

REPORT TO: FULL COUNCIL

DATE: 10 DECEMBER 2020

TITLE: ADOPTION OF THE HARLOW LOCAL DEVELOPMENT PLAN

LEAD OFFICER: ANDREW BRAMIDGE, HEAD OF ENVIRONMENT AND PLANNING (01279) 446410

CONTRIBUTING OFFICERS: PAUL MACBRIDE, FORWARD PLANNING MANAGER (01279) 446258

RECOMMENDED that Full Council:

- A** Considers the content and the findings of the Inspector's Final Report into the Examination of the Harlow Local Development Plan (HLDP) as set out in Appendix 1
- B** Adopts the Harlow Local Development Plan 2011-2033 as set out in Appendix 2, incorporating the Main Modifications that accompany the Inspector's Final Report as set out in Appendix 3 and other additional Minor Modifications, set out in Appendix 4.
- C** That in adopting the HLDP, subject to recommendation B, the Council adopts the Policies Map, set out in Appendix 5 in accordance with changes set out in Appendices 3 and 4, that will provide the spatial expression of the policies and proposals set out in the Plan.
- D** Notes that on adoption of the HLDP 2011-2033 the following Development Plan Document is revoked and should not be used for decision making:
 - a. Saved policies of the Adopted Replacement Harlow Local Plan (July 2009)
- E** Notes the content of the Sustainability Appraisal (SA) Post Adoption Statement (PAS) and Habitats Regulations Assessment (HRA) Post Adoption Statement, presented in Appendices 6 and 7, and publish these Statements alongside the adopted HLDP 2011-2033 in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.
- F** Delegates authority to the Head of Environment and Planning, in consultation with the Portfolio Holder for Environment and the Chair of the Local

Development Plan Panel, to make any necessary, non-consequential and minor textual, presentational or layout amendments to the Harlow Local Development Plan 2011-2033 (Appendix 2) and Policies Map (Appendix 5)

BACKGROUND

1. The Council, as Local Planning Authority, is required to prepare a Development Plan (The Harlow Local Development Plan) that sets out strategic priorities and policies that will shape growth and development in the district until 2033, and which will be used as a material consideration in the statutory determination of planning applications. If an up to date development plan is not in place this could expose the Council to the risk of intervention by the Secretary of State who has default powers to prepare, or give direction to have, a plan prepared on behalf of an authority.
2. The Harlow Local Development Plan 2011-2033 (the Plan) has been prepared to provide the statutory spatial planning framework that will shape the future growth and development of the town, in order to meet identified housing, employment and other development needs, including the provision of infrastructure, balanced against the need to protect key environmental assets. The Plan will provide the planning framework against which the Council will consider and determine planning applications.
3. The spatial vision, strategic objectives, policies and proposals set out in the Plan provide the land use planning expression of the objectives of the Harlow Corporate Plan. As well as setting out how Harlow will develop over the plan period it will set out a policy framework that will aim to address climate change as well as providing a platform to secure regeneration across the town. The Plan also provides a framework to reinforce the objectives and vision of the Harlow and Gilston Garden Town. Upon adoption the policies in the Plan will replace the saved policies of the Council's existing Adopted Replacement Harlow Local Plan (July 2006).
4. The Plan has been prepared over a number of stages, in accordance with the requirements set out in Town and Country Planning (Local Planning) Regulations 2012 (as amended), the National Planning Policy Framework (NPPF, 2012) and Planning Policy Guidance. Upon the completion of these stages, and following a resolution at the Council meeting of the 13 September 2018, the Pre-Submission version of the Harlow Local Development Plan (May 2018) was submitted to the Secretary of State for Examination on 19 October 2018. The formal hearing sessions relating to the Examination in Public of the Plan took place between 28 March and 4 April 2019.

