in the 2007 Local Plan, which has been subject to a SEA, or proposed for allocation in the emerging Local Plan which will be subject to a SEA. Of course the outcome of the SEA cannot be anticipated, but the Plan makes clear that the policies it contains relating to these sites will only have effect if the allocations not already made are made in the emerging Local Plan.

38. In accordance with regulation 9 (2)(b) the consultation bodies were consulted on the screening assessment. Their responses were not included with the submission documents and I have sought clarification on this. Also, it was not clear from the Basic Conditions Statement whether the District Council has made a determination under regulation 9 of the EAPPR that a SEA is not necessary. I have now been sent copies of the responses from the consultation bodies and the Council's formal determination that SEA is not required which is attached at Appendix 2.
39. The Council's determination should have been submitted with the Plan and been subject to publicity along with the other submitted documents. However, I am satisfied that the determination was made and, in association with the responses of the consultation bodies, that the report on the determination sets out the reasons for the conclusion that a SEA is not required, and that further consultation on the determination is not necessary.

#### Appropriate Assessment under the Habitats Regulations

40. Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (CHSR) puts into effect the requirements of Article 6.3 of the EU Habitats Directive and requires that:  
*“(1) Where a land use plan -  
is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, the plan-making authority must before the plan is given effect, make an appropriate assessment of the implications of the site in view of that site's*

*conservation objectives.” Amendments to these regulations were made in the Schedule 2 to the NPR which inserted Regulation 102A to the CHSR:*

*“A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.”*

The SEA Screening Assessment confirmed that there are no European Sites or Offshore Marine Sites that would be significantly affected by the proposals in the Plan and that an Appropriate Assessment under the Habitats Regulations would therefore not be necessary. This view has been confirmed by the response of Natural England.

### **Human Rights**

41. I have not found, or received any representations to suggest that the Plan in any way contravenes the European Convention on Human Rights.
42. I am satisfied that the making of the Plan would not breach, and is otherwise compatible with, EU obligations.

### **The Relationship of the Plan to the Neighbourhood Plan for the Silverleys and Meads Wards**

43. Before considering the contents of the Plan in detail, a few comments on the unusual nature of this examination are necessary. In late 2014 I carried out the independent examination for the Bishop’s Stortford Silverleys and Meads Wards which covered the northern part of Bishop’s Stortford. The Plan for All Saints, Central, South and part of Thorley covers the southern half of the town so that if it is made the whole of the town will be covered by neighbourhood plans. The current Plan is very much modelled on the earlier one to the extent that the wording of the Vision, Objectives and some of the policies and the supporting text is identical or very similar. In many cases the modifications which I recommended to policies of the Silverleys and Meads

Wards Plan are reflected in the wording of the Plan for All Saints, Central, South and part of Thorley.

44. It is obviously important that there is consistency between the examinations of the two plans. However, that does not mean that my conclusions in relation to similar or identical policies will always be precisely the same. There are two reasons for this. firstly there have been some changes to the NPR, PPG and the legislative background since the first examination. Secondly the Silverleys and Meads Plan was only the third one I examined and at that time neighbourhood plans were still in their infancy. This is my 21<sup>st</sup> examination. The experience I have gained, along with the sharing of best practice may mean that my approach has evolved to the extent that I reach different conclusions. Where the conclusions that I reach differ from those reached in the earlier Plan I shall set out my reasons for this.

### **Vision and Objectives**

45. Section 3 of the Plan sets out a broad vision and objectives for the Plan area. The Vision sets out 9 principles of which 5 are identical to those in the Plan for Silverleys and Meads Wards and one relating to transport is slightly modified. There are three new principles relating to the importance of the River Stort as an asset for the town, regeneration in the town centre and the attraction of new business. The Vision is supported by objectives which relate to individual policy themes and they present an overview of the issues facing the area and set out aspirations for it. The objectives will not form part of the statutory development plan if the Plan is made as they are not policies and some of them relate to issues which are beyond the scope of the Plan as they do not relate to the development and use of land. However, I am satisfied that the objectives are consistent with the aims of sustainable development.

### **The Policies of the Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2032**

47. I have considered all the policies of the Plan in relation to the basic conditions. In doing so I have taken account of all the comments that have been made on the Plan as it has been developed and in particular those comments made in response to the Regulation 16 consultation on the submitted plan. While I have not referred explicitly to every comment that has been made, I have taken them all into account.
48. I am only empowered to recommend modifications that I consider are necessary to meet the basic conditions or to correct errors. This includes modifications to improve the clarity of the wording of policies as one of the important elements of PPG is that *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.”*<sup>9</sup>
49. PPG also indicates that *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn on to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...”*<sup>10</sup>.
50. Section 4 of the Plan contains the policies that are intended to form part of the development plan. They are presented in sections, relating to the policy themes used in the objectives. Each section is introduced by a helpful policy context and the objectives that relate to it with the reasoned justification for the policy that follows. Background evidence to support the policies is also provided in the separate Evidence Base Summary which also provides links to other relevant documents. I have found this to be a very helpful way of presenting this information.

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<sup>9</sup> PPG Neighbourhood Planning How should the policies in a neighbourhood plan be drafted? Reference ID: 41-041-20140306

<sup>10</sup> PPG Neighbourhood Planning What evidence is needed to support a neighbourhood plan? Reference ID 41-040-20160211

## **Housing and Design**

### **Policy HDP1- Residential development and redevelopment**

51. This policy sets out some general principles for housing development. It envisages that new housing development will meet needs identified in an up to date Strategic Housing Market Assessment. It also proposes that opportunities for housing development on brownfield sites should be utilised before developments on the edge of the built-up area are implemented. More specifically part b) requires that development of the land South of Bishop's Stortford (also referred to as Bishop's Stortford South) should not be permitted until additional parking and traffic measures identified in policies for the development of the Goods Yard Site, a substantial brownfield site on the edge of the town centre, have been delivered. Parts c) and d) also provide general guidance on the style and density of development advocating that development beyond the existing edge of the built-up area should incorporate the principles of Garden Cities and that higher density development on brownfield sites should be of high quality design.
52. The requirement for brownfield opportunities for development to be taken before developments on the edge of the built-up area has very clear implications for the relationship between the development of land South of Bishop's Stortford and the Goods Yard Site. It also has implications for the timing of development on Land east of Manor Links. It is therefore necessary to consider the general principle that brownfield land should be developed first and part b) of the policy relating specifically to the relationship between the Goods Yard and Bishop's Stortford South together.
53. The Goods Yard site is identified for major residential development in Policy BIS11 of the EHLP 2007 and Land South of Bishop's Stortford is identified in the emerging Local Plan as a location for major housing development which will help to meet the identified need for new housing in Bishop's Stortford. The potential developers of Bishop's Stortford South and East of Manor Links have both objected to the requirement for brownfield land to be developed before sites on the edge of town.

54. I can fully understand why it may be considered desirable for the brownfield Goods Yard site to be developed first, particularly because of the impact of development on the edge of the town on the Green Belt. However, no compelling evidence has been provided of any harm that would be caused if, once the principle of developing Bishop's Stortford South or land East of Manor Links had been accepted, they were to be developed first. There is also no provision for brownfield sites to be developed ahead of greenfield sites in the EHLPP or the emerging local plan.
55. Moreover, while the NPPF encourages the effective use of previously developed land,<sup>11</sup> it does not provide any support for holding back the development of greenfield sites that would contribute to sustainable development.
56. There is reference in paragraph 4.1.3. to the development of Bishop's Stortford South being unpopular, to infrastructure requirements and to potential use of the town centre one-way system. However, that does not amount to a clear justification to make its development dependent on the release of car parking at the Goods Yard site as required by part b) of the policy. The Goods Yard Site is a brownfield site which, it is envisaged, will accommodate a complex mix of uses. There are likely to be many issues that will need to be addressed and, although a planning application has been submitted (Ref. 3/16/0530/OUT)<sup>12</sup> there can be no guarantee of when the site will be developed. If there was a significant delay in the development of the Goods Yard Site which held up development of Bishop's Stortford South, there could be a serious impact on the delivery of housing to meet the identified needs. In this way, the neighbourhood plan could undermine the strategic policies of the Local Plan contrary to paragraph 184 of the NPPF and would frustrate otherwise sustainable development.
57. I have therefore recommended minor modifications to part a) of the policy and the deletion of part b). I am satisfied that parts c) and d) of the policy are

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<sup>11</sup> NPPF Paragraph 17

<sup>12</sup> This application was refused during the course of my examination

consistent with the basic conditions.

### **Recommendations**

**In part a) of Policy HDP1 delete “firstly” in the seventh line and “, subsequently,” in the ninth line.**

**Delete part b) of Policy HDP1 and renumber the remaining parts of the policy as parts b) and c).**

### **Policy HDP2- Setting and character of buildings, streets and places**

58. This policy sets out requirements which are designed to ensure that new development respects the character of the surrounding area. Part a) relates to Conservation Areas and refers specifically to Twyford House and Twyford Mill, part b) to general design criteria and part c) to innovative design.
59. I have carefully considered part a) in the context of the approach set out in section 12 of the NPPF to conserving and enhancing the historic environment. This is to consider the nature of the impact of any development in relation to the importance of the asset. The cross reference in the first part to The Conservation Area Character Statement is consistent with the basic conditions. However, the wording of the second part relating to Twyford House and Twyford Mill is significantly more restrictive than the approach in the NPPF. While Twyford House is a grade II\* listed building and substantial harm to it “*should be wholly exceptional*”, less than substantial harm to it “*should be weighed against the benefits of the proposal*”. The status of Twyford Mill is not clear from the documentation but it has been confirmed to me that it is not a listed building I have therefore recommended a modification to achieve greater consistency with the NPPF.
60. The next part of the policy sets out the approach to development that would result in the demolition of unlisted buildings that make an important contribution to the Conservation Area. The reference to this only being acceptable “*in exceptional circumstances*” is consistent with the approach of the NPPF to substantial harm to a grade II listed building but not with the “*balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset*” that is required in relation to non-



designated heritage assets. A further modification is therefore recommended in relation to this part of the policy.

61. Part b) of the policy defines how residential development should relate to its setting and I am satisfied that the criteria are consistent with the basic conditions. Part c) appears to restrict innovative designs to areas “*where there is not a positive lead on building style.*” There is a tension between this and paragraph 60 of the NPPF which advocates that “*Planning policies ...should not stifle innovation...*” though “*...it is proper to seek to promote or reinforce local distinctiveness.*” It is not unusual for innovative designs to make a very positive contribution to the environment in very sensitive locations, while not undermining local distinctiveness.

### **Recommendations**

**In Policy HDP2 a) at the end of the second sentence which ends “...will not be supported” add “unless the harm is clearly outweighed by the public benefits of the proposal.”**

**In the third sentence of part a) of Policy HDP2 delete “other than in exceptional circumstances” and insert “except” and delete “or unless a superior scheme in quality and design is proposed as part of the application” and insert “or where the public benefit of the replacement scheme in terms of its appearance and design or the viable use of the site outweighs the harm.”**

**In Part c) of Policy HDP2 delete the first two lines and put a capital “I” at the beginning of “Innovative”.**

### **Policy HDP3-Design Standards**

62. Policy HDP3 sets out design standards to be met by new developments. Part a) of the policy refers to: Sport England’s Active Design Guidance, The nationally described spatial standard, Secured by Design, Lighting against Crime and The DCLG Housing Technical Standard for Water Efficiency. I shall consider each point in turn, but as a general point the current wording of the policy applies to all housing development. It would be unreasonably onerous having regard to paragraph 193 of the NPPF to insist that

performance against all of these criteria is demonstrated for small scale developments of a few dwellings.

63. The Sport England Active Design Guidance sets out ten principles for the design of new development to promote active and healthy lifestyles. They include: connectivity on foot or by cycle and the provision of public spaces and the location of community facilities. These principles have much in common with the requirements of Building for Life and therefore many of these requirements will be addressed in a Building for Life Assessment as required in policy HDP2b). However, the tenth of these principles is “Activity Promotion and Local Champions”. This does not relate to land use, but with a minor amendment to reflect this I am satisfied that this requirement is consistent with the basic conditions
64. The Housing Standards Review of 2015 simplified the use of housing standards in planning by establishing a “nationally described spatial standard” and other optional standards to be applied optionally by local planning authorities. However the Ministerial Statement introducing the Housing Standards Review made it clear that “*Neighbourhood plans should not be used to apply the new national technical standards.*”<sup>13</sup> I note the representations of the Environment Agency but it is my understanding that this limitation applies to both the nationally described space standard and the tighter standard for water efficiency.
65. Secured by Design is a nationally recognised standard but Part 2 relates to the security standards to be used in the construction of individual dwellings. Mandatory standards for the physical security of new dwellings came into force in October 2015 and PPG indicates that “*planning authorities should no longer seek to impose any additional requirements for security of individual dwellings through plan policies, though designing for security of site layout*

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<sup>13</sup> Planning Update March 2015. Ministerial Statement 25 March 2015 under the heading Plan Making

*remains a valid planning consideration.*"<sup>14</sup> The street lighting requirements are therefore appropriate.

