

Date: 19 January 2020

Representors: Carolyn Cottier

Subject: Examination of the North Hertfordshire Local Plan 2011 -2031

Hearings Matter: Matter 31 – the main modifications put forward by the Council relating to Policy SP9: Design and Sustainability and in relation to the strategic housing site policies (Policies SP14 to SP19 inclusive)

31.7 Are the main modifications proposed in relation to Policy SP19: Sites EL1, EL2 and EL3 (FM009) necessary for soundness? Are they justified, effective and consistent with national policy?

MM083 FM 009 says “Any application on part of the site will be assessed against its contribution to the Strategic Masterplan and will not prejudice the implementation of the site as a whole.”

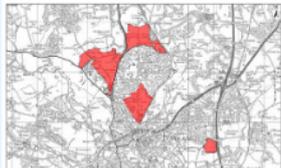
In other words *“We want carte blanche to do whatever we want, when we want, with all statutory key strategic matters out the window....Planning? Who needs it?!”*

I refer the Inspector to the “Masterplanning and statutory planning process table”

Source:

[https://assets.publishing.service.gov.uk/media/5d84e0f3e5274a27cfe72a17/Home\\_England\\_Masterplanning\\_flow\\_illustration.pdf](https://assets.publishing.service.gov.uk/media/5d84e0f3e5274a27cfe72a17/Home_England_Masterplanning_flow_illustration.pdf)

### Masterplanning and statutory planning process table

Typical graphics	Statutory planning process	Design tools	Level of detail required
<p>1. Visioning</p> 	<p><b>Strategic site selection</b></p> <ul style="list-style-type: none"><li>location for a garden community can be identified either through a broad location or strategic site allocation in the emerging Local Plan</li><li>before a broad location or strategic site is selected for allocation as a garden community in the local plan, a full assessment of alternative sites should be undertaken in accordance with the Environmental Assessment of Plans and Programmes 2004.</li><li>your appraisal of the plan should include the sustainability assessment of reasonable alternative sites. This work should be fed into the options consultation</li><li>the reasoning for why alternative locations/sites were discounted and the preferred site chosen needs to be clearly set out.</li></ul>	<p><b>Visioning</b></p> <ul style="list-style-type: none"><li>appraise the spatial opportunities of each site against the overall spatial strategy and sustainability objectives for the wider plan making area.</li><li>development of initial vision for the garden community setting out the type of place to be created</li><li>though this stage focusses more on vision - masterplan optioning and capacity studies can be done to inform a concept plan.</li></ul>	<ul style="list-style-type: none"><li>this stage provides a high-level assessment of the opportunities and constraints associated with different growth options.</li><li>development objectives, an initial vision, and spatial principles should be agreed once you've select a preferred option and site.</li></ul>

I would like to discuss this table more in the Hearing Session scheduled for the 2<sup>nd</sup> February 2021. However even at the level 1 stage, the “Visioning” stage...the level of detail required is for there to be a high level assessment of the opportunities and constraints associated with the different growth options.

It says the “masterplan optioning and capacity studies can be done to inform a concept plan.”

The date of the Submitted North Hertfordshire District Local Plan Submission 2011-2031 is given in its Forward (on page 3 when viewing electronically) as “**September 2016**”; dated under the Plan’s Library signatory- Executive Member for Planning and Enterprise; Councillor David Levett:

The Proposed Submission Local Plan is the result of a long and complex preparation process during which we have engaged with statutory bodies, infrastructure providers, residents, community groups and agencies. We have also worked closely with adjoining local authorities in resolving those cross boundary issues which need to be addressed.

We are now consulting on the final draft of the Local Plan. This is your opportunity to give us your views, before it is submitted to the Government for examination by an independent Planning Inspector, on whether the Local Plan is “sound” to enable present and future generations to continue to live, work and prosper in one of the best places in the country. North Hertfordshire.

We look forward to receiving your comments.

Councillor David Levett

Executive Member for Planning and Enterprise  
North Hertfordshire District Council  
September 2016

Page 22-23, para 2.69 of the Submitted North Hertfordshire District Local Plan Submission 2011-2031 states intention around masterplans:

2.69 Some of the sites to be developed will be substantial new communities. Each will need careful planning to ensure that the development is properly integrated into the surrounding area, has the appropriate level of facilities on site and mitigates its impact on the local area. The most appropriate way to achieve this is, is through the **preparation of masterplans** with relevant bodies and joint plans where sites are close to or straddle the district boundary with neighbouring authorities.

On page 27, para 3.6 in its SPATIAL VISION the Plan states:

3.6 In developing the vision we have had regard to the Council’s aspirations set out in its Corporate Plan, other organisations strategies and plans and to the views expressed by organisations and individuals to previous consultations on the preparation of this Plan.

And on page 26 in “SPATIAL VISIONS” the Plan says:

New development will have contributed to the creation of sustainable communities. These are safe, attractive and inclusive; well integrated into settlements; respect

local distinctiveness; raise the standards of sustainable design and architectural quality; make a positive contribution to the local area; and ensure the protection, restoration and enhancement of valuable natural and historic resources. **Strategic sites will have been masterplanned in accordance with the guiding principles set out within this Plan**

So in the Submission Plan of September 2016, it clearly stated that “Strategic sites will have been masterplanned in accordance with the guiding principles set out within this Plan.”

“will have been masterplanned”

“will have been” .....is future perfect tense. Future perfect tense is a form of grammar used in English when an event is much certain but is in the future, but then at which you are looking back at, from another future vantage point.

Grammatically that means from where they stood on the date September 2016, masterplanning was an event to yet to occur at some point in the future. And additionally the tense meant that at another future point in time onwards from September 2016, there was envisaged a second vantage point at which the “masterplanning event” would have taken place.

So both events were in the future, but sandwiched between them was the act of masterplanning – which at a midway point between the two future time points would have been completed.

So we do know that there was a point in time being cited at which a Masterplan would have been done. And that point indeed came to pass. So we are now at a date four years and five months ahead of that September 2016 date. Back in February 2018 the act of making a masterplan took place as it was deemed in the Plan’s Submission.

ED81 was the document to provide the Master Plan by way of Supplementary Statement of Common Ground As agreed between North Hertfordshire District Council and Bloor Homes and the Crown Estate Concerning Secondary Education Provision (February 2018).

NHDC ED81 was dated February 2018 and contained the MASTER PLAN for the East of Luton Strategic Housing Sites that Crown Estates and Bloor Homes put forward and we can extract the master map from page 11 and take a closer look.