5. After the formal hearings ended, and following the consideration of evidence and matters that were raised, the Inspector wrote to the Council on a number of occasions to seek clarification on a number of matters. This culminated in the Inspector writing to the Council on 17 December 2019 setting out the Main Modifications that he considered necessary to be made, in order to find the Plan sound and legally compliant. These modifications were required by the Inspector to be made to the Local Plan to render it sound and the Planning and Compulsory Purchase Act makes clear that the Plan cannot not be adopted, unless these have been made.
6. In addition, however, the Council also proposed to make a number of minor contextual and inconsequential Minor Modifications to the Plan. Some of these modifications were proposed to ensure consistency of wording with East Hertfordshire's and Epping Forest's Local Plans and Government advice and guidance. These Main and Minor Modifications were considered and approved for public consultation at Cabinet on the 27 February 2020, and where delegated authority was given to the Head of Environment and Planning, in consultation with the Chair of the Local Development Panel, to forward any consultation responses received to the Planning Inspectorate.
7. The Council was obliged, therefore, to undertake formal public consultation on his behalf on these Main Modifications, together with an updated Sustainability Appraisal and Habitats Regulation Assessment. This was undertaken between the 12 March and 31 May 2020. The normal statutory consultation period of six weeks was extended by one month to take account of the contingencies that arose out of the Covid-19 Pandemic. As well as the consultation documentation material being available online, hard copies were also made available upon request. Upon completion of the consultation all the responses that were received were forwarded to the Planning Inspectorate for the Inspector's consideration on the 15 June 2020.
8. The Inspector's Report on the Examination of the Local Plan has now been received (dated 5 November 2020), and subject to incorporating his Main Modifications (MM), and the Minor Modifications suggested by the Council, and consequential changes to the Policies Map being made, the Inspector concluded that the Plan is sound and provides an appropriate basis for the planning of the area. The Plan is, therefore, presented to Council with a recommendation that it should be adopted as the Development Plan for the Council's administrative area.

ISSUES/PROPOSALS

Inspector's Report

9. The Inspector's report sets out his assessment of the Plan against the tests of Section 20(5) of the Planning & Compulsory Purchase Act 2004, as amended (the 2004 Act).

10. His first consideration was whether the Plan's preparation had complied with the Duty to Co-operate (DtC). In this respect he had regard to the details set out in the submitted DtC Compliance Statement (Regulation 22 of the Town and Country Planning (Local Planning)(England) Regulations 2012), the preparation of Memorandums of Understanding between Harlow Council and various partner bodies and organisations, the preparation of joint technical work and the establishment of the Co-operation for Sustainable Development Board in 2014. Based upon this he has confirmed that he was satisfied that the Council had engaged constructively, actively and on an on-going basis in the preparation of the plan and that the DtC has, therefore, been met.

11. His second consideration was whether the Plan was sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (NPPF) makes clear in paragraph 182 that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy. In making his assessment in respect of legal compliance he concluded that he was satisfied that the various consultations undertaken were carried out in compliance with the Council's Statement of Community Involvement and relevant national planning legislation. He was also satisfied that the Sustainability Appraisal and Habitats Regulation Assessment, undertaken to support the Plan, met the legal requirements, including the Conservation of Habitats and Species Regulations 2017. In addition he noted that the Plan included policies designed to secure that the development and use of land in the local planning authority's area contributed to the mitigation of, and adaptation to, climate change. In this respect he concluded the plan met the statutory objective in Section 19 (1A) of the 2004 Act.

12. In assessing further the soundness of the Plan the Inspector identified and considered a number of issues. These are highlighted as below:

Issue 1 – Whether the plan is justified, positively prepared and consistent with national policy in relation to the overall provision of housing

13. He reviewed and considered the basis of the objectively assessed needs for housing in the District, including that set out for the Housing Market Area

(HMA) that was informed by the Strategic Housing Land Availability Assessment (SHLAA) and Strategic Housing Marketing Assessment (SHMA). In addition he had regard to updated household projections (June 2020) and further work commissioned by the HMA partners (East Hertfordshire, Epping Forest, Harlow and Uttlesford District Councils) to consider the implications of this more recent data. This work at the Inspector's request was subject to a focused consultation between 8 September and 25 September 2020.