66. Part b) of the policy encourages the use of solar power on sites with a favourable aspect. It also seeks to encourage other sources of renewable energy and as worded this would also apply only to sites with a favourable south-east to south-west aspect. I am sure this is not the intention and the wording of this element of the policy is generally not very clear. I have therefore recommended an appropriate modification. The Ministerial Statement, to which I have previously referred, also indicated that the government would be introducing national standards for the energy performance of buildings to be incorporated into the building regulations and that policies seeking a higher standard than this should not be set or applied. However, this policy does not require a particular standard and is therefore acceptable in principle.
67. Part c) of the policy requires all roads on new developments to meet Highways adoption standards. This policy is justified by the poor standard of maintenance experienced with private roads and in my judgement it is consistent with sustainable development.
68. Part d) of the policy relates to the provision of Sustainable Urban Drainage Systems (SUDS) and sets out four requirements that are designed to reduce the rate of surface water runoff and ensure the effective integration of new development to realise opportunities for biodiversity, amenity and recreation and maintain safety. The NPPF suggests "*using opportunities offered by new development to reduce the causes and impacts of flooding*"<sup>15</sup> and that "*when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.*"<sup>16</sup> The provision of SUDS is consistent with these requirements and the justification refers to the location of the areas proposed for major new development close to areas of existing flood risk.

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<sup>14</sup> PPG What optional technical housing standards can local authorities set? Reference ID 56-002-20160519

<sup>15</sup> NPPF paragraph 100

<sup>16</sup> NPPF paragraph 103

While the policy lists fairly detailed requirements, I am satisfied that it is worded with sufficient flexibility to meet the basic conditions.

### **Recommendations**

**In the first bullet point of Policy HDP3a) delete “ten” and insert “first nine”. Delete the second, third and fifth bullet points**

**Modify part b) of Policy HDP3 to read “on sites that have a favourable south-east to south-west aspect such as the land South of Bishop’s Stortford, proposed in the emerging District Plan developers will be encouraged to incorporate the use of solar energy generation. On all sites the use of solar energy or other sources of renewable energy will be supported, where it does not conflict with other development plan policies.**

### **Policy HDP4-Dwelling mix strategy**

69. This policy sets out requirements for the determination of the size, type and tenure of houses. Part a) of the policy requires developers of schemes of five or more houses to submit a dwelling mix strategy to show how the development meets objectively identified needs for Bishop’s Stortford; it meets the basic conditions. Part b), which requires the provision of affordable housing on site, other than in exceptional circumstances where contributions towards offsite affordable housing will be sought, also meets the basic conditions.
70. Part c) requires that 60% of affordable housing should be social/ affordable rented and 40% intermediate shared ownership. No evidence is provided to support these figures other than the response to the neighbourhood plan survey showing positive demand for shared ownership and this does not amount to an objective assessment. The emerging District Plan points to 84% of the identified affordable housing need being for affordable rented housing.<sup>17</sup> It also refers to the need for affordable housing provision to take account of government proposals for Starter Homes. While that plan has yet to be tested, the neighbourhood plan should take account of the evidence that

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<sup>17</sup> East Herts District Plan Submission Version Table 14.3

informs it.<sup>18</sup> In the absence of any clear evidence to support the figures included in part c) of the policy, it does not meet the basic conditions.

71. Part d) requires proposals to take account of the unfulfilled demand for bungalows. However, the second part of the policy proposes that where schemes come forward without any bungalows at least 20% of the dwellings that would have been 4 or 5 bedroom houses should be bungalows with an average of two bedrooms. While the evidence base refers to evidence in the East Herts District Housing Needs Survey that almost 30% of those needing affordable housing, need bungalows, and for the general need among older people for bungalows, there is no clear evidence for this specific requirement. Again the support from a questionnaire for more bungalows and less 4/5 bedroom houses is not enough to provide objective evidence for this arbitrary figure.
72. Part e) requires schemes to consider the possibility of self-build and is consistent with the basic conditions.
73. Part f) aims to ensure that affordable housing is retained for that purpose and not resold onto the open market. This policy appears to conflict with government policy which supports the right of the tenants of affordable housing to buy their properties and may therefore not be enforceable. I appreciate that the emerging District Plan has a similar policy<sup>19</sup> but this has not been tested and I am not satisfied from the evidence available to me that the policy in the neighbourhood plan meets the basic conditions.

### **Recommendations**

**In Policy HDP4 delete part c), part d) after “...why a site is not suitable for bungalows” and part f).**

### **Policy HDP5 – Building for the community**

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<sup>18</sup> PPG Can a neighbourhood plan come forward before an up-to-date Local Plan is in place Reference ID 41-009-20162011

<sup>19</sup> East Herts Local Plan Submission Version March 2017 Policy HOU3

74. This policy deals with the provision of housing for older and vulnerable people and the provision of community facilities in association with residential development. Part a) of the policy requires that at least 20% of homes should be built to be Wheelchair adaptable as defined by the building regulations. A similar policy was contained in the Silverleys and Meads Neighbourhood Plan and I accepted it at the time as being generally compliant with the existing Local Plan policy. However, I pointed out that the Housing Standards Review may have implications for this policy.<sup>20</sup> The government has now completed the Housing Standards Review and as I have said earlier the Ministerial Statement made it clear that neighbourhood plans should not be used to impose the new technical standards. PPG sets out clearly how local authorities should address these needs in local plans.<sup>21</sup>
75. Part b) of the policy sets out criteria for the location and design of housing for Older and Vulnerable People. I am satisfied that these are entirely consistent with sustainable development and meet the basic conditions.
76. Part c) of the policy relates to the timing of the provision of community facilities in association with the provision of residential development and requires that facilities should be available from the start of occupation. It is not clear what is included in the definition of community facilities and it has been clarified to me that it could include commercial facilities such as local shopping as well as public services (see e mail dated 17 May in Appendix 1). While it is evidently desirable from the viewpoint of the residents, it may not always be realistic. For new facilities to be viable the population that will need them may need to reach a critical level before they are viable. I have therefore recommended a modification to qualify this requirement.

### **Recommendations**

**In Policy HDP5 delete section a)**

**In Policy HDP5 section c) add after "...start of occupation" "or, where it can be clearly demonstrated that this is not viable or practicable, in**

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<sup>20</sup> My report on the examination of the Silverleys and Meads wards neighbourhood plan paragraph 49

<sup>21</sup> PPG Accessibility and Wheelchair Housing Standards: Reference ID 56-05-20150327-56-011-20150327

**accordance with an agreed phasing policy which will deliver facilities at the earliest stage at which it would be viable.”**

### **Policy HDP9 – Archaeology**

77. The policy seeks a contribution towards the cost of curating any archaeological finds. This policy goes beyond the requirements of Policies BH2 and BH3 of the East Herts Local Plan 2007 which relate to requirements for archaeological investigation which may be required and to the recording of finds or preservation in situ. PPG indicates that only a small proportion of archaeological investigations need to be detailed and thus it is misleading to suggest that this policy would apply to any archaeological find. Many are simply recorded but do not require reclamation, display or curation. In many cases it is unlikely that a requirement to contribute towards the cost of curation would be *“necessary to make the development acceptable in planning terms”*. Paragraph 173 of the NPPF also indicates that the level of requirements for planning obligations should not undermine the viability of development. Subject to amendments to reflect these concerns the policy meets the basic conditions.

### **Recommendation**

#### **Reword policy HDP9 to read:**

**“Should new archaeological finds occur, that are worthy of reclamation or display, an appropriate contribution will be sought from the developers towards the costs of whatever methods are deemed by Hertfordshire County Council to be most appropriate to curate the finds, where it meets the legal requirements for section 106 contributions.”**

### **Contributions to Infrastructure and Community Facilities**

78. In my examination of the Silverleys and Meads Wards Neighbourhood Plan I commented on the large number of policies in that Plan which sought the provision of or contributions to new or improved infrastructure or community

facilities from new development.<sup>22</sup> I pointed out that such contributions through planning obligations are subject to tight legal requirements and that these may not always be met, particularly after the limitations on the pooling of tariff type contributions from 2015 onwards.<sup>23</sup> I recommended the addition of a policy to clarify these limitations and the finally made Plan included the recommended policy. However, it is not included in this Plan.

79. It is my impression that many of the policies in both neighbourhood plans which require contributions towards infrastructure and community facilities have been drafted with large scale developments in mind, where it is likely that the legal requirements will be met and the limitations on the pooling of tariff style contributions are less likely to be a constraint. However, many of the policies are written for all new development and it is likely in relation to smaller scale developments that the legal requirements and particularly the limitations on pooling will reduce the ability to secure contributions in this way. The wording of the policies implies that such contributions will be automatic and are potentially misleading unless the limitations are made clear.
80. In order to avoid the need for repetitive modifications to qualify policies where contributions may not always be appropriate, I consider that the policy that I recommended for inclusion in the Silverleys and Meads Wards Neighbourhood Plan should also be inserted into this plan.

#### **Recommendation**

**Insert a new policy between the Housing and Green Infrastructure Sections, with appropriate supporting text based on the reasoning above to read**

**“Policy C1 – Contributions to Infrastructure and Community Facilities  
Where policies in this plan require contributions to provide new or improved infrastructure or community facilities, they will be made through planning obligations in accordance with policy IMP1 of the East Herts Local Plan 2007 Second Review or a successor policy in the**

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<sup>22</sup> My report on the examination of the Bishop’s Stortford Neighbourhood Plan for Silverleys and Meads Wards paragraphs 85-87.

<sup>23</sup> PPG Is there a limit on the pooling of S106 contributions? Reference ID 25-099-20140612



**emerging East Herts Local Plan where they comply with the Community Infrastructure Regulations 2010 including any subsequent amendments to them.”**

### **Green Infrastructure**

#### **Policy GIP1- Local Green Spaces and other green areas**

81. Policy GIP1 identifies five areas for designation as Local Green Spaces and sets out the planning policy to be applied to them. Several other areas are also identified where development should have regard to their value as green spaces.
82. The NPPF sets out the criteria for the designation of Local Green Spaces in paragraph 77. While the supporting text does not explicitly relate the proposed areas to these it does describe the importance of each of these areas and I shall consider them in turn.
83. Birchanger Wood Is a substantial area of woodland on the north-east side of Bishop’s Stortford which extends beyond the neighbourhood area. On my site visit it was not straightforward to find how to access the wood, but having done so it was clear that the wood is well managed and well-used by the local community. It clearly provides an important green lung for a large adjoining residential area where there is relatively little open space. Only about one-third of the woodland falls within the neighbourhood plan area and only that part can be designated as a Local Green Space in this plan, but I am satisfied that it meets the criteria.
84. The Firs is an attractive avenue of trees which is well used as a pedestrian route and is an important wildlife corridor. It also forms part of an important longer footpath route. It is clearly a special and distinctive feature of the town and I am satisfied it meets the criteria for Local Green Spaces
85. The Spinney is a narrow strip of woodland of which part borders the Bishop’s Stortford High School Site. It is similar in character to the Firs as an attractive avenue of trees with pedestrian access through it and is appropriate for designation as a Local Green Space.

86. Thorley Wedge is a strip of linked green spaces running from the western edge of the town almost to the town centre. At the western end is an area of informal parkland and a playing field, it also includes allotments and a children's play space and extends almost 2km in total from west to east but its width varies from about 250m wide at its widest point to less than 50m in some places. It is unusual for a Local Green Space to extend so far, and to have so many different characteristics. However, because of its narrowness it is not an extensive area of land and the feature which makes it special in terms of local distinctiveness is the continuity of this green wedge from the edge of the town almost to the middle. It is clearly a defining feature of the southern part of Bishop's Stortford and appropriate for Local Green Space designation.
87. The Southern Country Park is quite a large area of open space between the edge of the built-up area and the bypass. It contains areas of different character, is clearly well used for a variety of recreational purposes and is important as a wildlife habitat. It is also clearly actively managed as an important asset for the town. It is quite large in comparison with many Local Green Spaces, but in relation to the size of the community it serves, not excessively so.
88. The second part of the policy identifies another 13 green spaces where it is proposed that any development respects their intrinsic value as a green space. This is a level of protection below that of Local Green Spaces and the policy also acknowledges that the emerging District Plan may influence the future of these sites. I visited all of these spaces on my visit. These spaces vary greatly in character; many are small areas of open space within residential areas, which are clearly of value for both amenity and recreation, others are in more prominent positions on significant roads where they soften an otherwise urban environment and some have a more specific purpose, such as the Thorley Cricket Field and the Cemeteries. I am satisfied that their protection is consistent with sustainable development.

