

DATE OF STATEMENT	2 November 2017
EXAMINATION	North Hertfordshire Local Plan 2011-2031
MATTER 9	The basis for the housing allocations (cont)
DATE/ SESSION WISH TO SPEAK	Thursday 23 November – Morning session 9.00am or Afternoon session 2.00pm
FROM	Carolyn Cottier
TO	C/O Louise St John Howe (Programme Officer) Simon Berkeley BA MA MRTPI (Inspector) PO Services, PO Box 10965, Sudbury, Suffolk, CO10 3BF Tel: 07789-486419 E: louise@poservices.co.uk

What legal and procedural requirements of the Planning and Compulsory Purchase Act 2004 (as amended), Localism Act 2011 and associated Regulations does the Plan or designers fail to meet?

Breach to **the Localism Act 2011** as per **Part 1, Chapter 7, Sections 30, 31 and 34** - Disclosure of pecuniary interests on taking office and Offences must be established.

CALLING FOR SUSPENSION OF EXAMINATION OF THIS PLAN RESULTANT OF POTENTIAL BREACH:

I call for the Examination of this Plan to be immediately suspended until such a time that it has been established the full extent of breaches to the **Localism Act 2011, Part 1, Chapter 7, Sections 30, 31 and 34** and by which parties. I request a full impartial inquiry into whether those involved in breach were instrumental in developing the Plan's materials, participating in committee motions and decisions that directly or indirectly affected this Plan.

Only after further investigation has taken place; can potential breach of the Localism Act 2011 as per Part 1, Chapter 7, Sections 30, 31 and 34 - Disclosure of pecuniary interests on taking office and Offences can be established.

**Matter 9.1 Have all sites put forward for allocation been considered through the SA?
Matter 9.2 b) Has the testing of reasonable alternatives been robust?**

No, in both cases because there are numerous alternative sites, other than the Strategic East of Luton site, that have not been considered by the SA, for Luton's Unmet Need. There is not any reason made apparent why they have been unconsidered.

THE EVIDENCE OF UNSOUNDNESS

The Plan fails to “put forward alternative allocations through the SA”, and “testing of reasonable alternatives” has not been robust.

Certain alternatives ignored by the Plan are given in the Inspector’s Report [Report to Luton Borough Council - An Inspector appointed by the Secretary of State for Communities and Local Government Date 1 August 2017] by Jeremy Youle.

Youle strongly puts forward Central Bedfordshire as an alternative to East of Luton in North Herts; he confirms CBD are committed and a firm mechanism is in place to reach an agreement on meeting of Luton’s unmet needs. The process is already underway.

This is a new development that has occurred since the North Herts Plan was written and when strategic sites were allocated.

“Central Bedfordshire has committed to meeting a proportion of Luton’s unmet needs.¹⁶ The SOCG with CBC acknowledges that the objective of the Growth Options Study is to identify if the housing requirements of the Luton HMA can be met sustainably within the HMA (a substantial part of which is within Central Bedfordshire) and, only if this cannot be achieved, would a request be made to other authorities to accommodate any outstanding balance. The SOCG also confirm that there is now a process and mechanism in place to reach agreement on unmet needs.”

Inspector Youle states the objective of the Growth Options Study is to check whether housing requirements can be met inside of the HMA. The part of the HMA that falls in North Hertfordshire/ East of Luton is not preferred.

If this cannot be achieved, then a request should be made to other authorities to request help with the outstanding the balance.

He suggests Aylesbury Vale as a potential alternative site for Luton’s unmet housing needs. It says Aylesbury Vale Council stated it is prepared to consider this during their hearing statement.

47. In addition, there is some degree of commitment from the HMA authorities with regard to the consideration of Luton’s unmet needs. North Hertfordshire District Council’s emerging plan contains a specific allocation to the east of Luton and the SOCG supports a post Growth Options plan review ‘as applicable’.

The hearing statement from Aylesbury Vale indicates that if further joint working determines there is a need to accommodate housing need in Aylesbury Vale then the potential to do that would be considered.

NH Plan agrees Luton and Central Bedfordshire to be the *best fit* for the Luton functional HMA.

Note the Youle Report says that the SOCG does not unconditionally support nor not support this East of Luton allocation, and they request a post Growth Options plans review “as applicable”.