14. He concluded that the results formed a robust analysis of the latest available information and did not warrant any change in the housing requirement proposed in the Plan. In this respect he noted that MM2 is required to the Plan in order to provide further explanation and incorporate updated figures in the explanatory text.
15. With specific regard to the housing requirement for Harlow, as set out in the Plan, the Inspector noted that this reflected the need to assist in the delivery of more affordable housing and to support the regeneration of the town. However, given the lead time to bring forward the large Strategic Housing Site East of Harlow and land at the existing Princess Alexandra Hospital and further development at Newhall, a stepped requirement for the 9,200 dwellings is both necessary and justified and that accordingly Policy HS1 is amended.
16. Finally he considered housing land supply in the District. He noted that based on the available evidence the housing supply in the District is in excess of the housing requirement of 9,200 dwellings, but that this allowed flexibility to take account of possible slippage of large sites and some small sites not coming forward. With regard to the five-year land supply he noted that using the Sedgefield Method to deal with past under-delivery and taking account of the stepped requirement, there is 6.0 years supply.
17. Based on the above, therefore, he concluded that subject to MM2, MM34 and MM35, the Plan is justified, positively prepared and consistent with national policy in relation to the overall provision for housing.

Issue 2 – Whether exceptional circumstances have been demonstrated to justify altering the Green Belt to meet the need for housing and ensure a robust long-term boundary

18. Based upon the consideration of this matter he considered the evidence supporting the major expansion of Harlow, assembled now over many years, is both comprehensive and robust. He considered there is a proven need for significant additional housing within the West Essex/East Herts HMA, and in Harlow given its services, facilities and existing sub-regional role as the most

sustainable location for growth. The strategic location of the town on the M11, its place in the London Stansted Cambridge economic corridor, the need to regenerate the post-war new town and its own growth aspirations also justified the expansion proposals.

19. He considered that as a planned New Town there are only limited opportunities within Harlow for the development of brownfield or vacant sites and the extensive network of Green Wedges are fundamental to the character and environment of the town which justifies their ongoing protection, as evidenced by the Council's Green Wedge Review. With regard to the Strategic Housing Site East of Harlow he agreed with the Council's Green Belt Review that the site only makes a limited contribution to the purposes of the Green Belt by safeguarding the countryside around the town from encroachment, but that the M11 would provide a definitive long-term boundary in this respect. He also noted that release of the site would assist in regenerating the town by encouraging more investment in accordance with the Garden Town strategy.
20. He also noted some more minor deletions to the Green Belt were justified as exceptional circumstances, resulting in stronger inner boundaries, as well as a small addition to the Green Belt near Fennells.
21. He concluded, therefore, that subject to the explanatory paragraph inserted by MM6 and the related amendments to the Policies Map proposed by the Council, exceptional circumstances as required by the NPPF, have been demonstrated to justify altering the Green Belt to meet the need for housing and to ensure a robust long term boundary.

Issue 3 – Whether the policy framework for the Harlow & Gilston Garden Town as a whole and the strategic site east of Harlow is justified and effective

22. The Inspector noted that the vision for Harlow's growth now agreed between Harlow Council, Epping Forest DC and East Herts DC, together with Essex and Herts County Councils, is for the integrated and co-ordinated development of an expanded Harlow and Gilston Garden Town. He also noted that the Harlow and Gilston Garden Town Member Board, with elected representatives of the five councils and other interested parties, had now been established to lead and oversee the Garden Town initiative.
23. However, whilst the overarching Policy HGT1 is well founded, but cannot formally apply outside the plan area (i.e. the administrative area of Harlow), MM1 is necessary to clarify that the requirements in the policy represent the Council's expectation that the design and development of all four new

communities properly relate to the existing town around which they will be planned. This will also take into account Heritage Impact Assessments and the requirements relating to the necessary and identified transport interventions. The Inspector also noted that further work had been undertaken since the Local Plan was submitted such that some of the indicative routes of the sustainable transport corridors have been refined, as well as the relocation of the Princess Alexandra Hospital on a new site, support for renewable energy initiatives and increased household waste disposal capacity. In addition, in respect of key gateway entrances, he also acknowledged the need to add the Cambridge Road entrance to the town from the north so that the Plan is positively prepared.