89. On my site visit I noted that Cox's Garden, which has the appearance of a pleasant small area of green space in a residential area, was fenced off and not publicly accessible. It has been clarified to me (in the e mail of 17 May in Appendix 1) that the future of the site is uncertain as it is linked to the future of the Bishop's Stortford High School site. However, as the policy acknowledges that possible allocations in the emerging District Plan may affect the future of the spaces in this part of the policy, the inclusion of this green space in the list of spaces in part b) of the policy is appropriate.

**Policy GIP2-Improve areas for leisure**

90. This is a positively worded policy that supports measures to encourage the use of existing and new open spaces and improved leisure use of the River Stort Navigation and in particular the towpath south of the town. It is consistent with the basic conditions.

**Policy GIP3- Green space management and zoning**

91. Policy GIP3 is in two parts: the first requires developers to participate in the establishment of management arrangements for new open spaces by providing financial contributions and/or transferring land to an appropriate body. The policy meets the basic conditions.
92. The second part of the policy supports the principle of the zoning of green spaces for particular uses. In many cases the different uses to which green spaces are put would not require different planning permissions and the policy is thus to a large extent a management policy rather than a land use policy as it does not provide guidance to a decision maker in relation to a planning application for a particular use.

**Recommendation**

**In Policy GIP3 delete part b)**

**Policy GIP4 – Protect wildlife and increase diversity**

93. Policy GIP4 is a detailed policy setting out requirements for new development which will protect wildlife and increase biodiversity. The policy is identical in

parts to the equivalent policy in the Silverleys and Meads Wards Neighbourhood Plan and reflects, where appropriate, the modifications I recommended to that policy. It also includes significant additional detail on the measures to be taken and the standards to be met and there is extensive reference to supporting evidence in the evidence base summary. The intentions of the policy are entirely consistent with the aims of section 11 of the NPPF and Policies ENV16 and ENV17 of the EHLP. My comments relate to the extent to which the detail of the policy is justified and whether or not it is too prescriptive to be consistent with the presumption in favour of sustainable development.

94. Part a) of the policy relates to trees and woodland and standards to be met with new planting or the removal of trees. It generally encourages the retention of existing trees and new and replacement planting of native species appropriate to the character of the area. There is no clear justification for the “*minimum of 10 species*” to be included in new hedgerow planting. This is one of several suggested amendments to the draft plan suggested by Matt Dodds of the Hertfordshire and Middlesex Wildlife Trust.<sup>24</sup> However, the only justification is for the desirability of a specific standard to provide clarity and not for the figure chosen. A specific standard needs to be justified to be enforceable and there is no obvious reason, for example, why eight or nine different varieties of tree would not be acceptable. I accept that the National Vegetation Classification is a well-established definition for types of habitat. While the retention of log piles and monoliths may be desirable it is an issue for woodland management and not subject to planning control. Modifications are therefore recommended to reflect the points that I have made.
95. Part b) relates to water courses and again there is no clear justification for the standard of 12m chosen. Reference is made to an Environment Agency recommendation but the source of this is not provided<sup>25</sup>. I have therefore recommended a modification.

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<sup>24</sup> Consultation Statement Appendix 4 P42

<sup>25</sup> Consultation Statement Appendix 4 p42

96. Part d) of the policy relates to the possible provision of a wildlife corridor running from the Southern Country Park to the river to be funded by a developer. There is no indication of where this would be or of how it would relate to any particular development. The wording that “*consideration will be given...*” does not provide any clear guidance to a decision maker. While this is a legitimate aspiration it is not a planning policy and this section could be moved to the supporting text and expressed as a long-term aspiration.
97. Part e) requires that green spaces created as part of new development should include wildflower meadow areas for which there should be suitable management plans. This is a very specific requirement for which no clear justification is given and in my view is too prescriptive to be consistent with the basic conditions. I am not persuaded that there is a clear justification for them.
98. Part f) relates to measures to incorporate new wildlife habitats into new developments and is consistent with the basic conditions.
99. Part g) requires that all major and some minor developments should “*result in a neutral or positive ecological score as defined by the NE and DEFRA endorsed Biodiversity Impact Assessment Calculator.*” No information is given on this calculator or the nature of the NE and DEFRA accreditation. I therefore do not have the evidence to confirm that its use is necessary having regard to paragraph 193 of the NPPF.

### **Recommendations**

**In Policy GIP4a) delete “a minimum of 10” and insert “a variety of” and delete “When felling mature trees, monoliths and log poles should be retained where practicable as these habitats have significant wildlife benefits”**

**In Policy GIP4b) delete “of 12m”**

**delete part d) and refer to it in the supporting text as a long-term aspiration,**

**delete parts e) and g).**

**Policy GIP5 – Enhancement of footpaths, bridleways and cycle paths**

100. This policy to a large extent replicates Policy GIP6 of the Silverleys and Meads Wards Neighbourhood Plan but it does contain some additional provisions in parts d) and f). I am satisfied that it meets the basic conditions.

**Policy GIP6 – Improving / expanding allotments**

101. This policy is identical to Policy GIP7 of the Silverleys and Meads Wards Neighbourhood Plan. Andrew Martin of Countryside Homes has questioned the standard of 0.24ha/1000 population as it does not comply with the standard in the EHLP (2007) of 0.21ha. However, I am satisfied that the difference between 0.21 ha. and 0.24ha. is sufficiently small for the policy to be in general conformity with the Local Plan Policy LRC4, particularly as local evidence of the current provision of allotments supports 0.24ha. I am therefore satisfied that the policy meets the basic conditions.

**Policy GIP7 Flood mitigation**

102. The policy reflects the modifications I recommended in relation to Policy GIP9 of the Silverleys and Meads Wards Neighbourhood Plan and the requirements of the NPPF regarding development in flood risk areas. It is in general conformity with Policy ENV19 of the EHLP. It meets the basic conditions.

**Transport**

**Policy TP1 – Tackling traffic congestion**

103. The policy sets out requirements for the assessment of the impact of development on congestion, contributions to mitigation measures and the monitoring of impacts. It is very similar to that in the Silverleys and Meads Ward Neighbourhood Plan.
104. The provisions in parts a) and b) for the assessment of the impact of development on traffic congestion are much more detailed than either the EHLP or the emerging District Plan. However, it also provides for sufficient flexibility in terms of both the scope of any assessment and the measures to

be taken to mitigate any harmful effects to be consistent with the approach in paragraph 32 of the NPPF, which indicates that “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*”

105. Part d) of the policy requires statements of community involvement to provide evidence that transport proposals have been subject to consultation and that there is clear public support for the measures contained in the transport plan. Statements of community involvement are not a mandatory requirement for most planning applications and it is therefore not appropriate to determine their scope. Also the requirement that there should be public support for the measures in the travel plan is not consistent with the presumption in favour of sustainable development. Public support is one of many material considerations, but it is the weight of the arguments presented in public response rather than the volume which must be considered alongside other material planning considerations in the determination of planning applications.
106. There is duplication between sections f) and g) of the policy in that Haymeads Lane is referred to in both.
107. Section h) is also additional to the Silverleys and Meads Plan. It relates to arrangements for the monitoring of traffic impact and provides for the payment of an additional and pre-agreed sum of money if the amount of vehicle movements arising from the development exceeds the forecast identified in the Monitoring Report by more than 10%. While the rationale for this policy is clear, I have some reservations about the extent to which it can be applied, as the number of traffic movements in a particular location at any time can be subject to a wide range of variables and it may not be possible to reliably isolate the impact of new development. However, the application of the policy is subject to agreement in any given case with the Highways Authority and factors such as this can be taken into account at that stage. I am therefore satisfied that this provision meets the basic conditions.

## **Recommendations**

**In Policy TP1 delete part d)**

**In part g), delete Haymeads Lane**

**Policy TP2 – Improving air quality**

108. This policy aims to prevent or mitigate adverse effects on air quality caused by new development, with a particular focus on the Hockerill Junction which is an Air Quality Monitoring Area. There is no conflict between the policy and The NPPF paragraph 124 or the existing Local Plan policy ENV27.
109. The policy amplifies a similar policy in the Silverleys and Meads Wards Neighbourhood Plan. However it is not consistent with it. Part a) of the policy requires an assessment of the predicted impacts on the Air Quality Management Area (AQMA) if development is forecast to increase congestion at the Hockerill junction by more than 2.5%, whereas the Silverleys and Meads Wards Plan sets the threshold at 5%. No clear justification is presented for this different standard. The boundary between the Plan area and the Silverleys and Meads Wards area passes through the Hockerill junctions and it would be impractical and inconsistent for decision makers to have to apply a different standard to proposals in the two plan areas which may be only yards apart. The Silverleys and Meads Plan is made and therefore a modification to this policy to achieve consistency with the earlier plan would be appropriate to meet the basic conditions.
110. Parts d) and e) of the policy state that, if impacts on air quality are incapable of being overcome by conditions or planning obligations, development will not be permitted. These parts of the policy are not included in the equivalent policy for the Silverleys and Meads Wards Plan. However, they express the logical approach to be taken in considering the findings of an air quality assessment. They therefore provide clearer guidance to decision makers than was explicit in the earlier plan and are entirely consistent with its intentions. I am therefore satisfied that they meet the basic conditions.
111. Part c) requires evidence of mitigation measures at the pre-submission stage. However the NPPF makes it clear that while pre-application consultation is



strongly encouraged, it cannot be required.<sup>26</sup> This part of the policy therefore does not meet the basic conditions.

### **Recommendations**

**In Part a) of policy TP2 delete “2.5%” and insert “5%”  
delete part c).**

### **Policy TP-3 Create walking and cycle friendly neighbourhoods**

112. The policy aims to ensure that new development contributes to improvements in pedestrian and cycle routes where possible and it requires development proposals to apply the Department for Transport guidelines for reasonable walking distances. The policy aligns closely with the NPPF paragraph 35 and with policies in both the existing and emerging plans.
113. However, the policy starts with “Any development should enhance the attractiveness of walking and cycling” and this places unrealistic demands on small scale developments involving extensions or small numbers of dwellings which make up the bulk of development proposals. This would run counter to the presumption in favour of sustainable development. In practice developments which do not involve the construction of new roads or occupy large sites are unlikely to have much potential to meet these requirements. In the Silverleys and Meads Plan the equivalent policy was applied to “significant developments” which are those large enough to require a transport assessment, and would involve 80 or more homes for residential development and defined floorspace areas for other types of development. Some developments smaller than this would also have the potential to do this. I have therefore recommended a modification to reflect these points and meet the basic conditions.
114. It may not always be possible for new developments to meet the Department for Transport standards for access to facilities as only the largest developments will be able to provide them, but the policy is worded with sufficient flexibility to recognise this.

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<sup>26</sup> NPPF paragraph 189

## **Recommendation**

**In policy TP3 modify the beginning of section a) to read:**

**“Development proposals should where possible increase the attractiveness of walking and cycling and all significant developments should:”**

**In each of the bullet points which follow change the form of the verb to agree e.g. Change “including” to “include”**

### **Policy TP4 – Develop a connected town for pedestrians and cyclists**

115. Policy TP4 sets out further requirements for the provision of pedestrian and cycle infrastructure by new developments. The list of potential requirements is lengthy and detailed, and some modifications are necessary to retain sufficient flexibility to be consistent with the presumption in favour of sustainable development.
116. Part c) contains a presumption against development which results in the loss of any existing cycle or pedestrian crossing over a road, railway or river. This needs to be considered in the context of the presumption in favour of sustainable development. While the loss of a pedestrian or cycle crossing would not contribute to sustainable development the determination of a planning application is likely to contain a wide range of considerations and these could outweigh this loss. A modification is therefore necessary to meet the basic conditions.
117. Part d) defines desirable features of cycle routes without making them absolute requirements.
118. Part e) sets out standards for the construction of cycle routes. While these are all desirable there is a need to relate these to the viability of the development as a cycle route which does not meet all of these requirements may well be preferable in terms of sustainable development to no cycle route. A minor modification is recommended to reflect this.
119. Part f) aims to ensure the early implementation of sustainable travel initiatives and is consistent with the basic conditions.

120. Part g) identifies particular improvements which are identified as desirable which could be facilitated by contributions from new development. This is a useful list of priorities which could be facilitated by new development.

#### **Recommendations**

**In Policy TP4 at the end of part c) add “or the benefits of development in terms of sustainable development clearly outweigh the loss.”**

**in part e) of policy TP4 after “...London Cycle Design Standards and” insert “...to the extent that it is consistent with the viability of the development:”**

#### **Policy TP5- Better bus travel**

121. This policy amplifies the policy included in the Silverleys and Meads Neighbourhood Plan in identifying possible improvements to bus services which may be supported by contributions from new developments. The improvement of public transport services is consistent with the emphasis on sustainable modes of transport in the NPPF paragraph 35 and with policy TR1 of the EHLP.
122. The amplification in part a) requiring the buses used to be of hybrid type or meet the latest emissions regulations is consistent with Policy EQ4 of the emerging District Plan. However, that policy has not been tested and I am not satisfied that it relates to the development and use of land. Parts b) to d) relate to the provision of bus stops and the standards to be met by them and meet the basic conditions. Part e) of the policy defines important bus corridors where contributions may be sought towards improvements in bus services.