18. Work on housing market areas, prepared on behalf of several local authorities, concluded that the Luton functional housing market area (HMA) includes all of Luton, a substantial part of Central Bedfordshire and smaller areas within North Hertfordshire and Aylesbury Vale.⁵ The Luton and Central Bedfordshire administrative areas are then regarded as a *best fit* for the Luton functional HMA. Need figures have been produced for the period 2011-31 (17,800 in Luton itself and 31,200 in the functional HMA).

ADD TO PLAN

However there should be a review mechanism put in place in to the Plan allowing for an adjustment of these “outstanding balances”, - because in order to be current, realistic and accurate, the Impact of leaving the European Union 16 months from now (in March 2019) must be integrated into the Plan. It must actually be able to reflect housing need figures as they occur now, and are likely to occur in the future– not as they once occurred and are unlikely to occur again.

There must be an inbuilt mechanism placed into the Plan now; it must be a requirement to reassess and respond to the fluxes just ahead.

DEPARTURE FROM THE EUROPEAN UNION – ENDING TO THE UNRESTRICTED MOVEMENT OF GOODS AND PEOPLE

I have long questioned the wisdom of clumping goods with people into one category. A packet of biscuits after all sits on a shelf and is promptly eaten. A person on the other hand survives for decades, requires schools, housing and eventually multiples. People and commodities are two very different animals; equating them logistically was a failing.

CHANGE PLAN:

ADD: The UK leaves the European Union in March 2017. Therefore a new SHMA will be conducted three years after that date. No development of sites upon Green Belt nor for unmet needs shall be permitted until after this new study is completed, reviewed and implications carefully assessed.

Matter 9.2 b) Have all sites put forward for allocation been considered through the process/methodology?

Matter 9.1 Is the SA based on appropriate criteria and is it a robust and sound base of evidence?

Clearly not:

The Plan admits DISAGREEMENT OVER HOUSING NEED FIGURES:

Plan “19. There are disagreements over the objective assessment of housing need and the exact scale of Luton’s capacity to accommodate additional housing.⁵ Nevertheless, it has been widely known for some time that Luton’s capacity is constrained and that it would need to look to neighbouring authorities to help accommodate a significant proportion of its own housing need.”

⁵ The Council has confirmed that the reference in the Local Plan to Dacorum falling within the HMA is an error.

⁶ The submitted plan makes provision for 6,700 dwellings as the capacity within Luton.

NPPF 159 prioritizes “Local planning authorities should have a **clear understanding of housing needs in their area**”.

It is not robust to bluster through with a cavalier wave of the hand, and justify clear figure uncertainties with a sweeping “Nevertheless...”

This is not legal evidence of special circumstances for inappropriate development upon Green Belt! It is only evidence of not having any better strong testable evidence.

Inspector Youle:

“20. For some years Luton and South Bedfordshire District Council (a predecessor of CBC) worked together on the preparation of a joint core strategy. This was submitted for examination in 2011. Even at that time, meeting Luton’s housing needs appears to have been an issue between the Councils with no agreement on the need for *some additional sustainable development to the west of Luton*.⁷ Ultimately, the joint core strategy was withdrawn.”

Also it is not NHDC’s prerogative to decide whether “Luton’s capacity is constrained” and that it “would need to look to neighbouring authorities to help accommodate a significant proportion of its own housing need”.

They are at liberty only to comment after an **accurate, recent, relevant** Strategic Housing Market Assessment has been completed.

This is because NPPF 159 clearly requires an accurate Strategic Housing Market Assessment with neighbouring authorities; and until such a time as this is done, anything less is pie in the sky.

The Strategic Housing Market Assessment should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:

- meets household and population projections, taking account of migration and demographic change;
- prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period. (159)

ADD TO PLAN

Therefore departure from the European Union must be factored in to all UK SHMAs. Especially areas with high immigration from EU countries.

Yet ascertaining projected household and populations in a dramatically critically changing situation such as this is fortune telling. There must be some allocations confirmed for a five year supply initially. The later a review.

The sites that are un-preferred, Green Belt, or for unmet needs can obviously not be taken until evidence is provided. Thus development of these must be suspended until everyone is certain of Government deal negotiated.