24. With regard to the allocation of the Strategic Housing Site East of Harlow for 2,600 dwellings he noted that this was justified based on the evidence before him. In this context he considered that MM4 ensured that the site could be comprehensively brought forward through a masterplan and that key elements were identified, such as the importance of Green Wedges and Green Fingers, the need for Heritage Impact Assessments, and the provision of walking, cycling and public transport links as part of the west-east Sustainable Transport Corridor via Newhall and to the town wide network.
25. He, therefore, concluded that subject to MM1, MM4, MM11 and MM12, the policy framework set out in the Local Plan for the Harlow & Gilston Garden Town as a whole, and the Strategic Site East of Harlow is both justified and effective.

Issue 4 – Whether the non-strategic housing proposals in Policy HS2 are justified and effective

26. The Inspector noted that to supplement the Strategic Housing Site East of Harlow, Policy HS2 allocates 21 non-strategic sites across the town for housing development. He also acknowledged that as a recently developed New Town, surrounded by Green Belt and with a tight administrative boundary, there are relatively few opportunities for windfall or redevelopment schemes but a comprehensive site assessment process had identified a small number of opportunities. Following consideration of these sites, the Inspector, through MM3, sought the deletion of seven sites and an amendment to the capacity of site 4. Subject to these changes, he concluded that the non-strategic housing proposals in Policy HS2 are justified and effective. He also noted that whilst these changes reduced the housing provided through the policy, as modified by MM2, the reduction is not significant given the comfortable overall housing land supply.

Issue 5 – Whether the economic policies in the plan and the areas to which they relate are justified, consistent with national policy and effective

27. The Inspector noted that in addition to forming the most appropriate area to determine strategic housing needs, the West Essex/East Herts area comprising Harlow, Epping Forest, Uttlesford and East Hertfordshire districts represents the functional economic market area (FEMA) for employment planning purposes. Arising from this the joint Assessment of Employment Needs identified the preferred scenario for 51,000 additional jobs over the plan period 2011-33 for the FEMA as a whole and within this 13,400 for Harlow district. In order, however, to provide clarity across the split of B1 uses and to promote and protect the most appropriate uses on the available employment, especially with regard to policies ED1 and ED2, he has endorsed the modifications set out in MM5. He also noted that the Pearson site near Harlow Town station, within the area of employment land protected under Policy ED2, has recently been redeveloped for residential purposes. The site should now be excluded and the necessary change to the Policies Map had been proposed by the Council.

28. He therefore concluded that, subject to MM5, the economic policies in the Plan and the areas to which they relate are justified, consistent with national policy and effective.

Issue 6 - Whether the environmental policies in the plan and the areas to which they relate are justified, consistent with national policy and effective

29. Having reviewed the environmental policies in the Plan the Inspector recommended that to ensure consistency with national policy, and that they are effective, that the amendments set out in MM8 are made which expand Policy WE2 to refer to the Green Belt, and its five purposes. In addition this amendment also recognised the contribution that Green Wedges and Green Fingers make to the network of green infrastructure across the town.

30. He also considered it necessary to amend Policy WE3 to reflect the hierarchy of the different levels of protection afforded to international, national and local sites for consistency with paragraph 113 of the NPPF. This was reflected in MM9.