Source: <https://www.north-herts.gov.uk/sites/northherts-cms/files/ED81%20SoCG%20with%20Bloor%20Crown%20re%20education%20east%20of%20Luton.pdf>

Upon that action taking place, it was no longer the second future vantage point of perfect future tense in masterplanning...but something which had thereby occurred in the past. No longer in the future, “it had been done”, and was now finished and grammatically matched

the descriptions contained in the Plan’s submission. This is what was being examined at that time.

The Plan’s Strategic Vision CLEARLY DOES NOT SAY: “Strategic sites **will be masterplanned** in accordance with the guiding principles set out within this Plan.”

Pages 22-23, para 2.69, pages 26-27, para 3.6 in its SPATIAL VISION were the Policies that the world was consulted on in all stages up until now.

The **future perfect tense** was used. That form of English grammar is used to indicate a **process will be done and would be considered as complete** at the point at which it was done. That was always the written understanding when the Plan was first submitted. That event of masterplanning has already happened.

Therefore the submitted version of the Plan that all of the stake-holders and consultees have been up until now consulted upon, cannot simply be retracted last minute. Especially when masterplanning is a policy that reverberates throughout the entire Plan and affects most sites.

There has been the clear stated approach to masterplanning, which is a material consideration and which had been presented as parts of the examinable documentation and Submitted Plan’s policies.

There is now clear conflict between these previous submitted Plan policies and the new MM083 FM 009, Policy SP19 modification being suddenly put forward by the Council.

The critical GRAMMATICAL ALTERATION now newly states “A comprehensive and deliverable Strategic **Masterplan is to be prepared and agreed**” which of course entirely and completely cancels out their previously stated actions regarding masterplanning and

MM083 FM009	71	Policy SP19	<b>Policy SP19 Sites EL1, EL2 &amp; EL3 East of Luton</b> Land to the east of Luton, as shown on the Policies map, is allocated as a strategic housing site for a new neighbourhood of approximately 2100 homes. Planning permission for residential-led development will be granted where the following site-specific requirements are met: (a) a site masterplan is to be approved prior to the submission of any detailed matters <b>a. A comprehensive and deliverable Strategic Masterplan for the entire allocation is to be prepared and agreed between the landowner/developer and the Council. Any planning application/s should be preceded by and consistent with an agreed Strategic Masterplan.</b>	To ensure effectiveness and support effective and comprehensive delivery  To provide legal compliance and consistency across the plan regarding use class order references.
----------------	----	-------------	---	---

the already completed submissions that have occurred in the past already, and upon which all the current consultations and examination to date have taken place upon the basis of.

In regards to the previous Masterplans in ED81.

NORTH HERTFORDSHIRE DISTRICT COUNCIL, THE CROWN ESTATES AND BLOOR ALL FAILED TO RESPOND APPROPRIATELY TO THE PA17/02300/EIA CONSULTATIONS. THEY MISSED ALL OF THE DEADLINES. THEY FAILED TO RAISE ANY POINTS AND ISSUES REGARDING OBVIOUS KEY STRATEGIC MATTERS.

**ONLY SEVEN WEEKS AFTER THE FACT OF FULL PERMISSION BEING ALREADY GRANTED BY LUTON BOROUGH COUNCIL did this afterthought get written “on a post-it note”. This IS THE FULL representation from NHDC itself (yes is it really is only 52 words):**

North Herts District Council

Comment Date: Mon 13 May 2019

"The impact of the proposal on highways infrastructure in terms of capacity within NHDC should be assessed and represented by HCC as Local Highways Authority.<br/>Given the context of the site, the Council have no further comments to raise other than that the application should be considered and determined in line with relevant Development Plan policies."

THE NHDC REPRESENTATION was an insubstantial three and a half line message consisting of 52 words and no more – and it was submitted late; long after the consultation had finished and only after the final planning decision had already been taken and permission granted fully.

IT DOES NOTHING TO RAISE ANY ISSUES SURROUNDING KEY STRATEGIC MATTERS SUCH AS THE GREEN BELT RELEASE, THE EOL STRATEGIC HOUSING SITE, THE NEW ENERGY INFRASTRUCTURE, TWO HIGHWAYS, LANDFILL EXCAVATION AND EARTHWORKS.

And now the Council clearly regrets this hideous oversight and so is trying to rub it out. Its lack of cooperating with its neighbours over key strategic matters is clearly a Duty to Cooperate issue. So here is their attempt remove the masterplans that we have all been consulting on up until now because it is the evidence that demonstrates Duty to Cooperate has not taken place.

WAS THIS THE ONLY REPRESENTATION THAT NHDC EVER MADE FOR THIS?

Councillor Levett did in another letter dated August 2018, respond to the other later Future Luton Airport Expansion Consultation by saying that North Hertfordshire had no policies in its Local Plan for Airport Expansion. So it’s obviously impossible to consider and determine “in line with Development Plan policies” when there are none.

The 13 May 2019 missive was such an inadequate response it demonstrated a concerning blank on all things strategic; and the fulfilment of DtC hadn’t even been hinted at.

Was the Aug 2018 Levett response really meant for the DCO Future Luton consultation though? Or was that really the Future Luton DCO Airport Expansion consultation? The dates don’t clearly tie his letter up with either.

The full letter is provided in APPENDIX 1.

What we are being told now by this Further Main Modification, is completely different to the Master Plan Map that we were previously presented with. We were presented with in the Bloor and Crown Statement of Common Ground. The Crown Estate and Bloor issued their Statement of Common Ground (ED81) for submission to these North Hertfordshire District Local Plan Examination Hearings.

THE MASTER PLAN MAPS IN THE CROWN/ BLOOR SOCG (ED81) DO NOT AGREE WITH MR HOWELL WILLIAMS'S LATEST EXPLANATION ABOUT THE OVERLAPPING AREAS.

This was brought to the Inspector's attention by Ms Carolyn Cottier during the recent hearing sessions.

It is this problem of overlapping sections of major development occurring in two separate counties and the non-fulfilment and lack of demonstration of Duty to Cooperate over Key Strategic Matters that seems to be the driver behind this sudden change to masterplanning in policies SP19.

This alteration does not only attempt to change the stage at which masterplanning happens, but it attempts to revoke something that has already happened and which has been consulted upon at all Regulation stages to date!