The plan to reduce immigration to just tens of thousands might be starting in just 16 months from now, or it might be two years after that, or it might be never. Nobody knows.

This means that establishing realistic assumptions taking account of immigration, migration as people leave and demographic change is impossible at this time of transition. It is like shooting a firefly blindfolded.

BUT THAT DOES NOT MEAN “ANYTHING GOES” AND THAT IT SHOULD BE A FREE FOR ALL.

CHANGE PLAN:

ADD: There must be some allocations confirmed for a five year supply initially. The later a review. The five year supply can only include sites that are brownfield and are not on Green Belt.

ADD: The sites that are un-preferred, Green Belt, or for unmet needs can obviously not be confirmed as strategic or approved until after the true demographics and population movements have been established. This can only be accomplished following departure from the European Union when Government rules have been negotiated. Thus conclusions about the development of such sites must be postponed until such a time

that there exists transparency and methodological certainty backed by solid statistics regarding what is about to take place.

The Plan breaks its own Strategic Objectives.

Environmental policy ENV2 which contracts to “Protect and enhance the historic character of North Hertfordshire’s towns, villages, hamlets and landscape by promoting good design that creates a distinctive sense of place.”

...and...

Strategic Policy ENV1 – “Direct development towards the most sustainable locations which seek to maintain the existing settlement pattern.”

I am struggling to see how it can contract to “Protect and enhance the historic character of North Hertfordshire’s towns, villages, hamlets and landscape by promoting good design that creates a distinctive sense of place.” ...And then threaten poor little Cockernhoe, Mangrove Green, Tea Green and Wandon End with a 2,106 % expansion and completely brick up the Green Belt for East Lutonians.

“Direct development towards the most sustainable locations which seek to maintain the existing settlement pattern.” – is definitely not being adhered to East of Luton.

I deal with the road accessibility transport and infrastructure problems in my statement for Matter 16.

Matter 9.4 In general terms, do the proposed allocations reflect the outcomes of the sustainability appraisal and testing of reasonable alternatives through the site selection methodology? Is there a clear audit trail in this respect?

Yes there is.

Executive Member for Planning and Enterprise, Councillor David Levett provides a clear audit trail of a reasonable alternative.

The area in general terms, is awaiting its sustainability appraisal. Therefore it is proposed this site be tested through the site selection methodology.

Matter 9.2 c) Have sites been discounted from possible allocation for any reason (for example, through the use of site size thresholds)? If so, are all of the reasons for excluding sites justified?

Many people living in what were once unthreatened picturesque rural enclaves, have been asking just that and don't think so.

They have been complaining about why their village has been brandished with a Category A stamp, when there seems to be no similar allocation going on around the Rushby Mead area.

A little known fact however, is *there is* a New Garden City earmarked for extension to meet Luton's Unmet Housing Needs at this precise site. See Appendixes 1 & 2.

The owner of the company, Councillor Levett David is "Executive Member for Planning and Enterprise". He is also Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder), Cabinet, Council and Letchworth Committee.

The registration is a private company called "New Garden City".

Registered February of 2016, declaration forms do not obviously declare this pecuniary interest at such early stage.

HAVE THEY CONSIDERED THROUGH THE LENSE OF THEIR REASONABLE ALTERNATIVES?

Matter 9.4 d) Aside from any reasons for excluding sites, has greater weight/importance been given to any site selection criteria over others and if so what is the justification for this 'weighting'?

New Garden City's stated business is "letting and operating of own or leased real estate out of it at a future opportunity".

It is too early to say **what the justification for this 'weighting' is. And waiting.** It is only a possible alternative allocation.

I have little more information at this stage since the only person with active control is David Levett as its sole shareholder.

However do give it fair scrutiny with him being on the Standards Committee.

The Localism Act 2013 is encouraging local residents to take deliverability matters into their own hands and exercise new extended devolved powers.

It is very robust.

CONCLUSION

The Local Plan should be examined by the independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. (NPPF 182)

A local planning authority should only submit a plan for examination which it considers is “sound”.

The NHDC Monitoring Officer has failed to issue the relevant data to ensure legality as statutory requirement. Persons instrumental in the Plan may have failed to provide pertinent data as was their statutory requirement. NHDC independent person was asked to request the data but has not returned the result of that enquiry. Plans to get the data and ascertain its legal impacts must be instigated immediately.