#### **Recommendation**

**In part a) of the policy delete the last sentence.**

#### **Policy TP5a – Safer sustainable school travel**

123. The policy reflects the duty on local authorities to promote sustainable travel to school. It lists potential items for development contributions subject to the viability of the development. I am satisfied that these are consistent with the

basic conditions except for the provision of 20mph speed limits which is a traffic management matter for the highways authority and not a planning issue.

### **Recommendation**

**In Policy TP5a delete the second bullet point which relates to the provision of 20mph speed limits.**

### **Policy TP7 – Cycle parking**

124. The policy aims to ensure that appropriate cycle parking is provided in association with new developments and indicates that larger developments may be required to contribute to cycle parking at key destinations. The first part of the policy is in general conformity with Policies TR14 of the EHLP and TRA3 of the emerging District Plan. The second part of the policy goes beyond the requirements of either the existing or emerging Local Plans and the number of instances where such contributions will be necessary to make the development acceptable in planning terms may well be limited. Subject to a modification to clarify when such contributions will be required and to the other legal requirements for planning obligations the policy is consistent with the basic conditions.

### **Recommendation**

**At the end of Part b) add “...where they substantially increase the demand for cycle parking.”**

### **Policy TP8 - Residential parking**

125. The policy sets out standards and design and layout criteria for the provision of parking for residential development.
126. The policy is very similar to that in the Silverleys and Meads Wards Neighbourhood Plan except for the addition of two additional criteria, one relating to the conversion of garages to living accommodation and the other to development relying on on-street parking.
127. Both neighbourhood plans apply the standards that were the maximum parking requirements in the EHLP 2007 as the expected requirement. This is

in line with the change in government guidance which discouraged the use of maximum standards.<sup>27</sup> Since the preparation of the Silverleys and Meads Wards Neighbourhood Plan EHDC has approved revised parking standards, attached as an appendix to the emerging District Plan, and these standards are being applied alongside the earlier standards for development control purposes. The new standards suggest a slightly higher provision in larger dwellings but also include an element of flexibility linked to a zoning approach where for development in more accessible locations a rather lower level of provision may be acceptable.

128. The standards proposed in part a) of Policy TP8 are similar to those in the revised standards but do not provide the same amount of flexibility in the way the standards are applied in different zones. However, part b) of the policy provides for variation from these standards, where justified by evidence related to criteria consistent with those recommended in the NPPF<sup>28</sup>. I am satisfied that the standards proposed taking paragraphs a) and b) are broadly consistent with the adopted Local Plan having regard to the change in government guidance since it was adopted and to the standards proposed in the emerging plan.
129. I am satisfied that parts c), d), and e), of the policy are consistent with the basic conditions. Part g) of the policy supports the conversion of garages into living accommodation providing alternative provision is made. It is possible that in some circumstances alternative provision is not necessary as there may already be sufficient space without the garage. A modification to reflect this is necessary.
130. Part h) relates to development that relies on on-street parking and resists this where it would have an adverse impact on highway safety. I am satisfied that it meets the basic conditions.

### **Recommendation**

**Reword part g) to read “adequate off road parking is provided for the**

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<sup>27</sup> Planning Practice Guidance ref 42-008-20140306

<sup>28</sup> NPPF paragraph 39

**sole use of the property in accordance with the standards referred to in part a).”**

#### **Policy TP9 – Parking in and around the town centre**

131. Parts a) – d) of the policy are almost identical to the made policy in the Silverleys and Meads Wards Neighbourhood Plan. Part e) relates to the provision of private car parks in the town centre and allows for the possibility that it should be available for public use.
132. The wording of the Policy is problematic in two respects. It states that “East Herts District Council will...” This is expressed as an instruction to East Herts Council, which is not appropriate or necessary as, of course, East Herts District Council will apply the policy when it is made as part of their statutory duty. The policy therefore needs to be clear enough to be applied. In this respect the meaning of “the primary user” was not clear to me and clarification was provided in the e mail of 19 May in Appendix 1. I have therefore recommended modifications to reflect both these points.

#### **Recommendation**

**Reword Part e) to read “Where a proposal for a private car park in or near the town centre for non-domestic use is approved, it may be subject to a condition requiring public use, possibly at defined times, where this does not conflict with the needs of the use for which it is provided.**

#### **Policy TP10 – Traffic speeds within new developments**

133. This policy is the same as that made in the Silverleys and Meads Wards neighbourhood plan and I am satisfied that it meets the basic conditions.

#### **Policy TP11 – Promote road safety**

134. The policy requires the identification of mitigating works to offset any harm to road safety taking account in particular of the effect on several identified

locations where road and pedestrian safety are already an issue. The policy meets the basic conditions.

**Policy TP12 – Contributions to improve town centre access and movement**

135. The policy indicates that, where appropriate, contributions will be sought toward improvement to access in and around the town centre for pedestrians and cyclists and lists the nature of these potential improvements. Only a relatively small part of the town centre is in this Plan area and the greater part is in the Silverleys and Meads Wards Neighbourhood Plan area, which does not include this policy. It is therefore quite likely that the improvements sought will be at least partly outside the plan. However, I have already accepted policies that require consideration of its effects outside the Plan area and a requirement for a S106 agreement that would mitigate harmful effects that could be outside the Plan area is a logical consequence of this. I am satisfied that the policy meets the basic conditions.

**Education**

**Policy EP1 – School availability**

136. This policy is designed to ensure that new development is served by primary and secondary schools that are suitably located. For primary schools this is linked to the standards set out in Policy TP3. The cross reference to Policy TP3 also engages the flexibility in that policy and I am therefore satisfied that the policy meets the basic conditions.

**Policy EP2 – New secondary school places**

137. The policy simply supports in principle a proposal for the provision of new secondary school places in a suitable location to serve new developments. It meets the basic conditions.

**Policy EP3 – New primary schools**

138. This policy supports the provision of new primary schools that are suitably located to serve new developments. It also seeks the early completion of schools and in any case no later than the year in which 25% occupancy is

anticipated. I was not satisfied that there was evidence to support this figure and I therefore sought clarification on whether there was any clear basis for it. The e mail dated 19 May 2017, attached at Appendix 1, indicates that this is Hertfordshire County Council policy and I am therefore satisfied that the policy meets the basic conditions.

**Policy EP4 – Pre-school and early years**

139. The policy simply supports in principle the provision of pre-school and early years places. It meets the basic conditions.

**Policy EP5 – Travel Plans**

140. The policy supports the proposals in travel plans that include measures to encourage the use of transport other than private cars. It meets the basic conditions.

**Policy EP6 – High quality design**

141. This policy requires new or renovated educational buildings to be of high quality design and to complement local features. It meets the basic conditions.

**Policy EP7 – Adult and vocational educational use**

142. The policy requires new proposals to explain how they will be made available for adult educational use. It is not clear how a decision maker is expected to respond to this. For instance, it would be possible to meet the requirement to set out an assessment that showed little or no potential for such use, but it is not clear if that would lead to the refusal of the application or not. A modification is recommended to address that. The same considerations apply to Policy EP8 and I therefore recommend combining these policies.

**Recommendation**

**Combine Policies Policy EP7 and EP8 as a single policy headed “Adult, Vocational Education and Community Use” to read:**



**“Proposals for new school accommodation will be required to be designed to accommodate adult and vocational education and / or community use outside of school hours unless it can be demonstrated that this is either not practical or not viable”.**

## **Health**

### **Policy HP1**

143. Parts a) to c) of this policy are the same as the equivalent policy in the Silverleys and Meads Wards neighbourhood plan including the modification that I recommended at that time. I anticipate that the application of Part a) of the policy is likely to be severely limited by the restrictions on the pooling of tariff style contributions that I referred to in paragraph 79. However subject to these limitations, which are covered by Policy C1, I am satisfied that the policy meets the basic conditions.

### **Policy HP2 – Services for the elderly, disabled and for mental health**

144. The policy offers general support for developments which improve specialist care for the elderly, disabled and those suffering from mental health problems and meets the basic conditions.

## **Sport, Leisure and Community**

### **Policy SLCP1 – Provision of outdoor sporting and leisure facilities**

145. This policy sets out the approach to the provision of contributions towards outdoor sports and leisure facilities in accordance with Policy LRC3 of the EHLP or its successor. It also indicates how the facilities to be provided will be determined and requirements in terms of inclusivity for new facilities. Subject to the legal requirements for contributions, it meets the basic conditions.

### **Policy SLCP2 – Development or expansion of multi-purpose facilities**

146. This policy expands on the positive support for investment to enhance existing facilities and a requirement to consider the potential for shared use in the Silverleys and Meads Wards Neighbourhood Plan. It adds new sections

requiring new facilities to comply with Sport England or Community Halls Design Guidance and resisting the loss of existing facilities unless defined criteria are met.

147. The requirement to comply with the Sport England or Community Halls design guidance may well be desirable but a failure to do so may not necessarily justify the refusal of planning permission, having regard to the presumption in favour of sustainable development. Moreover these standards are already some years old and may become outdated or superseded during the timescale of the Plan. Modifications are recommended to reflect these points.
148. The criteria to be met in the event of the loss of buildings for sport and leisure are consistent with the first two in policy LRC1 of the EHLF. The third one is additional but I am satisfied that it is consistent with sustainable development.

**Recommendation**

**in part c) of Policy SLCP2 insert after “(...December 2004” “or updated guidance that supersedes it unless a clear justification for departing from it is provided in terms of viability, the nature of the site, or user needs is provided.”**

**Policy SLCP3 – Development and enhancement of specified facilities**

149. Policy SLCP3 supports in principle the development of a new or improved swimming pool complex or other facilities needed to serve the town’s population subject to other development plan policies. It also supports proposals by educational establishments to expand sports and leisure facilities to make them available for community use. It meets the basic conditions.

**Policy SLCP4 – Community leisure and arts facilities**

150. The policy supports the provision of a new and larger arts facility or the enhancement of existing facilities and resists proposals which would result in the loss of such facilities unless clear criteria are met. It meets the basic conditions.

### **Policy SLCP5 - Development of sports facilities in the Green Belt**

151. The policy supports the development of outdoor sports facilities in the Green Belt where: they are open to the general public at specified hours, there is a clear demand and any related buildings would have a harmonious relationship with the surrounding landscape. Paragraph 89 of the NPPF indicates that buildings in association with facilities for outdoor sport and recreation should not be regarded as inappropriate in the Green Belt. Thus, while I understand the intentions, I am not satisfied that the requirement for the facilities to be open to the general public could be justified, if challenged, having regard to the presumption in favour of sustainable development.

#### **Recommendation**

#### **In Policy SLCP5 – delete the first bullet point**

### **Business and employment**

#### **Policy BP1 – Provision of a business incubation centre**

152. This policy supports in principle the development of a business incubation centre and sets out requirements in terms of accessibility and parking. It is almost identical to a corresponding policy in the Silverleys and Meads Wards Neighbourhood Plan. This policy is entirely consistent with the general encouragement for new business development given in part 3 of the NPPF. I sought clarification on whether the aim was the provision of one business incubation centre for the whole of Bishop's Stortford or one in each neighbourhood plan area. The response in the e mail of 19<sup>th</sup> May at Appendix 1 is that one is sought in each area. There is no evidence on the viability or not of two such centres in a town the size of Bishop's Stortford, but as the policy expresses general support, no doubt viability would be a decision for a potential investor. I am satisfied that the policy meets the basic conditions.

#### **Policy BP2 – Local retailing facilities**

153. Policy BP2 supports the establishment of retail facilities to serve large residential development providing they are not of a scale that would detract

from the town centre. This is consistent with Policy STC1 of the EHLP 2007 and with the sequential approach to development outlined in part 2 of the NPPF. However, the limitation to 6-10 units is very prescriptive and there is no clear justification for it. The scale of development will need to be determined by the size of the potential catchment population for any neighbourhood centre. Similarly while residential development above shops may be encouraged, it would be too prescriptive to make it a requirement as this would need to relate to the design of the centre.

### **Recommendation**

**In Policy BP2 insert a full stop after “use classes”, delete “6-10 business units and residential above.” And insert “Residential accommodation above the shops should be provided if possible.”**

### **Policy BP5 – Provision of business communication infrastructure**

154. The policy stresses the importance of high quality business communication infrastructure. Part a) requires new development to make optimal speed broadband available in all locations and to consider supporting the installation of a public Wi-Fi internet facility for all new development. It is not easy to define what the policy means by “optimal” and “available”. Broadband speeds vary greatly and the highest speeds may be more costly and unnecessary for some users. What matters is the infrastructure to facilitate connection if it is required. There is also a clear distinction between what might be necessary in large scale development and small developments of a few houses. Modifications are recommended to address these points and so meet the basic conditions.
155. Part b) supports the installation of mobile communication equipment where it is not prominent. Part c) requires the provision of electric car charging points into new business sites. Again, scale is an issue and in my judgement it would be unduly onerous to apply this to the sites of very small businesses where only a few parking spaces are required. I have therefore recommended a modification making electric car charging points a

requirement for major business development,<sup>29</sup> while encouraging them for smaller scale development.