**The new wording uses the passive present infinitive. That means it is going to be done - in the future - in some sort of passive sense by a person or an entity. It is an infinitive form.**

**Infinitive is "a verb" plus "to" ...such as: "to live" "to breathe" "to do" ....that is the infinitive.**

This does not match what has already happened or the grammatical usage of the past Plan. Because the Masterplan that we have all been using was already published three years ago.

This is not acceptable for North Hertfordshire to act as they can alter the timelines and erase events which have already occurred.

The SP19 policy for East of Luton site and any of the other sites that that already have masterplans will be made unsound by this sudden U-turn.

They are merely backtracking to attempt to hide a big hole in the Duty to Co-operate for the East of Luton.

**In NOT doing so we can see that according to the Master Plan ED81 THE OVERLAPPING AREA IS DEFINITELY NOT LANDSCAPING OR HEDGEROW as Mr Craig Howell Williams QC, Bloor Homes and Crown Estates attempted to persuade, in spite of the visible evidence stating and illustrating otherwise.**

Below is the map from page 11 of the NH ED81 Supplementary Statement of Common Ground As agreed between North Hertfordshire District Council and Bloor Homes and the Crown Estate Concerning Secondary Education Provision (February 2018).

PS/C is a Primary School. There is a three story building at R7. Also a primary road entering the site that conflicts with the Luton side and Herts side Green Belt which is a part of PA17/02300/EIA's major development.

"R7" is an area for dwellings of 2-3 stories at an average density of 35-40 dph (11.87ha)

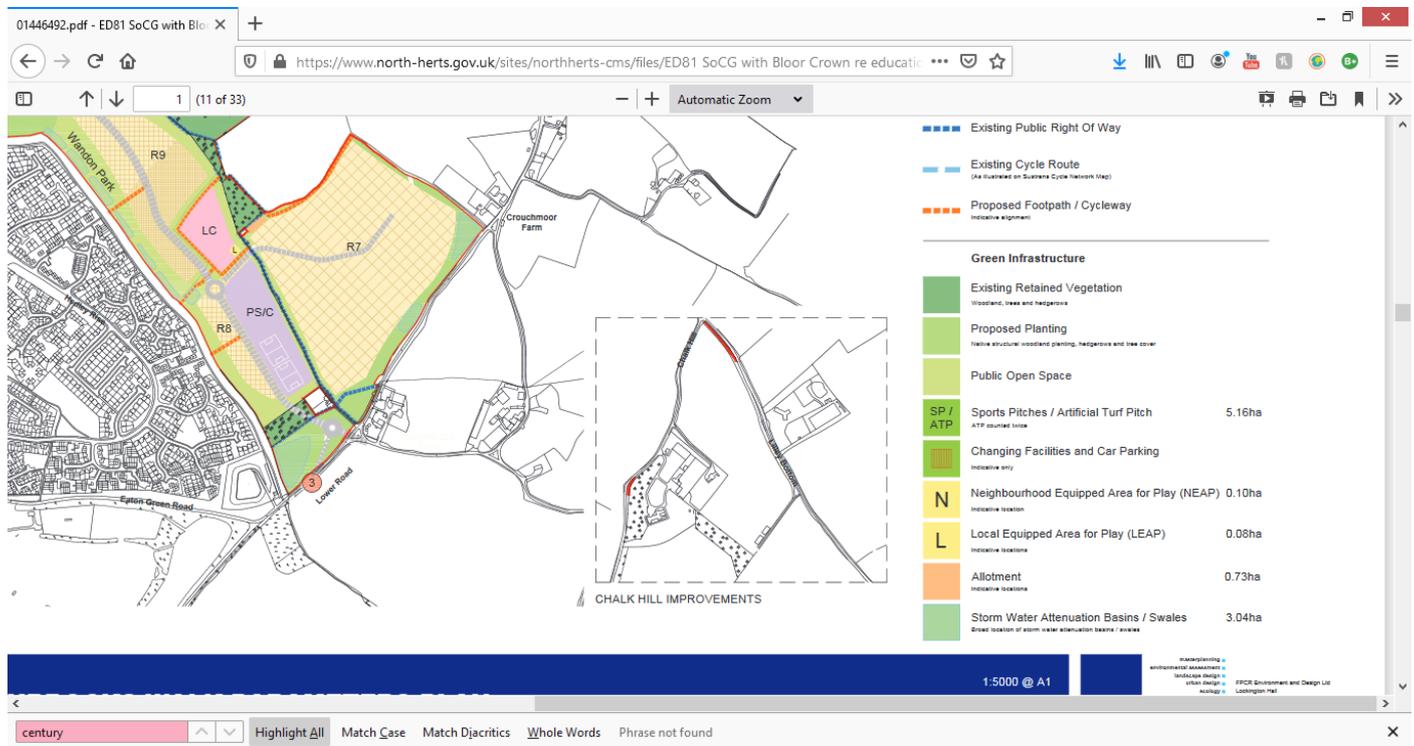
"PSC" is a Primary School and Community Uses (2.20ha)

