

Examination of the North Hertfordshire Local Plan 2011 - 2031

Response of North Hertfordshire District Council to the Inspector's note of 29 October 2018

'Homework' tasks

Note: These three 'homework' queries all relate to the same hearing session and information bundle (ED148c) suggesting this may have been omitted in error from the material submitted in June 2018. The Council's full response to each of these queries is set out in that document which has been provided to the Inspector but is also briefly addressed below.

1. During the hearing discussion concerning Therfield, the Council referred to the response from English Heritage in relation to the first iteration of the Local Plan and consequently agreed that this should be placed in the examination library. Has it been?

Yes, see ED116.

2. During the hearing discussion concerning Weston, the Council proposed to engage with the local highway authority and promoters of the proposed housing site in respect of securing a safe pedestrian route from the site to the settlement centre. This does not appear to be included in the 'homework' list. What is the present position on this?

Continuous footpath links are available from the boundary of proposed site WE1 to the village centre, negating any need to walk along that part of Hitchin Road which does not have a footpath.

3. During the hearing discussion concerning Pirton, the Council said it would give consideration to allocating for housing land which has been given planning permission by the Council, and to excluding the Scheduled Ancient Monument from the settlement boundary. This does not appear to be included in the 'homework' list. What is the present position on this?

The Council considers that this site is best left as 'white land' within the village boundary; Given the Scheduled Ancient Monument status of the adjoining land, the Local Plan evidence base does not contain sufficient information on its archaeological potential to be able to justify an allocation. Subsequent to the note in ED148c, outline planning permission for 24 homes has been granted (NHDC reference 17/04239/OP, decision issued 01 August 2018).

The draft schedule of main modifications put forward by the Council

4. The purpose of the 'reasons' column of the main modification schedule is to explain to people why the modification is proposed – that is, why it is needed for soundness. In some instances, the entry does this. However, in many it does not. For example, entries frequently say things like "In response to representations by ..." or "LPE action list", which tell one nothing of the necessity for the change. This needs to be rectified before consultation can take place. In addition, some entries in the 'reasons' column include reference to individual people, including local residents. These should be removed.

Reasons amended throughout the schedule as required.

5. MM119 appears to preclude any adverse impacts on the (operation of the) highway network. It seems to me that this is not consistent with national policy. The point here is really to prevent unacceptable impacts from occurring. In addition, I am concerned that there is no justification for requiring that developments improve highway safety. This modification should be re-worded along the following lines.

“a. development would not lead to highway safety problems or cause unacceptable impacts on the highway network”.

MM119 amended as suggested.

6. What is a ‘brown roof’? MM211 refers to such a thing, but I am rather in the dark. If it is simply a roof that is not a ‘green roof’ then is this part of MM211 redundant?

A ‘brown roof’, also known as a biodiverse roof, seeks to replicate a specific type of habitat. The original wording of MM211 was informed directly by the Baldock Landscape Sensitivity Study (CG4, paragraph 4.18 (fourth bullet), p.19). However, given that a ‘brown roof’ is also a type of green roof, the Council agrees that these words are redundant and can be removed from MM211.

7. MM401 proposes to delete the word “Policies” and replace it with “Proposals”. This should be the other way around.

Yes, this was an error in the draft schedule. MM401 amended as suggested.

8. MM010 introduces a footnote to Policy SP2. However, the present position of the asterisk denoting the footnote gives the impression that the footnote only relates to Baldock. Is that an error?

Yes, proposed footnote moved to title of Policy SP2 to be clear that it applies to all settlements for which figures are shown.

9. MM011 says that at least four in every five new homes delivered in the plan period will be built within or adjoining the towns. I am not clear why land adjoining towns is referred to here. Please explain.

MM011 has been amended to refer to this proportion of development being anticipated to occur “within the adjusted settlement boundaries of the towns” for consistency with Policy SP8 (as proposed to be amended by MM035).

10. MM100 includes alterations to the opening sentence of Policy ETC7. However, the reference to Policy SP2 appears to be made in error – at least, it strikes me as not good English to say “... will be granted in Policy SP2”. Indeed, the opening paragraph, including the bullet point list, is not as clearly expressed as it might be. It should be re-worded along the following lines.

“... will be granted where:

- In the case of category A Villages, the site is within the Settlement Boundary;
- In the case of Category B Villages, the site is within the built core of the village; and
- In the case of Category C Villages, the proposed development meets the requirements of Policy CGB2b”

MM100 amended broadly as suggested. However, the first bullet point has been amended to read

“The site is within a defined settlement boundary;”.

Following MM010, the five villages where higher levels of growth will be supported have been removed from the list of Category A villages into a new tier on the settlement hierarchy. The types of development envisaged by Policy ETC7 should not be precluded in these locations where appropriate. Similarly, the policy title envisages there may be occasion for such facilities within the towns.

References within MM014 [criterion g], MM091 and MM101 have also been similarly amended to ensure the effects of MM010 are appropriately and consistently reflected in the Plan.