### **Recommendations**

**In part a) of Policy BP5 delete the first bullet point and replace with the following**

- **“that the necessary infrastructure is provided to enable new houses and development to connect to the highest broadband speed available in the area.”**
- **Modify part c) to read “The provision of electric car charging points will be encouraged in all new business developments and will be a requirement for all major business development.”**

### **Policy BP6 – Future development of the town centre**

156. Part of the town centre of Bishop’s Stortford lies in the Plan area, but most of it is in the Silverleys and Meads Neighbourhood Plan area. Although Policy BP6 refers to “*development which lies within the neighbourhood area*”, there is no map to show the division between the two plans other than Figure 1 which shows the neighbourhood area as a whole, where the scale is too small to show the division in the town centre. The policies of the Plan can only apply to that part of the centre that lies in the Plan area but at the same time there is a need for consistency in the policies where possible as the town centre is clearly a functional unit and differences of policy within it would, unless clearly justified, make decision making difficult.

### **Recommendation**

**Insert Figure 10 of the Silverleys and Meads Wards Neighbourhood Plan after the supporting text before Policy BP6 and refer clearly in the supporting text to the limited proportion of the town centre which lies within the Plan area.**

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<sup>29</sup> Development of more than 1000sq m or 0.5ha where the floorspace is not known as defined in the Development Management (Procedure order) 2015

157. The policy is consistent with Policy BP6 of the Silverleys and Meads Wards Neighbourhood Plan and I am satisfied that it meets the basic conditions.

### **Policy BP7 – Prosperity and Character of the existing town centre**

158. This policy relates to changes of use within the town centre and to ‘pop-up’ shops and the street market in North Street, Market Square, Potter Street and South Street. The policy mirrors that in the Silverleys and Meads Wards Neighbourhood Plan to a large extent, except that while the latter sought to limit non-retail uses (Classes A2, A3, A4 and A5) to 30% of primary shopping frontages at ground level this policy provides for 50% in these uses. No justification or explanation of this difference is provided.
159. However, since the making of the earlier plan, there have been many changes to the General Permitted Development Order which have increased the extent to which changes of use within Class A uses are permitted development.<sup>30</sup> These changes have made Policies STC2 and STC3 of the EHLP out of date. In particular, changes of use from Class A1 to A2 and from classes A1 and A2 to Class A3 are permitted development, subject to some limitations. Thus, Policy BNP7 in the Silverleys and Meads Wards Neighbourhood Plan is effectively superseded as it is not possible to enforce the proposed policy as currently worded. Changes of use from Classes A1 and A2 to Classes A4 and A5 are subject to control, and I understand that to maintain the character of primary shopping frontages it is desirable to limit the number of Class A4 and A5 uses. However, I have no evidence to define an appropriate threshold for these uses for decision making purposes. A modification is therefore necessary to meet the basic conditions.

### **Recommendation**

**Delete part b) of Policy BP7 up to and including “...sum total of the length”. In the final sentence of part b) delete “also” in the penultimate line.**

### **Policy BP8 – Mixed developments**

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<sup>30</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 Part 3

160. This policy offers general support for mixed use developments which provide employment opportunities, the refurbishment of employment premises, the regeneration of industrial sites to commercial use and the conversion of upper floor space from retail to residential. This positive approach is generally consistent with the part 1 of the NPPF. The first bullet point refers to a mix of retail and commercial facilities. The retail element of this could conflict with the sequential approach outlined in paragraph 24 of the NPPF but the qualification in the introductory section making all of the policy subject to other applicable policies addresses this. The last point has also been overtaken by the inclusion of the conversion of retail to mixed retail and residential within permitted development rights.<sup>31</sup>

**Recommendation**

**In Policy BP8 delete the last bullet point.**

**Policy BP9 – Edge of town development**

161. This policy provides for new industrial and/or commercial development on the edge of the town, and for the relocation of industrial uses near the town centre to the edge of town, subject to other applicable policies which would include Green Belt policies.
162. The purpose of the use of the word “centre” in the first part of the policy is unclear as it refers to “*new industrial and/or commercial business centre.*” I am not clear what this means and recommend the replacement of “centre” with “uses”. Otherwise the policy meets the basic conditions.

**Recommendation**

**In Policy BP9 delete “centre” and insert “uses”.**

**The Goods Yard**

163. The Goods Yard is a major undeveloped brownfield site on the edge of the town centre between the railway line and the River Stort. In association with the adjoining John Dyde Training College site it was identified in the EHLP 2007 as a site for comprehensive mixed use development including

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<sup>31</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 Part 3 Class G

residential, leisure, pub/restaurant / hotel, retail and B1 uses as well as moorings on the River Stort. It also included a requirement to provide the construction of a link road between the Junction of Station Road with Dane Street and London Road. It envisaged a minimum of 700 dwelling units on the site as a whole of which 208 have been built on the John Dyde Site, leaving a need for a minimum of 492 homes.

164. The emerging District Plan also identifies the site as a mixed-use development site and proposes a similar mix of uses. It suggests the provision of at least 400 homes including a mix of dwelling types and affordable housing. An earlier version of the emerging plan, to which the evidence base for the Neighbourhood Plan refers, suggested 200 homes. The emerging District Plan policy also includes a range of design and layout requirements to ensure that the development contributes positively to the character of the area and realises the potential offered by its location adjacent to the River Stort and it requires the development to take account of other policy provisions in this Plan. It does not, however, require the provision of the road link referred to in the 2007 Local Plan between the Station Road / Dane Street junction and Railway Road.
165. While I was carrying out this examination a hybrid application for the development of the site was refused.<sup>32</sup> It sought :
- a) full permission for phase 1 of the scheme to include for 122 residential units, a hotel, 948 sq. m of retail floorspace, a multi-storey car park and a , reconfigured transport interchange.
  - b) outline permission for the development of the phases 2-4 to include up to 558 residential units and a further multi-storey car park,
- The two parts of this application proposed 680 residential units in total. Notwithstanding the divergence between this proposal and the Plan, particularly in terms of the scale of development proposed, no representations have been made by the applicants.

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<sup>32</sup> Ref 3/16/0530/OUT



166. This is clearly a complex site requiring detailed planning to integrate a large number of elements. It is beyond the scope of this examination to evaluate this in detail. My consideration must be restricted to the relationship of the proposed policies to the basic conditions.

**Policy GY1 – Improved public realm**

167. This policy sets out a series of design and layout requirements to be met by comprehensive development of the site. These aim to ensure that the development provides an attractive gateway to the town for those arriving at the station, that it is designed to provide attractive public and green spaces and that it is designed to respect the character and history of the site and to relate positively to the existing urban environment.
168. The beginning of part a) requires a comprehensive approach to the development of the site with the infrastructure for each phase being completed first. The requirement for completion within 7 years from the start of construction is not justified and, while it is clearly desirable, it is a well-established principle that planning policies cannot control the timescale for the completion of development as this may be subject to many non-planning considerations.
169. The first bullet point stresses the importance of creating a memorable gateway to the town and relating to the differing architectural styles at the northern and southern ends of the site. It also requires the maintenance of clear site lines from the station entrance towards the old Maltings buildings, the river and St Michael's Church. These are important elements of the surrounding townscape and the views towards them from the station should therefore be an important design consideration. However, without a fuller understanding of all the constraints that may influence the form of development, I am not satisfied that an absolute requirement to maintain both these clear views is consistent with the presumption in favour of sustainable development. I have therefore recommended a modification to reflect this.

170. I am satisfied that the remaining bullet points, which all relate to features that will contribute to the quality of the public realm without being too prescriptive, are consistent with the basic conditions, with the exception of the 5<sup>th</sup> bullet point. There is no clear justification for the requirement that no building should be within 12m of the river bank. The Canal and River Trust in their comments refer to the potentially harmful effects of overshadowing of the water, and the need for lower buildings nearer to the river, but this is addressed in the first part of the bullet point. In an urban setting the relationship of buildings to waterways can make a very positive contribution to the townscape and the quality of the public realm. Similarly, while a requirement for lower building heights on the southern part of the site is clearly justified with regard to the character of neighbouring development, the rigid preclusion of any building of more than three storeys is not.
171. Part b) of the policy supports bold and innovative design in the northern part of the site which could include an iconic building using modern materials. Part c) provides for the limited expansion of the train station. Both are consistent with the basic conditions.

### **Recommendations**

**In part a) of Policy GY1 delete “and within a timescale not exceeding 7 years from the start of construction”**

**In the first bullet point of part a) modify the second sentence after “...gateway to Bishop’s Stortford” to read “taking account of the important views from the railway station entrance towards the old Maltings buildings, the river and St Michael’s Church and maintaining a clear sightline to one or both of these buildings if at all possible having regard to the development as a whole.”**

**In the 5<sup>th</sup> bullet point delete “and no building within 12 metres of the river bank” and “not exceed three storeys”. Insert after “...buildings should” “be generally lower than on the northern part of the site.”**

### **Policy GY2 – Site Uses**

172. The policy sets out the uses that could be accommodated on the site, referring to residential development up to a maximum of 250 dwellings or whatever lower limit supersedes this in the District Plan. Other possible uses include small scale retail, office space, local medical centre, hotel and public conveniences.
173. The scale of residential development is below that in the 2007 EHLP, which taking account of the development that has been completed on the John Dyde training site would be at least 492 dwellings, and Policy BISH7 of the emerging District Plan which requires at least 400 dwellings. The number proposed in this policy appears to have been influenced by the figure of 200 dwellings in the 2014 version of the emerging District Plan. I must consider whether the provision for a maximum of 250 dwellings is in general conformity with Policy BIS11 of the 2007 Local Plan. In the context of the District as a whole this difference may not be of strategic significance if there were other reasons in terms of sustainable development to justify it. However, no evidence has been provided to show that the scale of development envisaged in the 2007 Local Plan cannot be sustainably accommodated. I therefore consider that the amount of development which the Plan proposes for the site is not in general conformity with the development plan policy and I have therefore recommended a modification to require at least 400 dwellings, in accordance with the policy in the emerging plan, to meet the basic conditions. While this is less than required by the 2007 EHLP, it is in general conformity with this figure and the emerging plan figure is informed by more up to date evidence on housing need. As a minimum this figure provides for a higher level of growth if it can be demonstrated to be sustainable.
174. The design considerations for residential development are all consistent with sustainable development.
175. I am also satisfied that the other uses proposed for the site are consistent with the basic conditions except that I was not sure what was meant by "*Buildings that, because of their position or communal nature, can benefit from a renewable energy source.*" This has been clarified in the e mail of 19 May in

Appendix B. I have therefore recommended a modification to make the intentions of the policy sufficiently clear for it to be applied.

**Recommendation**

**In the first bullet point of Policy GY2a) delete “a maximum of 250” and insert “at least 400”.**

**Modify the 4<sup>th</sup> bullet point of Policy GY2b) to read “buildings that because of their scale, position or mix of uses can benefit from a renewable energy source.”**

**Policy GY3 – Transport interchange**

176. The policy sets out the requirements for a transport interchange which is one of the elements proposed in the 2007 EHLP. Part a) requires that it should reflect best practice. Parts b) and c) seek to define the catchment area and scope of a transport assessment having regard to other developments in the area. Part d) sets out design considerations for the interchange. I am satisfied that all these requirements are consistent with the basic conditions.

**Policy GY4- Vehicle connections to and from the site**

177. This policy describes access arrangements to the site which will be required unless traffic modelling can justify alternative arrangements. Part b) requires two way access from London Road near Tanners Wharf and from Station Road. Part c) indicates that a north-south throughway link for taxis and buses will be preferred. Policy BIS11(a) of the 2007 EHLP requires the safeguarding of the ability to construct such a road, but makes no reference to its use being restricted to taxis and public transport. While I can understand that this might be desirable, in the absence of any evidence there is insufficient justification for this departure from the requirements of the Local Plan. I have therefore recommended a modification to reflect this. Part d) resists schemes that would restrict full access to the site from London Road near Tanners Lane. I am satisfied this meets the basic conditions.

**Recommendation**

**In Policy GY4c) delete “for taxis and buses.”**

### **Policy GY5 – Car and cycle parking**

178. Policy GY5 sets out requirements for car and cycle parking on the site. Parts a) and b) repeat parts b) and c) of Policy GY3 and this is unnecessary as car and cycle parking are essential elements of the assessment of need for the transport interchange. A modification to cross reference to Policy GY3 is recommended.
179. Part d) requires the maintenance of the provision for car parking during the construction phase. Parts d) – h) set out design requirements for car parking and cycle storage to ensure that they are attractive and user friendly and I am satisfied that they meet the basic conditions.