The grey circle is a roundabout

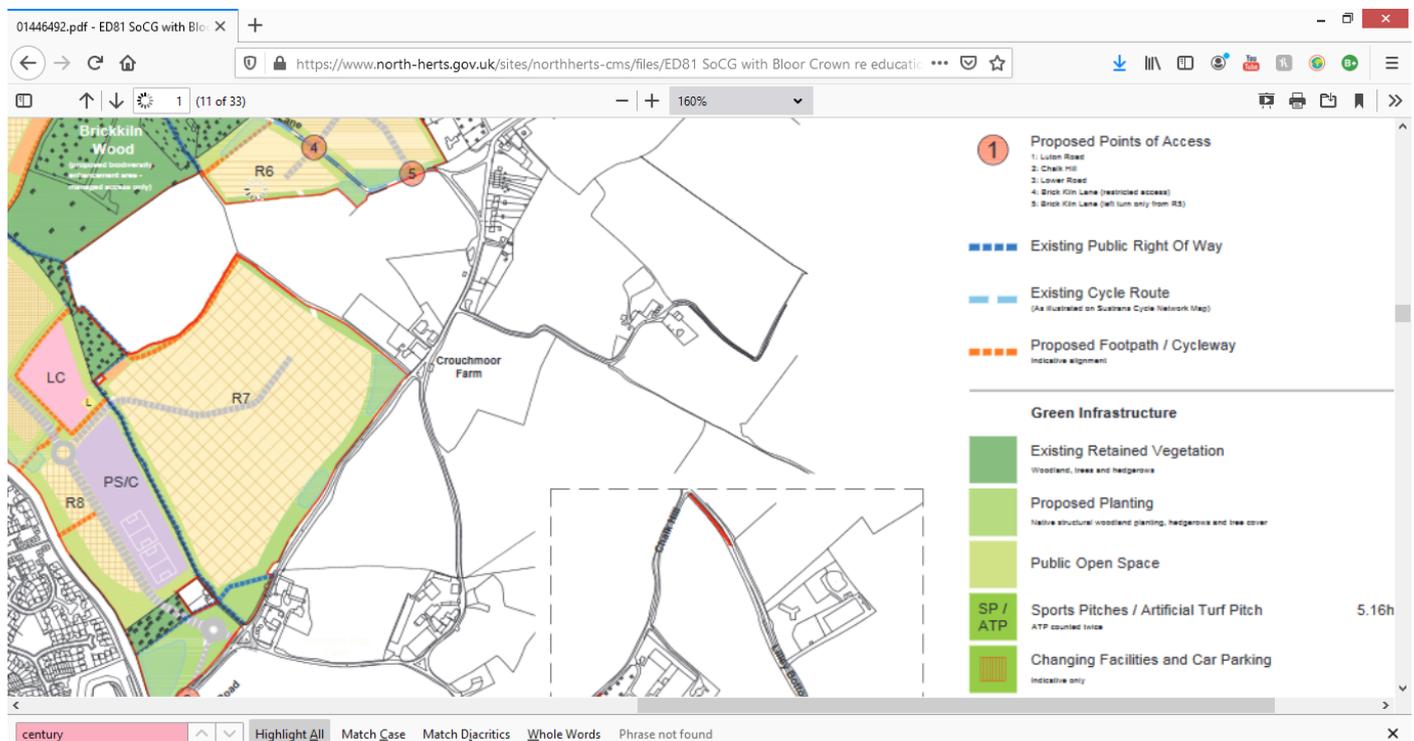
The grey road is a primary road

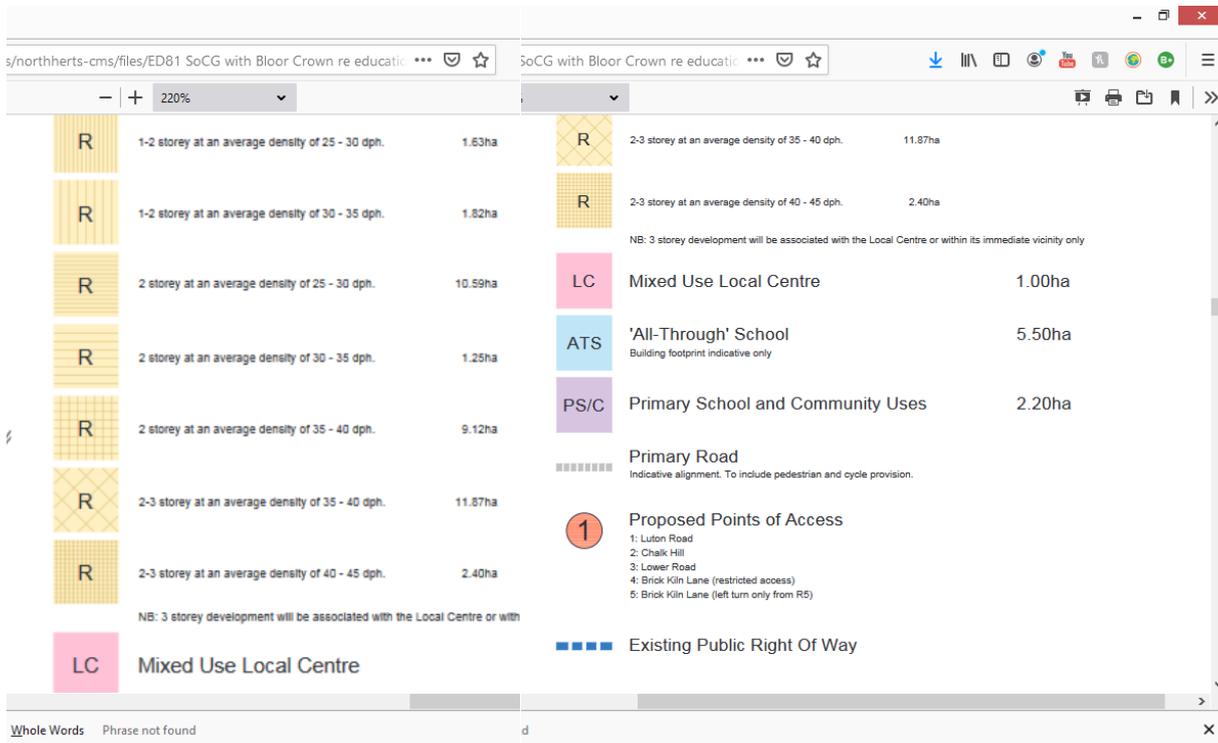
These things are not “hedgerow” and “landscaping.”

Wider view:



Closer up:





This is the map that we have all been using since it was published. At every Examination Hearing, this is what we have been working with and what we have all been basing our written and verbal statements upon.

If it changes suddenly at this late stage, then we have to go back to the point where the Masterplan had not yet been published, and re-do all of the consultation stages thereafter once again.

As statutory consultees as well as the regulation 19 consultees would have many more and different things to say - had they have known this was not the Masterplan after all!

In other words NHDC have introduced a modification upon what was a material consideration that was already fully considered. They have introduced a new material consideration into the Plan – and have consequentially *made the Plan into a different Plan* with a major key difference in Policy.

Material Consideration in Case Law was defined when Planning Court considered what is a “material consideration in decision-making”.

The decision of the Planning Court (part of the Administrative Court) in [Villages Action Group and another v Secretary of State for Communities and Local Government and others \[2015\] EWHC 2729 \(Admin\)](#) reiterates some key public law concepts relating to decision-making, such as what is a material consideration and the duty to give reasons.

The general principles of judicial review apply to a challenge under section 288 of the TCPA 1990; therefore a claimant must establish that:

- The Secretary of State misdirected himself in law or acted irrationally or failed to have regard to relevant considerations.

- There had been some procedural impropriety.