31. The Inspector also noted that the HRA indicated that the development proposed in the plan could cause, in the absence of mitigation, adverse effects on the integrity of Epping Forest Special Area of Conservation as a result of increased air pollution and recreational pressure. In addition, emerging evidence suggested that development could adversely affect the integrity of Hatfield Forest Site of Special Scientific Interest as a result of

increased recreational pressure. To ensure the Plan is effective and new development in Harlow takes these impacts into account, he considered that MM10 was necessary in order to add an additional policy to the Plan, WE3a (renumbered WE4 in the adoption version). He also indicated that this would satisfy the requirements of the Conservation of Habitats and Species Regulations 2017.

32. This will ensure impacts on wildlife sites outside the District are properly considered with a project level HRA prepared if required. The policy requires adherence to relevant mitigation strategies, as and when adopted and sets out the potential avoidance and mitigation measures that may be required.

33. The Inspector concluded, therefore, that subject to MM8, MM9 and MM10 the environmental policies in the plan and the areas to which they relate are justified, consistent with national policy and effective.

Issue 7 – Whether the development management policies in the plan are justified, effective and consistent with national policy

34. The Inspector also considered the suite of Development Management Policies contained in the Plan and endorsed a number of Main Modifications in order to ensure the Development Management Policies are justified, effective and consistent with national policy. These are summarised below:

- a) MM13 makes the necessary changes to Policy PL1 to refer to the Essex Design Guide and to ensure consistency with the NPPF thus ensuring that the Plan is effective.
- b) MM14 will ensure that Policy PL3 encourages development to standards recommended by the UK Green Building Council in order to respond to the need to reduce greenhouse gas emissions under the Climate Change Act 2008 and to comply with Section 19 (1A) of the 2004 Act.
- c) MM15 will ensure the Plan is consistent with national policy and will be effective by inserting a new Development Management Policy (PL4 in the adoption version) in respect of assessing proposals in the Green Belt.
- d) MM16 is necessary to Policy PL4 (renumbered PL5 in the adoption version) to ensure that proposals for the replacement, alteration or extension of existing buildings in Green Wedges or Fingers do not detract from the role or function of the designation or result in a disproportionate addition to the original building.

- e) MM17 is necessary to Policy PL 8 (renumbered PL9 in the adoption version) in order to seek a net gain in biodiversity, to recognise the hierarchy of designated sites, to conserve and enhance such assets and if necessary for proposals to include mitigation or compensatory measures.
- f) MM18 and MM19 are necessary in order to strengthen the effectiveness of Policies PL9 and PL10 (renumbered PL10 and PL11 in the adoption version) in relation to pollution, contamination, flooding and sustainable drainage
- g) MM20 is necessary to Policy PL 11 (renumbered PL12 in the adoption version) for consistency with national policy in relation to the significance of assets, heritage statements, archaeological sites, heritage assets at risk and enabling development
- h) MM21 to Policy H3 is necessary to require an early review of the policy to assess whether an undue concentration of HMO's have had a detrimental impact on an area.
- i) MM22 to Policy H5, in relation to adaptable housing, is required in respect of , the requirement for major developments to include homes to Part M4(3) (wheelchair users) in order to provide flexibility, and to refer to affordable housing only, and both requirements made subject to practical or viability constraints in order to accord with national policy.
- j) MM23, to Policy H6, is necessary in order to specify the full range of housing types and to apply the latest SHMA figures flexibly.
- k) MM25 to Policy H9 is necessary to remove the 5% figure in respect of serviced self or custom build dwellings in favour of a phase by phase negotiation to secure a continuous supply of plots based on the number of registrations over the plan period.
- l) MM26 to Policy PR7 is necessary to allow developers and the Council to agree an appropriate marketing period for large town centre retail units prior to any sub-division.
- m) MM27 to Policy L1, and in order for the policy to be justified, makes the requirements for the provision of recreational facilities within major development, subject demonstrable need and this may include the upgrading of existing facilities.