#### **Recommendation:**

**In the third line of Policy GY5 prior to part a) insert after “...foreseeable future”, “as determined in accordance with Policy GY3 parts b) and c) Delete Parts a) and b).**

### **Policy GY6 – Pedestrian and cycle links**

180. This policy amplifies the requirement in Policy BIS11 of the EHLC 2007 to provide good pedestrian and cycle links to the town centre. The NPPF in paragraph 35 justifies this greater attention to the needs of pedestrians and cyclists. Part a) lists a series of links that should be provided and are illustrated on Fig.10. These reflect clear desire lines. Part b) requires connection to the new Station Road footbridge which lies just outside the neighbourhood plan area. Neighbourhood plans are not able to make proposals outside of their area, but at the same time it would clearly not be consistent with sustainable development for pedestrian links to fail to connect with this footbridge. A modification to address this dilemma and therefore meet the basic conditions is therefore recommended

#### **Recommendation**

**Modify Policy GY6-b) to read “Schemes that do not provide pedestrian**

**links that are capable of convenient connection to the new Station Road footbridge will not be supported.”**

### **Land South of Bishop’s Stortford**

181. Policies BSS1- BSS5 relate to the development of land south of Bishop’s Stortford that is currently in the Green Belt. The allocation of this land has been opposed by BSTC but the site is proposed in Policy BISH of the emerging District Plan for the development of 750 houses, the provision of sites for a new primary school and a new secondary school and a small business park. The proposed allocation is justified on the basis of the level of housing need. The emerging District Plan has not yet been examined and there is strong opposition to the amendment of the Green Belt boundary that would be involved. While the Neighbourhood Plan does not need to be in conformity with the emerging District Plan, it does need to have regard to the evidence base that informs it. The Plan has been drafted to take account of the two possible outcomes: that the allocation is confirmed in the emerging plan or that the boundary of the Green Belt remains unchanged

### **Policy BSS1 – Conditional Policies**

182. This policy makes it clear that policies BSS2-BSS5 will only apply in the event that the strategic policy allowing for the development of the land identified south of Bishop’s Stortford is confirmed. Otherwise Green Belt policies will continue to apply to the site. Part c) of the policy states that the policies should not be read as support for the principle of the development of the site. This is not a land use policy and should therefore be deleted.

### **Recommendation**

**In Policy BSS1 delete part c).**

### **Policy BSS2 – Setting and character of buildings**

183. Policy BSS2 sets out criteria for the design and layout of new development. These are concerned with the relationship of the new development to neighbouring development and the countryside to the south and east. They provide guidance on the height of new dwellings, limiting dwellings to two

stories on the edges of the development and up to 3 stories close central community facilities. With the slight exception of part c) I am satisfied that they are consistent with the guidance in the NPPF on good design and meet the basic conditions.

184. Part c) requires that views of the open countryside to the south and east should be maintained from focal locations near the centre of the development. Andrew Martin Planning on behalf of Countryside Properties argues that maintaining all views is unrealistic and that only key views should be protected. However, that is effectively what this policy is proposing. The land slopes gently but significantly to the south and east which should assist the maintenance of views in that direction from within the development. However, without more detailed design and evidence it is not possible to know how practical this will be and I have therefore recommended a modification to acknowledge this uncertainty and limit the requirements to some key locations.

**Recommendation**

**In Policy BSS2c) after “...are maintained from” inset “some key” and at the end of the sentence add “unless it can be clearly demonstrated that this is not realistically practicable.”**

**Recommendation BSS3- Community facilities**

185. This policy requires the provision of new community facilities including local shops, a community hall, allotments and medical facilities because of the distance of the development from the Thorley Neighbourhood Centre. It also requires inter-connected green spaces and recreational areas. The policy meets the basic conditions.

**Policy BSS4 – Access/ egress to the site**

186. The policy sets out requirements for access to the site. It aims to limit extra traffic flows through the Thorley Park residential area and to achieve vehicular access from the two existing roundabouts on St James Way. However, it also seeks to separate access to any new business park from access to housing

and to ensure that access to new educational facilities does not cause congestion within the development. As Andrew Martin Planning point out in their representations, it is not clear how all of these things can be achieved. Moreover, it is not clear to me that it would be in the interests of sustainable development to rule out access from Whittington Way or Obrey Way at this stage. While the policy refers to pedestrian and cycle access to Whittington Way, in reality there will be vehicular traffic from this development to and from other parts of the town and the restriction of vehicular access to St James Way may not help the integration of the development with the rest of the town. In my judgement it is too prescriptive at this stage, in advance of a traffic study and travel plan to define where access to the development should come from. Similarly, while it may well be that access to a Secondary School should be from St James Way there is insufficient evidence to make this an absolute requirement. I have therefore recommended modifications in the interests of sustainable development and to meet the basic conditions.

#### **Recommendations**

**In Policy BSS4c) delete “be via” and insert “include use of”**

**In part f) delete “Any secondary school should be accessible directly from St James Way without traversing residential areas.”**

#### **Policy BSS5 – Hertfordshire Way and green spaces**

187. The policy aims to protect the open aspect and view from the Hertfordshire Way as it crosses the site and this is consistent with Policy BISH5 of the emerging District Plan. It also seeks to protect its role as a wildlife corridor, provide for its future maintenance, protect the ancient hedgerow to the south of the site and two copses of trees and to ensure that water courses across the site remain above ground.
188. The general intentions of the policy are entirely consistent with the policies of the NPPF regarding the protection of rights of way (paragraph 75) and the conservation of the natural environment. However, as with policy BSS2, I have sympathy with the views expressed by Andrew Martin Planning. This is a large site which slopes generally to the south-east, but it is traversed by a



small valley which means parts of the site have a north-eastern aspect. The development of the site will inevitably have some impact on views from the site and it is unrealistic that “all views” from the Hertfordshire Way could be maintained. Similarly, while the maintenance of a 10m wildlife corridor may well be appropriate, I have not been presented with evidence to say that it is the only or best way to protect and enhance biodiversity. I have therefore recommended modifications in the interests of sustainable development to meet the basic conditions.

### **Recommendation**

**In Policy BSS5a) in the second line delete “all” and insert “some” and after “views” insert “to the open countryside”. Delete the last two lines and insert “should be maintained unless it is demonstrated that other appropriate measures would be more effective in terms of protecting and enhancing biodiversity.”**

### **Bishop’s Stortford High School site**

189. The Bishop’s Stortford High School site is to the west of London Road, and the school has expressed an interest in relocating to the land south of Bishop’s Stortford. Policy BISH6 of the emerging District Plan provides for the development of approximately 150 new homes on the existing site if this relocation takes place or there is sufficient secondary school capacity elsewhere in the town. Policies BSHS1 and BSHS2 are to be applied in the event of the site being released for housing.

### **Policy BSHS1 – Setting and character of buildings**

190. This policy requires new development of this site to be no higher than two storeys and to complement the local landscape and housing in terms of styles and materials. In many instances a rigid height restriction of this sort would be excessively prescriptive, but the existing dwellings in the vicinity of the school are exclusively one and two storey and I am satisfied that the policy meets the basic conditions.

### **Policy BSHS2 – Community Facilities**

191. The title of this policy is misleading as the policy itself does not refer to community facilities. The first part of this policy requires that development of the site *“must enable social interaction for the local community.”* It is not clear what this means in land use planning terms and therefore it does not offer clear guidance to a development management decision maker. It appears that it would most appropriately refer to the need for new development to be effectively integrated with existing development in terms of road, pedestrian and cycle routes and I have recommended a modification to this effect.
192. Part b) requires the retention of the Spinney, as a through route for pedestrians and cyclists and to maintain a buffer between new and existing development. It also requires consideration of the potential for extending the route at both ends to provide a sustainable route from the south of the town into the town centre. The designation in Policy GIP1 of the Spinney as a Local Green Space will ensure its retention and its role as pedestrian and cycle route is part of what makes it important.

### **Recommendation**

**Change the heading of Policy BSH2 to – Connectivity  
modify Part a) to read “Proposals for development of this site must ensure good pedestrian and cycle links to the surrounding development.”**

### **Bishop’s Stortford East of Manor Links**

193. The land to the East of Manor Links is currently allocated as Green Belt and, as with the land South of Bishop’s Stortford the policies relating to this site are only applicable in the event that land to the East of Manor Links is allocated in the emerging plan. Paragraph 4.11.1.2. states that the emerging District Plan proposes the allocation of this land for the development of 150 dwellings and paragraph 3.12.1.2 indicates that this would be on two sites. Figure 2 on

page 17 also refers to 150 homes. Weston Homes representing themselves and Bishop's Stortford Golf Club correctly point out that the submission version of the District Plan proposes an allocation of a smaller area for 50 dwellings on one site. It is also confirmed that this scale of development is all that Weston Homes and the Golf Club aspire to. There is no obligation for conformity with the emerging plan, but references to it should be accurate and up to date and modifications are necessary to achieve this.

**Recommendation**

**Modify paragraph 3.12.1.2 to read “Within the emerging District Plan it is proposed that the Green Belt boundary is amended and an area currently within the Green Belt is allocated for development.”**

**In paragraph 4.11.1.2 delete “150” and insert “50”**

**On Figure 2 delete 150 and insert 50 on the area shown as 3.**

**Policy BSEM1 – Conditional Policy**

194. This Policy simply explains that Policy BSEM2 will not take effect unless the principle of developing this site confirmed, most probably through the emerging District Plan. As in the case of Policy BSS1 part c) in not a land use policy.

**Recommendation**

**In Policy BSEM1 delete paragraph c)**

**Policy BSEM2 – Master-planning, setting, character**

195. Policy BSEM2 sets out several design principles to be followed in the detailed design of any development. In part b) the third bullet point duplicates and expands on the second bullet point. The principle of maintaining some of the existing scrubland as a wildlife haven is consistent with sustainable development, but it is unduly prescriptive to require that it should be in the form of a buffer between the new and existing development. This should be determined as part of the planning of the development as a whole, which will need to take account of the living conditions of neighbouring development. With this exception I am satisfied that the policy meets the basic conditions.

### **Recommendation**

**In Policy BSEM2b) delete the second bullet point. In the third bullet point delete “immediately adjacent to the existing development of Manor Links, Cecil Close and Shortcroft.**

## Summary and Referendum

196. The preparation of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley 2015-2031 has been a very major undertaking. The plan contains a large number of very detailed policies carefully designed to address the specific issues faced by the area. It has also had to address the uncertain strategic context because the emerging District Plan contains major allocations for new development in the Plan area, but these have yet to be confirmed. Another important consideration has been the existence of a made neighbourhood plan covering the other two Bishop's Stortford Wards.
197. The Plan has adopted a constructive approach to dealing with the possibility of changes to the Green Belt boundary and development on land South of Bishop's Stortford and East of Manor Links. The adjoining neighbourhood plan is in some ways helpful as many of the policies in this Plan mirror those in the neighbouring plan, and together the two plans will provide a coherent set of policies for the town. However, adding the specific requirements for this plan, while maintaining consistency where possible, has been a challenge, particularly as in some cases the policy or legislative background has changed since the preparation of the earlier plan.
198. I have found the documentation submitted with the Plan clear and comprehensive and this has helped me greatly. It is also clear that the preparation of the Plan has involved a very full programme of public consultation which has been very carefully documented and presented.
199. I have found it necessary to recommend quite a large number of modifications. Many of these are to provide clearer wording so that the policy can be applied consistently. In other cases, they have been necessary because there has been insufficient justification for some of the policy requirements. This has particularly been the case with some of the more specific policies which aim to influence the form of development if the potential new allocations in the emerging District Plan are confirmed. In some

instances the policies seek a greater degree of control than is available through the planning system.

199. The preparation of the Plan has been in accordance with the legislation and subject to the modifications I have recommended, I am satisfied that the Plan:
- has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;
  - the making of the Plan would contribute to the achievement of sustainable development;
  - the making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
  - The making of the Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

**I am therefore pleased to recommend that the Bishop's Stortford Town Council Neighbourhood Plan for All Saints Central, South and part of Thorley should proceed to a referendum subject to the modifications that I have recommended.**

200. I am also required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Plan Area.
201. In my examination of the neighbourhood plan for the Silverleys and Meads Wards I considered this carefully because, as the plan area included the majority of the town centre, there was clearly the potential for some of the policies to have influence beyond the neighbourhood plan area.