**So what is a material consideration and do all material considerations need to be taken into account?**

A decision-maker will err in law if he fails to take into account a material consideration. The tests to be applied in deciding whether or not a consideration was material and so ought to have been taken into account by a decision-maker were set out by Glidewell LJ in *Bolton Metropolitan Borough Council v SSE (1990) 61 P & CR 343, at 352*. They can be summarised as:

- The decision-maker ought to take into account a matter which might cause him to reach a different conclusion to that which he would reach if he did not take it into account. The verb “might” means where there is a real possibility that he would reach a different conclusion if he did take that consideration into account.
- If a matter is trivial or of small importance in relation to the particular decision, then it follows that if it were taken into account there would be a real possibility that it would make no difference to the decision, and thus it is not a matter that the decision-maker ought to take into account.
- There is clearly a distinction between matters that a decision-maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question.
- If the validity of the decision is challenged on the ground that the decision maker failed to take into account a matter that might have caused him to reach a different decision, it is for the judge to decide whether it was a matter which the decision-maker should have taken into account.
- If the judge concludes that the matter was “fundamental to the decision”, or that it is clear that there is a real possibility that the consideration of the matter would have made a difference to the decision, he is enabled to hold that the decision was not validly made. But if the judge is uncertain whether the matter would have had this effect or was of such importance in the decision-making process, then he does not have before him the necessary material to conclude that the decision was invalid.
- Even if the judge has concluded that he could hold the decision to be invalid, he is entitled nevertheless in exceptional circumstances, and in the exercise of his discretion, not to grant any relief.
- However, a decision-maker is not required to address every material consideration, however insignificant, in his decision. He is only required to deal with the “main” or “principal important controversial” issues; it cannot therefore be assumed that if a material consideration is not mentioned it has been overlooked.

So according to their SOCG’s own maps the overlapping of the Airport Enterprise Zone (major development PA1702300/EIA permitted on 27 March 2019 via local planning application), the conflicting key strategic issues within East of Luton’s EL1 & 2 sites that we see conflicting and being incompatible development with many other key strategic issues (such as Green Belt, Housing, National Aviation Strategy, Transportation, Energy Infrastructure), **are now being hidden via this FMM.**

Yet these matters which are principle, important and controversial –and there is a statutory need to address key strategic matters as early on in the Plan-making process as possible – which renders deletion of Master Plans previously presented under the SP19, and other policies– by trying to reverse the facts, and erase evidence of the past Examination process and cancel out parts of the Local Plan library as ridiculous and not in accordance with Plan-making Law.

In the refutation (January 2021) of the Bloor Homes and Mr Craig Howell Williams QC's maps and notes (Dec 2020) we also looked at the Luton Future Development and Construction Report also for further insight, since the LLAL Master Plan already disagreed with the Crown/ Bloor statements as presented in their SOCG Master Plan.

Secondly, one month before this ED81/ SoCG was produced – Luton had already begun to consult its various neighbours on the local planning application for the major development called the Airport Enterprise Zone, containing eleven complex elements.

This occurred in January 2018 – or one month prior to the SOCG/ ED81.

Thus this SOCG Master Plan ED81 is the only thing that attempts but clearly fails to meet DtC.

Removing something that has been in the Plan up until now, such as statements about a masterplan-making in the original Submission but then reversing it and attempting deletion so as to make the Plan LESS sound by a FMM is counter-productive and idiotic.

Trying to cancel out documents relating to these key strategic premises is utterly unsound in practise and would definitely leave the Plan open to legal challenge.

There is an ECONOMIC CASE to be made that Luton Borough Council is currently applying to the Government for emergency funding to stop itself going bankrupt. See Press – there are many releases online about this.

It therefore needs to use its own land within its own borough so that it can obtain the money from the New Homes Bonus for the development of brown field land within its own curtilage.

*HMPI ended his background explanation of the issues on this matter by saying, "I am examining the Local Plan as it was originally submitted. I will, therefore, only recommend main modifications to the originally submitted plan where they are necessary to rectify soundness problems."*

It is the phrase "*in the Local Plan as originally submitted*" is what I want to highlight here.

This is the second sudden, unjustified, unexplained omission and adjustment that NHDC has made "*in the Local Plan as originally submitted*".

The first unjustified omission was of huge consequence. It was the new settlement that promised literally thousands of houses that would more than solve the problem that 85 per cent of the Plan's development is being proposed on Green Belt land and that this is not popular or reflective of Government Policy.

And yet whilst the new settlement/ New Garden City factually and materially existed, just like Barkway and BK3, it was simply left as an unexplained, open-ended, inconclusive, unjustified, not properly documented omission.

In spite of the new settlement being the ONLY residential development option that enjoyed the status of being an actual legal formation.

Which is a point I and several others have raised at more than five hearing sessions since they started in November 2017.

Now we have this really strange "Masterplan requirement removal" too! Without apparently any explanation as to why. This is in addition to another unexplained act of strangeness...in that Barkway site is not on the Green Belt, and yet it is being suddenly taken out of the Plan altogether.

So whilst the Council are retaining many other sites *that are upon the Green Belt* and *do make significant contribution to it*, they decide that *this one* is somehow "special" and will exit the Plan.

Why?

They do not give any reason.

They have undoubtedly done a very strange thing here. Even they know that simply omitting a fairly uncontentious non-Green Belt site whilst insisting retention of others is rationally unsound.

This action seems so unjustified and inexplicable in fact, that I have been forced to consider another hypotheses for why it has occurred.

One hypothesis is this. There are observably very few planning officers actually involved with this Plan. There is Mr Nigel Smith, the Plan's signatory Cllr David Levett and sometimes Ms Louise Symes appears. However the NHDC councillors are all conspicuous by their absence and haven't really engaged very much, if at all, as far back as Regulation 19.

In fact I am starting to see this Plan is really quite a rudderless ship with maybe only two or three men are on-board.

When a few of the public consultees, angry at how much time they were having to devote to this whole five year escapade, questioned councillors as why they were not participating and helping them – the councillors generally replied that they did not understand the process and so they didn't know how to help.

Only this year were a few NHDC councillors made to take a basic introductory planning course. This is of course too little too late.

However I should like to point out at this stage that many of the Examination participants *also did not initially understand it* either. Clearly it is we who have picked up the tab for a witless body of NHDC and neighbouring authorities' councillors' lack of initiative and frankly; pure laziness.

The clear difference between the councillors who did not participate but should have, (in spite of them receiving their regular councillor budget and expenses), is that we; the public participants actually put in the effort and *worked very hard to understand it*. At great personal cost.

So now I am starting to see that really basically this whole thing is more of less being steered by only three people, but that the whole dire thing affects many thousands of people for over a century to come. Utter lunacy.