- n) MM28 to Policy L3, in respect of public art, is necessary to make exception where impractical or for viability reasons and to encourage discussion as to its form in each case.
- o) MM29 sets out a new Health and Wellbeing policy, L4, in order to deliver growth that has a positive impact in terms of encouraging physical exercise, health care and community facilities, healthy eating and good quality design.
- p) MM30 is necessary in order to set out the transport modal hierarchy and strengthen Policy IN1 to reduce the use of the car and provide public transport services.
- q) MM31 is necessary to be made to Policy IN2 to ensure the severe residual impact test is applied in line with national policy in paragraph 32 of the NPPF.
- r) MM32 to Policy IN4 would improve the policies effectiveness in ensuring major developers provide high quality broadband links.
- s) MM33 to Policy IN6 is necessary in order to clarify when financial contributions are acceptable and how viability issues will be taken into account in decision making.

Conclusion

35. In accordance with the regulations and guidance the publication of the Inspector's Report marks the end of the Examination process, and given his conclusions and recommendations, the Plan is legally compliant and sound, subject to the Modifications referred to above. The Council can now adopt the Plan to ensure that it has up to date planning policies in place in an adopted statutory Development Plan to shape and guide future development and to meet the identified needs for homes, jobs and supporting infrastructure across the District.
36. It is noted, and in accordance with the regulations, the Modifications set out in the Inspector's Report are 'binding' on the Council and that should the Plan not be adopted the Secretary of State has default powers of direction with regard to the non-adoption of a local plan and can intervene in plan-making where councils do not prepare or revise Development Plans.
37. Once adopted the Plan will form the Development Plan for Harlow in addition to the Essex Minerals Local Plan (2014) and the Essex and Southend-on-Sea Waste Local Plan (2017) both prepared by Essex County Council and the relevant planning authority for Minerals and Waste matters in the County.

38. Finally upon the date of formal adoption by the Council there is a six-week period for a judicial review challenge in the High Court, by virtue of the Planning and Compulsory Purchase Act 2004, by parties who consider the adoption of the Plan has been made illegally, irrationally or does not meet the procedural requirements.

IMPLICATIONS

Environment & Planning

As set out in the report.

Author: **Andrew Bramidge, Head of Environment & Planning**

Finance (Includes ICT)

None specific.

Author: **Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive**

Housing

As set out in the report.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

The Local Development Plan provides the basis and confidence for future regeneration, economic and housing growth, enabling greater opportunity for increased prosperity and community wellbeing.

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

The statutory framework for the adoption of the Local Plan is set out in the Planning and Compulsory Purchase Act 2004, the Act sets out the stages that the Council must go through in order to adopt the Local Plan. Section 23 requires the plan to be adopted, with modifications, by resolution of the Council.

The Inspector has confirmed that he was satisfied that the Council has met its duties under Regulation 22 of the Town and Country Planning (Local Planning)(England) Regulations 2012 (Duty to Cooperate) and that the plan, with modification, is compliant with relevant national planning legislation and regional strategy.

Author: **Simon Hill, Head of Governance**

Appendices

Appendix 1 – Inspector’s Final Report

Appendix 2 – Harlow Local Development Plan 2011-2033
Appendix 3 – Main Modifications
Appendix 4 – Minor Modifications
Appendix 5 – Policies Map (included in Supplementary Agenda 2)
Appendix 6 – Sustainability Appraisal (SA) Post Adoption Statement (PAS)
Appendix 7 – Habitats Regulations Assessment (HRA) Post Adoption Statement
Appendix 8 – Council’s HLDP Adoption Statement

Background Papers

None.

Glossary of terms/abbreviations used

DtC – Duty to co-operate
FEMA – Functional Economic Market Area
HLDP – Harlow Local Development Plan
HMA – Housing Market Area
HRS – Habitats Regulations Assessment
NPPF – National Planning Policy Framework
SA – Sustainability Appraisal
SHLAA – Strategic Housing Land Availability Assessment
SHMA – Strategic Housing Marketing Assessment