202. I concluded that it was not necessary to extend the referendum area because many of the policies in that plan would not have been of relevance in the remaining wards of the town and there were no representations suggesting that the referendum area should be extended.<sup>33</sup> .
203. As that plan has already been to referendum and contains many of the policies in the All Saints, Central, South and Part of Thorley Plan, which would be of relevance for that area I have not found any reason to extend the referendum area in this case. While some of the new policies in this Plan could have implications outside the area, notably those relating to the Goods Yard, the strategic decisions affecting this site will be taken through the emerging District Plan. Also, policies for the town centre have already been considered in the plan for the Silverleys and Meads Wards. I have concluded, having regard to Planning Practice Guidance<sup>34</sup> that it is not necessary to extend the referendum area.
204. **I conclude that there is not a clear need to extend the area for the referendum and that the referendum should relate to the neighbourhood plan area.**

Richard High

May 2017

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<sup>33</sup> Examiners Report on the Examination of the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards paragraphs 91-96

<sup>34</sup> Reference ID: 41-059-20140306

## APPENDIX 1

### E mails exchanges to clarify issues arising from the submitted documentation

Email dated 9 May 2017 to Laura Pattison (EHDC) copied to James Parker (Bishop's Stortford Town Council)

Dear Laura

I have the following queries on which I would appreciate your clarification.

1. The East Herts website (<http://www.eastherts.gov.uk/developmentplan>) indicates that the development plan is made up of:

The East Herts Local Plan 2007

The Hertfordshire Waste Local Plan 1999

The Hertfordshire Minerals Local Plan 2007

Saved policies from the Hertfordshire Structure Plan 1991-2011

From my research, and previous examinations it appears that this is out of date in several respects. Could you confirm that

- a) it is only the saved policies of the 2007 Local Plan that form part of the development plan;
- b) the Hertfordshire Waste Local Plan 1999 has been superseded by the Hertfordshire Waste Local Plan which comprises the Core Strategy and Development Management Policies Adopted in 2012 and the Waste Site Allocations Document adopted in 2014;
- c) the saved policies of the Hertfordshire Structure Plan 1991-2011 no longer form part of the development plan.

2. SEA Screening Assessment. The Basic Conditions Statement (p20) states that the screening assessment was sent to "...the Environment Agency, Natural England and Historic England for approval" and that "the SEA screening states a belief that no SEA is required, but this is for East Herts District Council to confirm."

I have been unable to locate the responses from the statutory Consultees. It may be that they are in the appendices to the Consultation Report as I have yet to go through these in detail, but the tables of contents give no indication that this is the case and the responses of the statutory consultees to the regulation 14 consultation do not refer to the screening assessment. Can you point me to or let me have these responses? Also has the District Council made a determination under regulation 9 of the Environmental Assessment of Plans Regulations 2004 regarding the need for SEA?

3. Policy HDP2 Could you please tell me the heritage status of Twyford Mill. Paragraph 4.1.3.13 identifies Twyford House as Grade II\* but is not explicit about Twyford Mill.

4. Policy HDP 3 refers to "Part 2 Secured by Design Accreditation". Does this relate to Section 2 of Secured By Design New Homes 2014?

5. In Policy HDP5 does section c) relate to all housing, not just housing for Older and Vulnerable People and what is included in the definition of community facilities? For instance does it include retail and other commercial facilities?



6. There are several references to the Hockerill junction. Can you tell me how this relates to the neighbourhood plan boundary i.e. Is it in this plan area or Silverleys and Meads as it is not entirely clear from the map?

7. On my site visit today I noticed that Cox's Garden is fenced off and inaccessible. A notice on the site says it is owned by the County Council and that there is no right of access. What is the status of this site?

8. Also on my visit I saw that a large part of the Goods Yard site and intense construction activity was underway with what looked like the laying out of roads with kerning. Does this mean that permission has been granted for the application you referred to or another one?

I may well have further queries.

Kind Regards

Richard

E mail dated 16 May 2017 to Laura Pattison EHDC copied to James Parker Bishop's Stortford Town Council

Dear Laura

Here is a second group of questions. It would also be helpful to have responses to those in my e mail of 9 May 2017

- 1) In policy TP9 it would be helpful if the meaning of "the primary user" was clarified. Is this aimed at retail car parks provided in association with individual shops, in which case is "the primary user" the retailer or the shopper?
- 2) In Policy EP3 is there any basis for using 25% occupancy as the latest target for opening a new primary school?
- 3) Could you please clarify the position of East Herts Council on the Community Infrastructure Levy and more specifically with regard to policy HP1, is the SPD of October 2008 the most up to date guidance on healthcare contributions?
- 4) In relation to Policy BP1, this is almost identical to the equivalent policy in the Silverleys and Meads Wards plan? Is there an aspiration for one incubation centre for the whole of Bishop's Stortford or one in each half?
- 5) I have been unable to find the Bishop's Stortford Town Centre inset map from the 2007 Local Plan online. Could you please point me to this? In particular it would be helpful to determine the difference in the definition of the Goods Yard Site in the neighbourhood and emerging plan from the Goods Yard/John Dyde Training College Site in the 2007 Local Plan.

- 6) In Policy GY2 I do not know what is meant by “Buildings that, because of their position or communal nature, can benefit from a renewable energy source.” Some elaboration would be helpful.
- 7) In relation to Policy GY6, I have been unable to access the Planning application referenced in the footnote. It would be very helpful to have a large scale map showing the boundary between the two neighbourhood plan areas in the town centre.

Kind Regards

Richard

**From:** Pattison Laura  
**Sent:** 17 May 2017 14:35  
**To:** 'Richard High'  
**Subject:** RE: Bishop's Stortford NP

Dear Richard,

Apologies for the delay in responding to these initial questions. Please find below the responses; responses from the Council are in red and, where applicable, the responses in blue are from the Neighbourhood Planning team.

1. The East Herts website (<http://www.eastherts.gov.uk/developmentplan>) indicates that the development plan is made up of:
  - The East Herts Local Plan 2007
  - The Hertfordshire Waste Local Plan 1999
  - The Hertfordshire Minerals Local Plan 2007
  - Saved policies from the Hertfordshire Structure Plan 1991-2011

From my research, and previous examinations it appears that this is out of date in several respects. Could you confirm that

- a) it is only the saved policies of the 2007 Local Plan that form part of the development plan;
- b) the Hertfordshire Waste Local Plan 1999 has been superceded by the Hertfordshire Waste Local Plan which comprises the Core Strategy and Development management Policies Adopted in 2012 and the Waste Site Allocations Document adopted in 2014;
- c) the saved policies of the Hertfordshire Structure Plan 1991-2011 no longer form part of the development plan.

The website link above has now been deactivated following the recent launch of the Council's website. As this project has been ongoing for some time, it is acknowledged that a number of the webpages on the old website had not been kept up to date. I can confirm that the details above relating to what constitutes the development plan are correct.

2. SEA Screening Assessment. The Basic Conditions Statement (p20) states that the screening assessment was sent to “...the Environment Agency, Natural England and Historic England for approval” and that “the SEA screening states a belief that no SEA is required, but this is for East Herts District Council to confirm.”

I have been unable to locate the responses from the statutory Consultees. It may be that they are in the appendices to the Consultation Report as I have yet to go through these in detail, but the tables of contents give no indication that this is the case and the responses of the statutory consultees to the regulation 14 consultation do not refer to the screening assessment. Can you point me to or let me have these responses? Also has the District Council made a determination under regulation 9 of the Environmental Assessment of Plans Regulations 2004 regarding the need for SEA?

The Council published its decision through the non key decision making process. Unfortunately, the link to these decisions is not currently available on the new website. However, I have attached the report and responses to this email.

3. Policy HDP2 Could you please tell me the heritage status of Twyford Mill. Paragraph 4.1.3.13 identifies Twyford House as Grade II\* but is not explicit about Twyford Mill.

I have checked with the Council's conservation officer who has confirmed that whilst it is of some age, Twyford Mill is not individually listed and does not lie within the Conservation Area. He has advised that a site visit would be required in order to establish if it could be considered curtilage listed to the Grade II\* Twyford House, although his initial thought are that this is unlikely.

4. Policy HDP 3 refers to "Part 2 Secured by Design Accreditation". Does this relate to Section 2 of Secured By Design New Homes 2014?

From the NP Group: I think we can safely say yes to this. Secured by Design New Homes 2014 is the publication we refer to and should be described as such in Appendix 3 Policy Context and Background. Our words are almost exactly what Mark Montgomery, the Herts Police Crime Prevention Design Advisor, gave us, at (or after) one of the Focus Group sessions, for us to use. Section 2 of the document refers to qualities for dwellings, whereas Section 1, 'The Development – Layout & Design (Planning Issues)', refers to their wider context.

5. In Policy HDP5 does section c) relate to all housing, not just housing for Older and Vulnerable People and what is included in the definition of community facilities? For instance does it include retail and other commercial facilities?

From the NP Group: Yes to the first question. Sections a) and b) do refer just to housing whereas c) refers to community facilities as provided in relation to all housing as it is bought into use. You may remember that just about all of the 'community facilities' policy contents were subsumed into the 'Sports, Leisure & Community' section', as agreed with Colin. On the second question I guess I should have been more specific, but common sense would suggest paragraph c) is referring to facilities needed by residents as they start to occupy the new homes. So this would include a small local collection of service and/or food shops, but not a larger retail centre for use by people from way beyond the new development.

6. There are several references to the Hockerill junction. Can you tell me how this relates to the neighbourhood plan boundary ie. Is it in this pan area or Silverleys and Meads as it is not entirely clear from the map.

The ward boundary passes diagonally across the junction from north-east to south-west, so the Dunmow Road and London Road approaches fall under this Neighbourhood Plan whilst the Stansted Road and Hockerill Street approaches fall under the Silverleys and Meads Neighbourhood Plan.

From the NP Group: Hockerill junction is the junction between the A12150 and the A1184 in an area of town called Hockerill. The boundary between the Neighbourhood area for Siverleys and Meads and that for All Saints, South, Central and Part of Thorley actually goes right through the middle of the junction (see map attached, the dotted green line is the boundary at this point). It is a notoriously difficult traffic spot, an air quality management area which breaches the national guidelines (and recently featured on national news for that reason) and there have been many attempts to improve the traffic situation but the fundamental is that any major improvement is probably dependent on a south-eastern bypass (which is not currently on the cards). As a result of the problems at this junction there is a rat run through Beldams lane and Boundary Rd which many use as an alternative. I hope this helps.

7. On my site visit today I noticed that Cox's Garden is fenced off and inaccessible. A notice on the site says it is owned by the County Council and that there is no right of access. What is the status of this site?

The site is owned by Hertfordshire County Council and is designated open space left over from development of school land a number of years ago. However, there is a lapsed planning permission (lapsed in 2014) for the relocation of the Blues Pre-school from the site of The Bishop's Stortford High School to this site as part of the proposed relocation of the school to land south of Whittington Way (now referred to as Bishop's Stortford South in the emerging plan). The emerging plan states that if the High School relocates to the land at Bishop's Stortford South, the existing site will be released for residential development. This will require the relocation of the pre-school and it may be that HCC seek to reapply for planning permission to relocate to Cox's Garden. The lapsed planning application only involves development of a small part of the site and it is envisaged that the remainder of the site would remain as open space.

8. Also on my visit I saw that a large part of the Goods Yard site and fairly intense construction activity was underway with what looked like the laying out of roads with kerbing. Does this mean that permission has been granted for the application you referred to or another one?

The planning application for the redevelopment of the site is due to be determined this evening (Wednesday 17<sup>th</sup> May). The officer recommendation is that the application be approved. The report can be viewed at:

<http://democracy.eastherts.gov.uk/documents/s39552/3160530OUT%20ST.pdf?J=4>

There is also a planning application awaiting determination for up to 425 temporary parking spaces to allow phased development of the site to take place on existing car parks. There are no other applications (approved or awaiting determination) on the site.

From the NP Group: There is a planning application which has been with the DC for several months. I believe it goes to Committee on 17<sup>th</sup> May. The version now going to Committee is outline for the whole site and full for only the bit immediately east of the station, with the rest of the detail reserved for later. This gives plenty of scope still for NP policies to be applied to the balance of the site.

If you require any further information on these questions let me know.

Kind regards,

**Laura Pattison**  
**Senior Planning Policy Officer**

E mail dated 19 May 2017 from Laura Pattison

Dear Richard,

Please find below responses to the second set of questions. As before, responses from the Council are in red and the responses in blue are from the Neighbourhood Planning team.

1. In policy TP9 it would be helpful if the meaning of “the primary user” was clarified. Is this aimed at retail car parks provided in association with individual shops, in which case is “the primary user” the retailer or the shopper?

From the NP Group: Some background which may be useful for the Examiner. TP9 e) relates to making the most efficient use of land. Therefore where a car park is proposed for non-domestic use ( say for example commuter parking at the station, or a car park for employees of a business) then it makes sense to consider whether shared public use ( perhaps at certain times e.g. weekends/evening ) should also be allowed in these parking spots. This could be particularly relevant within or close to town centres or other areas where parking spaces are limited in relation to demand/convenience. However, the policy makes the caveat that it’s not ok to just go ahead and do this without ensuring that the parking needs of the primary user ( i.e. commuter or employee in the examples above) are still met and not compromised by allowing for shared public usage.