Before Christmas I received an envelope containing information from a source who apparently did not wish to be known, since the package arrived from an unnamed sender. It contained a lot of information relating to the new settlement, and whilst the level of detail makes me think it must have been from a source within the North Herts District Council, it would not be correct to surmise.

However all of the information contained therein was publically verifiable. So I worked through it all and indeed I cannot find anything which appeared incorrect nor outside of public record.

Perhaps it was from a councillor who at this late stage feels guilty for not helping us more.

I hadn't seen the information laid out in this way before.

I attach what I received as "Appendix 1".

The new settlement was the only housing development option to have enjoyed actual legal status in the form of what appears to be an urban development corporation.

However the option whilst included at the "ATLAS STUDY" in the Examination Library was left open-ended - as unfinished business with no type of paperwork or assessment ever provided as to why it was suddenly abandoned in favour of choosing 85 per cent of the total housing development upon contentious Green Belt sites mostly making "significant contribution".

So yet again I raise this point BECAUSE we have a similar pattern of unsound judgement and impartial selection now arising from this latest Barkway and BK3 deletion.

But as to the true motif behind it – I am forced to consider that it might have been done *because it is so brazenly unacceptable*; in that it would give the Inspector just enough reason to send the Council back to the drawing board, to perform more work on the Plan - by his edict and not theirs'. But because it involves possibly the least contentious site in the entire plan, they are safe from developers suing them,

because it is only 140 houses, and the developer is unlikely to spend the amount of money required to challenge this if the profit is not that high.

This is relevant because at the 8<sup>th</sup> October 2020 Emergency General Meeting to vote upon the proposed reduction of the NHDC housing need numbers, councillors were told that if they did not vote to leave the figures as they were - that they would be opening the Council to a large number of legal challenges.

The councillors because they did not know any better, allowed themselves to be subjected to the illusions of Project Fear.

Having been largely absent from this Local Plan examination process, just enough of them simply crumbled, believed unquestionably what they had been told and just with a margin of four they lost the decision to lower the number so that it was more in line with the reality.

However this “advice” (“Project Fear”) was administered during a private/ un-public/ secret/ not broadcasted part of the meeting where the live broadcast was turned off and the councillors in attendance were ordered to go into a meeting.

**THIS PART OF PUBLIC EXAMINATION NOT OPEN TO THE PUBLIC!**

I was watching, as were many other people. It was aired on Youtube. The full account of what happened can be seen in this newspaper article published the day before and after in the Press. See Appendixes 2-4.

When people are watching Youtube Livestream, you can see their names in the chat box on the right hand side of the screen.

**The livestreamed meeting COULD be seen here:  
<https://www.youtube.com/c/North-hertsGovUk/videos>**

**IT HAS BEEN REMOVED FROM THE NORTH HERTFORDSHIRE DISTRICT COUNCIL'S YOUTUBE CHANNEL.**

**CAN THE INSPECTOR TELL THE COUNCIL TO REINSTALL THIS VIDEO?**

**IT IS A PART OF A PUBLIC MEETING AND IS RELATED TO AN ON-GOING PUBLIC EXAMINATION.**

I know many people who also watched who would willingly give witness statements if so desired – to attest that we saw that in the live chat-box, someone using the name “Suzanne Ormsby” who was watching. We have no reason to suppose it was not *the* Ms Suzanne Orrmsby QC who has been providing legal advice to NHDC for this Local Plan Examination up until now.

For one hour midway through the public meeting, it was taken away from the livestream and all the councillors had attend a private meeting with an unnamed legal advisor.

We cannot say who gave the “legal advice” on the matter of not reducing the housing need numbers, however the councillors will all know well only too well *who spoke* to them, and we may also know the truth but are avoiding directly saying it here.

**So during that time the councillors were told that if they suddenly voted to reduce the housing numbers then NHDC would be receiving legal challenges by the angry developers.**

This is a definite red flag. Not to mention that now the video has been mysteriously deleted. Luckily I did do an mp3 recording of it! So we still have that as concrete evidence of what was said in the public part at least.

A group of Lib Dem Councillors had raised legitimate concerns that the Housing Need Numbers were overly inflated and needed to be reduced for the Plan to be sound and less contentious.

The Inspector has already said that only the Council themselves can choose to suspend the Examination process in favour of doing any extra work.

The extra work needed to reduce the housing numbers more towards the direction was the sane option.

And yet when they had this Emergency Meeting it was scuppered by a secret amateur “psychological-operation” now colloquially nick-named “Project Fear”.

There was this hour where they all just disappeared. I remember voicing my distain for such secrecy and lack of transparency in no uncertain terms in the chat box. The journalist picked up on this and quoted me. The full article is in **APPENDIX 4:**

**...Excerpt from “The Comet Article” about the NHDC Emergency Meeting on Housing Need – published 9 October 2020:**

“The introduction also touched upon the potential impact on the environment, with Cllr Collins referencing potential water shortages, reduced air quality in towns such as Hitchin and the planned “tearing up” of the Green Belt and North Hertfordshire’s countryside.

The evening’s atmosphere was tense, despite it being a virtual meeting of Full Council, as councillors from all political parties continued to interrupt one another.

Councillors then withdrew to a private room for an hour, where they received legal advice on the motion without members of the press or public invited to listen.

Those watching the YouTube live stream were exasperated by their decision to discuss in private.

Carolyn Cottier said: “This is BS. They should be voting in full view of us all. Why do they need to hide?”

Another user added: “What a joke. Secret meetings not involving the public. This is going to backfire for sure, grab the popcorn folks.”

At its peak, more than 110 members of the public tuned in to the extraordinary meeting last night.

Of course, last night's meeting was not the first bump in the road for North Hertfordshire's Local Plan.

The council's expenditure on the Local Plan already exceeds £700,000 – excluding the time planning officers have put in.

In July 2019, planning inspector Simon Berkeley wrote to the council to highlight “issues and reservations” with the Local Plan.

So back to how all of this ties in with the sudden “fly in the face of all known planning rules” by way of a Masterplan deletion...