Is it sound in accordance with the National Planning Policy Framework and Localism Act 2011? – No.

Positively Prepared? – No, it is not consistent with achieving sustainable development. There has been a very negative breach of trust which has serious legal implications.

Justified? – Under this cloud of prejudice we are unsatisfied that the plan is guaranteed to be the most appropriate strategy, or that it has been considered against the reasonable alternatives, based on proportionate evidence.

Effective? – No, it is not based on effective joint working on cross-boundary strategic priorities.

APPENDIX 1

File Copy



**CERTIFICATE OF INCORPORATION
OF A
PRIVATE LIMITED COMPANY**

Company Number **10029731**

The Registrar of Companies for England and Wales, hereby certifies that

THE NEW GARDEN CITY COMPANY LIMITED

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on **26th February 2016**



N10029731A

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



Company Director 1

Type: **Person**
Full forename(s): **MR DAVID**

Surname: **LEVETT**

Former names:

Service Address recorded as Company's registered office

Country/State Usually Resident: **ENGLAND**

Date of Birth: ****/05/1957** Nationality: **BRITISH**

Occupation: **DIRECTOR**

The subscribers confirm that the person named has consented to act as a director.



IN01(e^f)

Application to register a company

Received for filing in Electronic Format on the: 26/02/2016



X51JKDJ7

*Company Name
in full:* **THE NEW GARDEN CITY COMPANY LIMITED**

Company Type: **Private limited by shares**

*Situation of Registered
Office:* **England and Wales**

*Proposed Register
Office Address:* **172 RUSHBY MEAD
LETCWORTH GARDEN CITY
HERTFORDSHIRE
ENGLAND
SG6 1SQ**

I wish to entirely adopt the following model articles: **Private (Ltd by Shares)**

Statement of Capital (Share Capital)

Class of shares	ORDINARY	<i>Number allotted</i>	1
		<i>Aggregate nominal value</i>	1
Currency	GBP	<i>Amount paid per share</i>	1
		<i>Amount unpaid per share</i>	0

Prescribed particulars
EACH SHARE HAS FULL RIGHTS IN THE COMPANY WITH RESPECT TO VOTING, DIVIDENDS AND DISTRIBUTIONS.

Statement of Capital (Totals)

Currency	GBP	<i>Total number of shares</i>	1
		<i>Total aggregate nominal value</i>	1

Initial Shareholdings

Name:	DAVID LEVETT	Class of share:	ORDINARY
Address:	172 RUSHBY MEAD LETCHWORTH GARDEN CITY HERTFORDSHIRE ENGLAND SG6 1SQ	Number of shares:	1
		Currency:	GBP
		Nominal value of each share:	1
		Amount unpaid:	0
		Amount paid:	1

Statement of Compliance

I confirm the requirements of the Companies Act 2006 as to registration have been complied with.

Name: DAVID LEVETT
Authenticated: YES

Authorisation

Authoriser Designation: subscriber **Authenticated:** Yes

COMPANY HAVING A SHARE CAPITAL
Memorandum of association of
THE NEW GARDEN CITY COMPANY LIMITED

Each subscriber to this memorandum of association agrees to form a company under the Companies Act 2006 and agrees to become a member of the company and to take at least one share.

Name of each subscriber	Authentication
David Levett	Authenticated Electronically

Dated: 26/02/2016

APPENDIX 2:

- [David Charles LEVETT](#)

Total number of appointments 6 - Born May 1957

172 Rushby Mead, Letchworth Garden City, Hertfordshire, England, SG6 1SQ

- [THE NEW GARDEN CITY COMPANY LIMITED](#)

10029731 - Incorporated on 26 February 2016

172 Rushby Mead, Letchworth Garden City, Hertfordshire, England, SG6 1SQ

- [ACCORD INDUSTRIES LTD](#)

07890235 - Incorporated on 22 December 2011

172 Rushby Mead, Letchworth Garden City, Hertfordshire, SG6 1SQ

BIBLIOGRAPHY

Report to Luton Borough Council - An Inspector appointed by the Secretary of State for Communities and Local Government Date 1 August 2017 by Jeremy Youle