In terms of defining ‘primary user’ – this is clearly rather tricky but how about ‘The primary user is the person who parks at the facility for the prime purpose originally identified as the reason for assigning land for parking provision’

The draft District Plan contains a similar policy (TRA3 IV) perhaps there is a definition envisaged there (albeit that it is not stated in the plan) which could be ‘lifted’ – you would have that if it exists. **There is no definition attached to ‘primary user’ but the examples of commuter parking and parking provided for employees of a business are good examples of where the Council may seek shared public use of parking facilities.**

2. In Policy EP3 is there any basis for using 25% occupancy as the latest target for opening a new primary school?

From the NP Group: The 25% came from an HCC recommendation. Their officer, Andrea Gilmore, represented HCC at the consultation meetings and subsequently advised that 25% is HCC policy.

3. Could you please clarify the position of East Herts Council on the Community Infrastructure Levy and more specifically with regard to policy HP1, is the SPD of October 2008 the most up to date guidance on healthcare contributions?

**The Council has still not reached a decision as to whether it is going to introduce a CIL charge in order to support the provision of future infrastructure schemes. However, it is envisaged that S106 legal obligations will still be used to secure financial contributions towards the**

provision of infrastructure on strategic development sites allocated in the District Plan. With regard to healthcare contributions, they are now sought on developments of 11 dwellings or over if requested by NHS England. The capacity planning calculation, based on general medical services provision, used to calculate the contribution required to support new GP provision is set out in the Infrastructure Development Plan. This can be viewed at: <https://www.eastherts.gov.uk/article/35066/Infrastructure-Delivery-and-Monitoring-IDM> (pages 30-31).

4. In relation to Policy BP1, this is almost identical to the equivalent policy in the Silverleys and Meads Wards plan? Is there an aspiration for one incubation centre for the whole of Bishop's Stortford or one in each half?

From the NP Group: One in each.

5. I have been unable to find the Bishop's Stortford Town Centre inset map from the 2007 Local Plan online. Could you please point me to this? In particular it would be helpful to determine the difference in the definition of the Goods Yard Site in the neighbourhood and emerging plan from the Goods Yard/John Dyde Training College Site in the 2007 Local Plan.

I have sent over hard copies of the maps for the 2007 Local Plan and the 2016 Pre-Submission plan. This should make it easier to compare the site designations than using the online mapping system.

6. In Policy GY2 I do not know what is meant by "Buildings that, because of their position or communal nature, can benefit from a renewable energy source." Some elaboration would be helpful.

From the NP Group: 'buildings of a communal nature' are ones with shared facilities/common services e.g., blocks of flats with common services that lend themselves to group heating/generation schemes often using renewable energy sources, or things like shopping centres or other public amenities where multiple functions are combined under one roof. Whilst flats tend to have a relatively small proportion of roof area to number of dwellings, the fact that the sun facing area is unlikely to be over shadowed can make them good candidates for solar schemes, particularly where there are a large number of similar dwellings close together probably serviced by a single management organisation. Buildings of a communal nature, or perhaps with shared facilities, could equally apply to shopping centres or other public amenities under one, often broad, roof.

'Position' could have been substituted by 'favourable aspect', which is obviously of key importance if using solar energy. EG the Goods Yard site is wide, level and open to the south, so has a good chance in this respect.

7. In relation to Policy GY6, I have been unable to access the Planning application referenced in the footnote. It would be very helpful to have a large scale map showing the boundary between the two neighbourhood plan areas in the town centre.

The footnote doesn't relate to a planning application. Whilst I can't recall the exact source, it is from an historical HCC transport document and the ITP reference is to an 'integrated transport project'. The widening of the Station Road bridge is included within the

Infrastructure Delivery Plan, although no funding source for its delivery has currently been identified.

From the NP Group; you are correct that it isn't a planning application, it is the HCC plan (not confirmed) to widen the bridge. Its referenced in the EHDC Town centre Planning Framework (page 42 and effectively on the front cover – the picture assumes a widened bridge!). It appears in BISH10 in the emerging District Plan, which might now be a better reference as I can't find publicly accessible HCC documents. The Bishop's Stortford Town Centre Planning Framework was reported to the Council's Executive on Tuesday 16<sup>th</sup> May with the recommendation that it be approved for Development Management purposes. This decision still needs to be formally made by Full Council. The report can be viewed at: <http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=119&MId=2882&Ver=4&J=3> and the document itself can be viewed at: <http://democracy.eastherts.gov.uk/documents/s39447/Bishops%20Stortford%20planning%20framework.pdf?J=5>

I have sent you over a large scale map showing the boundary between the two neighbourhood plan areas. I have also attached this above.

The planning application for development at the Goods Yard was refused by the Development Management committee last night. Reference was made at committee to construction work taking place on the site and the Council's Enforcement team are now investigating this. It appears that work on constructing the temporary car park may have begun, prior to the approval of the planning application.

Kind regards,

**Laura Pattison**  
**Senior Planning Policy Officer**

**Appendix 2: Determination on need for SEA**

EAST HERTS COUNCIL

NON-KEY DECISION -

REPORT BY THE LEADER OF THE COUNCIL

BISHOP'S STORTFORD NEIGHBOURHOOD PLAN FOR ALL SAINTS,  
CENTRAL, SOUTH AND PART OF THORLEY, 2016 – 2032 -  
STRATEGIC ENVIRONMENTAL ASSESSMENT AND APPROPRIATE  
ASSESSMENT SCREENING REPORT

WARD(S) AFFECTED:     ALL SAINTS, CENTRAL, SOUTH AND  
PART OF THORLEY

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**Purpose/Summary of Report**

- The purpose of this report is to determine whether or not a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA) of the emerging Bishop's Stortford Neighbourhood Plan for All Saints, South, central and parts of Thorley wards is required.
- The report concludes that the Neighbourhood Plan does not require either a Strategic Environmental Assessment (SEA) or a Habitats Regulations Assessment (HRA) because the Plan is not likely to have any significant environment effects.

<b><u>RECOMMENDATION FOR DECISION: the joint parish group be advised that:</u></b>	
<b>(A)</b>	<b>in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004, the District Council, as the responsible authority, has determined that an environmental assessment of the emerging Bishop's Stortford Neighbourhood Plan for All Saints, South, Central and parts of Thorley wards is not required as it is unlikely to have significant environmental effects. In making this determination, the District Council</b>



	<b>has had regard to Schedule 1 of the Regulations and has carried out consultation with the consultation bodies; and</b>
<b>(B)</b>	<b>the emerging Bishop's Stortford Neighbourhood Plan for All Saints, South, Central and parts of Thorley wards is unlikely to have a significant effect upon a Natura 2000 designation and therefore does not require an HRA.</b>

## 1.0 Background

1.1 In order for a neighbourhood plan to meet the Basic Conditions to proceed to Referendum, the Local Planning Authority must determine whether a neighbourhood plan requires a Strategic Environmental Assessment (SEA), and/or a Habitats Regulations Assessment (HRA). This report determines whether the Buntingford Community Area Neighbourhood Plan (BCANP) requires either.

### SEA Legislative Background

1.2 The European Directive 2001/42/EC requires a Strategic Environmental Assessment (SEA Directive) to be carried out for certain plans and programmes to assess their effects on the environment. This Directive was transposed in law by the Environmental Assessment of Plans and Programmes Regulations 2004.

1.3 Neighbourhood Plans fall within the scope of this legislation. They are a plan as defined by Article 3(2) of the SEA regulations and Regulation 5 paragraph 2 of the Environmental Assessment of Plans and Programmes Regulations 2004.

1.4 Under Article 3(2) of the SEA Directive and Regulation 5 paragraph 6 of the Environmental Assessment of Plans and Programmes Regulations 2004, Strategic Environmental Assessment (SEA) is only required for documents that determine land use in small areas at the local level where it is considered that they are likely to have 'significant environmental effects'. This is carried out through a screening determination.

1.5 The role of a screening exercise is to determine whether the effect

of the implementation of a plan or programme is likely to have a significant effect on the environment.

### HRA Legislative Background

- 1.6 The Conservation of Habitats and Species Regulations 2010 (as amended in 2012) transpose the requirements of the European Habitats Directive 92/43/EEC into UK law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context.
- 1.7 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.
- 1.8 Article 6(3) of the Habitats Directive states: 'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives'.
- 1.9 The first stage of HRA is to screen a plan or programme to identify if there are likely to be any significant effects on Natura 2000 sites. This will indicate whether a full Appropriate Assessment is required.
- 2.0 Report
- SEA
- 2.1 To decide whether a draft neighbourhood plan might have significant environmental effects, its scope needs to be assessed against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.
- 2.2 The local planning authority is required to put in place a process

to provide a screening opinion to the qualifying body (in this case, Bishop's Stortford Town Council) on whether the proposed neighbourhood plan will require a Strategic Environmental Assessment (SEA). The qualifying body should work with the local planning authority to ensure that the authority has the information that it needs to provide a screening opinion.

2.3 When deciding on whether proposals are likely to have significant environmental effects, the local planning authority is required to consult Historic England, Natural England and the Environment Agency (the 'statutory consultees').

2.4 Bishop's Stortford Town Council (the qualifying body) has produced a draft neighbourhood plan covering All Saints, South, Central and parts of Thorley wards, (known as BSNP2). The BSNP2 covers:

- Housing and design;
- Green infrastructure;
- Transport;
- Education;
- Health;
- Sport, Leisure & Community
- Business and employment;
- The Goods Yard;
- Land south of Bishop's Stortford;
- Bishop's Stortford High School Site
- East of Manor Links.

2.5 The BSNP2 does not allocate land for housing or for any other significant development. Rather it provides local level guidance on how the community wishes to see future development come forward.

2.6 The Town Council have prepared a Strategic Environmental Assessment and Appropriate Assessment Screening Report (May 2016), which is included as **Essential Reference Paper 'B'**. The screening report contains a diagram at Section 5 which demonstrates the application of the SEA Directive to plans and programmes. Appendix A of the screening report assesses whether or not an SEA is required.

- 2.7 The Environment Agency, Historic England and Natural England have all been consulted on the Screening Report and have all confirmed that they agree with the outcome that an SEA is not required for the Neighbourhood Plan. Their responses are attached at **Essential Reference Paper 'C'**.
- 2.8 Having regard to Schedule 1 of the Regulations and following consultation with the consultation bodies it is concluded that an environmental assessment of the emerging BSNP2 is not required as it is unlikely to have significant environmental effects.
- 2.9 The Local Authority is the 'competent authority' under the Conservation of Habitats and Species Regulations 2010, and needs to ensure that Neighbourhood Plans have been assessed through the Habitat Regulations process. This looks at the potential for significant impacts on nature conservation sites that are of European importance, also referred to as Natura 2000.
- 2.10 There are three key Natura 2000 sites that lie partly within East Hertfordshire – Lee Valley SPA; Lee Valley Ramsar site; and Wormley-Hoddesdon park Woods SAC (although there are also sites in neighbouring authorities, namely Epping Forest SAC). Because Neighbourhood Plans must conform with the development plan for the area (in this case, the East Herts Local Plan 2007), which has itself been subject to an HRA, the key issue will be whether the Neighbourhood Plan will potentially result in an impact not previously considered.
- 2.11 The HRA on the Local Plan 2007 concluded:

*'The European Sites of nature conservation interest in the district are valued features that have local importance as well as wider significance. The Local Plan Second Review attaches a correspondingly high level of protection to these sites from inappropriate development.'*

*Policy ENV12 [of the Local Plan 2007] establishes a robust approach to the protection of European Sites that reflects the Habitats Directive and will help maintain the importance of these sites through the life of the Plan. While there are several proposals in the Local Plan in proximity to these sites, the*

*requirements imposed through Policy ENV12 ensure that none of the proposals are likely to result in a significant effect on a European site.'*

2.12 Given the conclusions of the HRA on the Local Plan 2007 and the fact that the Neighbourhood Plan does not include any land allocations it is concluded that an HRA on the Neighbourhood Plan is not required.

### 3.0 Implications/Consultations

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

### Essential Reference Papers

**Essential Reference Paper 'A'**: Corporate Implications

**Essential Reference Paper 'B'**: Strategic Environmental Assessment Screening Report, Bishop's Stortford Town Council, (May 2016).

**Essential Reference Paper 'C'**: Email from Environment Agency (31.08.16); Letters from Historic England (28.09.16) and Natural England (02.09.16).

### Background Papers

Bishop's Stortford Neighbourhood Plan for All Saints, South, Central and parts of Thorley wards – the Neighbourhood Plan is available online at: [www.eastherts.gov.uk/neighbourhoodplanning](http://www.eastherts.gov.uk/neighbourhoodplanning)

Contact Member: Councillor L Haysey – Leader of the Council  
*linda.haysey@eastherts.gov.uk*

Contact Officer: Kevin Steptoe – Head of Planning and Building Control  
*kevin.steptoe@eastherts.gov.uk*

Report Author: Jenny Pierce

*Jenny.pierce@eastherts.gov.uk*