If the Council believes – rightly or wrongly – that it will be sued by developers if it dare alter the Plan's un-robust figures – even if they know the Plan is a complete and utter disaster, from their limited point of view only have the following options open to them:-

- a) Just allow their rudderless ship to head straight towards the rocks in an epic disaster of at least one Judicial Review, and potentially two (on other grounds).
- b) DO nothing and hope for the best – which is probably not going to work out all that well for them since it leads to either “Plan failed” or the “Option A” above.
- c) Decide that maybe they *do want to pull the Plan temporarily*, just to get rid of some of the Green Belt sites making valued contributions plus remove Villages for Growth sites and reduce the numbers so that they at least vaguely resemble something sane... But they will have to make it be upon the Inspector's shoulders - because he is the only person that can save them from the “looming spectre” of developers suing them. ...If it comes from him, they imagine ....at last they will be safe – for now.

Considering the developers are unlikely to have ANY grounds to sue the Council – since just needing to reduce housing numbers in line with a justifiable number reflective of reality, is not an act of planning offence. I think the Inspector needs to read the Council the “reality” otherwise known as “the riot act” regarding this, in case it is an underhanded attempt to skew judgement and make him their “fall guy” rather than taking good old fashioned honest responsibility themselves.

This is my own personal opinion, which is what I was asked for in combination as to how it affects legality, soundness, deliverability and justifiability.

## **APPENDIX 1 – Cllr David Levett's Letter about the Airport Enterprise Zone**

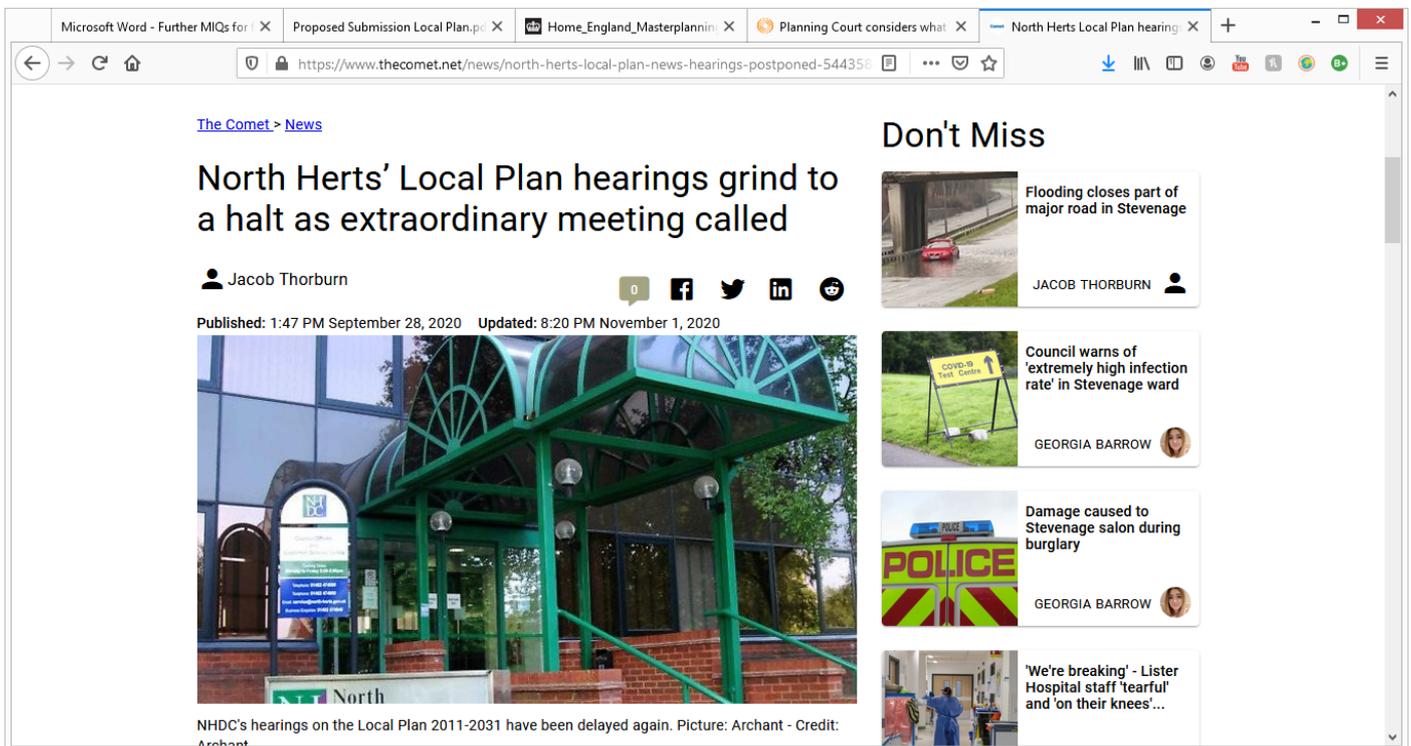
## **APPENDIX 2 – The Documents I received:**

**See ATTACHMENTS as 5 files which are photographs of the pages.**

# **APPENDICES 3-5 – The newspaper articles about the reducing of the housing figures during the Emergency General Meeting on 8 October 2020:**

## **APPENDIX 3**

**Source:** <https://www.thecomet.net/news/north-herts-local-plan-news-hearings-postponed-5443584>



The Comet > News

### North Herts' Local Plan hearings grind to a halt as extraordinary meeting called

Jacob Thorburn

Published: 1:47 PM September 28, 2020 Updated: 8:20 PM November 1, 2020



NHDC's hearings on the Local Plan 2011-2031 have been delayed again. Picture: Archant - Credit: Archant

#### Don't Miss

- Flooding closes part of major road in Stevenage  
JACOB THORBURN
- Council warns of 'extremely high infection rate' in Stevenage ward  
GEORGIA BARROW
- Damage caused to Stevenage salon during burglary  
GEORGIA BARROW
- 'We're breaking' - Lister Hospital staff 'tearful' and 'on their knees'...

# **North Herts' Local Plan hearings grind to a halt as extraordinary meeting called**

[Jacob Thorburn](#)

Published: 1:47 PM September 28, 2020 Updated: 8:20 PM November 1, 2020



NHDC's hearings on the Local Plan 2011-2031 have been delayed again. Picture: Archant - Credit: Archant

Liberal Democrat councillors at North Herts District Council have successfully pushed for an extraordinary meeting that will see the long-awaited Local Plan hearings delayed further.

The ten Lib Dem representatives are calling for a re-evaluation of the projected housing need for the district, after they say predictions from the Office for National Statistics prove the need for housing in North Herts has reduced.

Now, an extraordinary meeting, which will be held on Tuesday, October 8, will call on the full council to debate a motion on projected housing in North Herts before the Planning Inspector can begin hearings.

Saturday, October 12 has been drawn up by NHDC as a potential new start date for the hearings to begin.

Of course, this isn't the first time that NHDC's Local Plan hearings have been postponed.

## **APPENDIX 4**

**Source:** <https://www.thecomet.net/news/local-plan-hearings-north-herts-6623390>

Microsoft Word - Further MIQs for | X Proposed Submission Local Plan.p... X Home\_England\_Masterplannin... X Planning Court considers what... X Local Plan hearings begin for N... X

https://www.thecomet.net/news/local-plan-hearings-north-herts-6623390

[The Comet > News](#)

## Second round of North Herts Local Plan hearings get under way

 Georgia Barrow

Published: 4:31 PM November 24, 2020 Updated: 10:48 AM December 15, 2020



**Don't Miss**

-  Flooding closes part of major road in Stevenage  
JACOB THORBURN
-  Council warns of 'extremely high infection rate' in Stevenage ward  
GEORGIA BARROW
-  Damage caused to Stevenage salon during burglary  
GEORGIA BARROW
-  'We're breaking' - Lister Hospital staff 'tearful' and 'on their knees'...

# Second round of North Herts Local Plan hearings get under way

[Georgia Barrow](#)

Published: 4:31 PM November 24, 2020 Updated: 10:48 AM December 15, 2020



North Hertfordshire District Council. Picture: NHDC - Credit: Archant

A second round of hearings into North Hertfordshire District Council's Local Plan began yesterday, following delays caused by COVID-19 and an exceptional council meeting.

The hearings – originally due to take place in March – were ordered by planning inspector Simon Berkeley, who had “issues and reservations” around the projected housing need and use of Green Belt land for a number of developments.

These sessions were postponed due to the coronavirus outbreak, and in September, a number of Liberal Democrat councillors at NHDC called for a last-minute extraordinary meeting challenging the expected housing need in the district.

The hearings finally got under way on Monday via Zoom, with a focus on the objective assessment of housing need and housing requirement.

Mr Berkeley quizzed NHDC’s Jonathan Lee on the housing need for NHDC and how the council arrived at the plans for more than 15,000 dwellings based on sets of ONS data.

## APPENDIX 5: The Comet Article about the NHDC Emergency Meeting on 8<sup>th</sup> October 2020 Housing Need:

Source: <https://www.thecomet.net/news/local-plan-housing-motion-voted-down-by-councillors-6614278>

The Comet > News

### Defeat for last-minute motion on Local Plan housing in North Herts

Jacob Thorburn

Published: 8:56 AM October 9, 2020 Updated: 7:04 PM December 14, 2020

The motion at NHDC's extraordinary meeting on the Local Plan was defeated. Picture: Tom Coates / NHDC - Credit: Archant

**Don't Miss**

- Flooding closes part of major road in Stevenage  
JACOB THORBURN
- Council warns of 'extremely high infection rate' in Stevenage ward  
GEORGIA BARROW
- Damage caused to Stevenage salon during burglary  
GEORGIA BARROW
- 'We're breaking' - Lister Hospital staff 'tearful' and 'on their knees'...  
CHARLES THOMSON

# Defeat for last-minute motion on Local Plan housing in North Herts

[Jacob Thorburn](#)

Published: 8:56 AM October 9, 2020 Updated: 7:04 PM December 14, 2020



The motion at NHDC's extraordinary meeting on the Local Plan was defeated. Picture: Tom Coates / NHDC - Credit: Archant

Councillors last night decided to vote down a last-minute motion that could have seen significant changes to future housing in North Hertfordshire's Local Plan.

At an extraordinary meeting of full council, called for by the Liberal Democrat group, 39 councillors debated the Local Plan's housing provision during a heated discussion.

During a three-hour meeting, that at times stoked the passions of those involved, councillors eventually voted to reject the motion that would have seen a council-led re-evaluation of the projected housing need in the district.

Several notable Labour councillors, including leader of the council Martin Stears-Handscomb and portfolio holder for IT and finance Ian Albert, voted against the proposed motion forwarded by their co-operative colleagues in the Liberal Democrats.

Proposing the motion as one of the 10 Lib Dem councillors, Cllr Sam Collins began with a speech.

He said: "I'm fully aware that this meeting is inconvenient, and slightly awkward for some of you, but I think this is perhaps one of the most important meetings of this council for some time.

"What we discuss here tonight, and the decisions we take now, will impact our area not only up until 2031 but for generations to come.

"We cannot shy away from this because it may seem difficult or challenging, this is our responsibility as councillors to do what is right for the future of our district and the residents we represent."

The motion proposed by the 10 Lib Dem councillors stated the council must recognise that as the proposed housing need for the district has reduced, as predicted by the Office for National Statistics, then the Local Plan should too be scaled back.

Cllr Collins' speech also referenced the fact councillors from all political parties previously had mixed opinions on the Plan's size and scope – with concerns raised about vital infrastructure such as schools, doctors surgeries and transport provisions.

The introduction also touched upon the potential impact on the environment, with Cllr Collins referencing potential water shortages, reduced air quality in towns such as Hitchin and the planned “tearing up” of the Green Belt and North Hertfordshire's countryside.

[READ MORE: How will NHDC's Local Plan impact my area?](#)

The evening's atmosphere was tense, despite it being a virtual meeting of Full Council, as councillors from all political parties continued to interrupt one another.

Councillors then withdrew to a private room for an hour, where they received legal advice on the motion without members of the press or public invited to listen.

Those watching the YouTube live stream were exasperated by their decision to discuss in private.

Carolyn Cottier said: “This is BS. They should be voting in full view of us all. Why do they need to hide?”

Another user added: “What a joke. Secret meetings not involving the public. This is going to backfire for sure, grab the popcorn folks.”

At its peak, more than 110 members of the public tuned in to the extraordinary meeting last night.

Of course, last night's meeting was not the first bump in the road for North Hertfordshire's Local Plan.

The council's expenditure on the Local Plan already exceeds £700,000 – excluding the time planning officers have put in.

In July 2019, planning inspector Simon Berkeley wrote to the council to highlight “issues and reservations” with the Local Plan.

The subsequent public hearings that were planned for March this year had to be postponed due to the outbreak of the coronavirus pandemic.

That same month, the ONS released a 2018-based local authority population projection that indicated “significantly lower growth” in North Hertfordshire than previously thought.

In total, the projected figures for homes (11,500) has reduced by 11 per cent since the last published projection in 2016 (12,900).

No new date has been set for the Inspector's latest round of hearings.

--END--