11. As expressed in MM158, Policy NE2 would support developments that have “a detrimental impact on the appearance of their immediate surroundings and the landscape character of the area” on sites allocated in the plan. As I understand it, the suggested modification stems from the Council’s acceptance that some sites proposed for allocation would have some detrimental impacts of this kind. However, the wording of this modification at least appears to support allowing all allocated sites to lead to such effects. This must be rectified, and I suggest rewording along the following lines.

“Planning permission will be granted for development proposals that:

b. do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking account of any suitable mitigation measures necessary to ensure this;”

MM158 amended as suggested.

12. Among other things, MM163 proposes to alter criterion b. of Policy NE3. However, with the addition of “where possible” as put forward by the Council, it is not necessary for soundness to delete “tranquillity and remoteness”, and these words should therefore remain. Consequently, MM165 is also not necessary and should be deleted from the schedule.

MM163 amended as suggested. MM165 deleted.

13. The final sentence of Policy NEx, put forward through MM166, refers to Wildlife Sites. For clarity, should this say Local Wildlife Sites?

Yes, MM166 amended as suggested.

14. MM168 introduces a new policy concerning ‘New and improved open space’. However, the third paragraph includes requirements relating to existing open space. For effectiveness, the reference to existing open space should be deleted from this policy and the requirements involved should be added to Policy NE4 through MM167.

MM167 and MM168 amended as suggested.

15. The modification put forward in relation to (new) criterion f. of Policy NE7 requires that flood protection and mitigation measures have a positive impact on nature conservation, heritage assets, landscape and recreation. While it is plainly sometimes possible, it seems to me unlikely that all types of flood protection and mitigation measures could meet this demand. This should be re-worded along the following lines.

“f. any flood protection and mitigation measures necessary will not cause harm to nature conservation, heritage assets, landscape and recreation, and where possible will have a positive impact in these respects; and”

MM177 amended as suggested. Note: In final formatting, this is now shown as criterion (e)

16. The second paragraph of MM314 repeats what is said in the first. It should therefore be deleted.

MM314 amended as suggested.

17. MM372 introduces a new policy setting out how the Council’s five year supply of land for housing should be considered. Criterion b. refers to the ‘Liverpool method’. Avoiding planning jargon/legal references helps effectiveness. This reference should therefore be deleted and replaced with something along the following lines:

“Add to the calculation of the requirement to be met any shortfall in housing delivery since the plan’s start date, spread evenly over the remaining plan period;”

MM372 amended broadly as suggested.

18. In addition, criterion c. of the new policy introduced by MM372 addresses the question of the most appropriate buffer to be added to the five year supply of land for housing. This is consistent with paragraph 47 of the National Planning Policy Framework 2012 (‘the 2012 NPPF’). While I am examining the plan under the transitional arrangements set out in Annex 1 of the new National Planning Policy Framework 2018 (‘the 2018 NPPF’), such that it is the policies of the 2012 NPPF which apply, it seems to me that the matter of the buffer to be added to the five year housing land supply is one discreet area where the 2018 NPPF will ‘bite’ immediately. If the plan were to be adopted, subsequent calculations of the five year housing land supply would need to be consistent with paragraph 73 of the 2018 NPPF. This requires a buffer of 20% “where there has been significant under delivery of housing over the previous three years” rather than where there “has been a record of persistent under delivery” as both the 2012 NPPF and MM372 say. The upshot here is that criterion c. of the new policy should be altered along the following lines to reflect the 2018 NPPF.

“c. Ensure that the supply of specific deliverable sites includes a buffer (moved forward from later in the plan period) in line with national planning policy”

MM372 amended as suggested.

Possible omissions from the draft main modifications schedule

19. The Council previously suggested that it would put forward a main modification to Policy HE6 and supporting text to include reference to ancient hedgerows. Does not appear to have been included in the schedule. What is the Council’s position on this?

The audio recording of this hearing session has been reviewed. The Main Modification was suggested in order to ensure retention of the woodland and hedgerow to the south and west respectively of site HT6, as included in the schedule at MM252. It was not suggested in the hearing that either the woodland or the hedgerow were ‘ancient’. The online, interactive ‘MAGIC’ map service, managed by Natural England, does not show the woodland to the south to be ancient woodland. The proposed amendment in MM252 is therefore considered sufficient and no further change is proposed.

20. The Council proposed a main modification requiring the retention of the hedgerow to the south of HT5. MM251, however, relates to reinforcing planting to the west (along the green belt boundary). Is this a deliberate omission from the schedule?

Yes. The audio recording of this session has been reviewed. The Council suggested that the hedgerow to the south should be maintained beyond any point of access to site HT5 in order to maintain the integrity of the Public Right of Way. This point is covered in the first bullet of MM251 and no further change is proposed.

Amendments to the Policies Map

21. At the hearing, the Council said that the Policies Map required a change in relation to Policy HT2, as the site erroneously included part of the garden of a neighbours’ property. Has this alteration been included in the schedule?

It was omitted in error from the submitted schedule. It has now been added as MM411 (subject to the response on Q24 below).

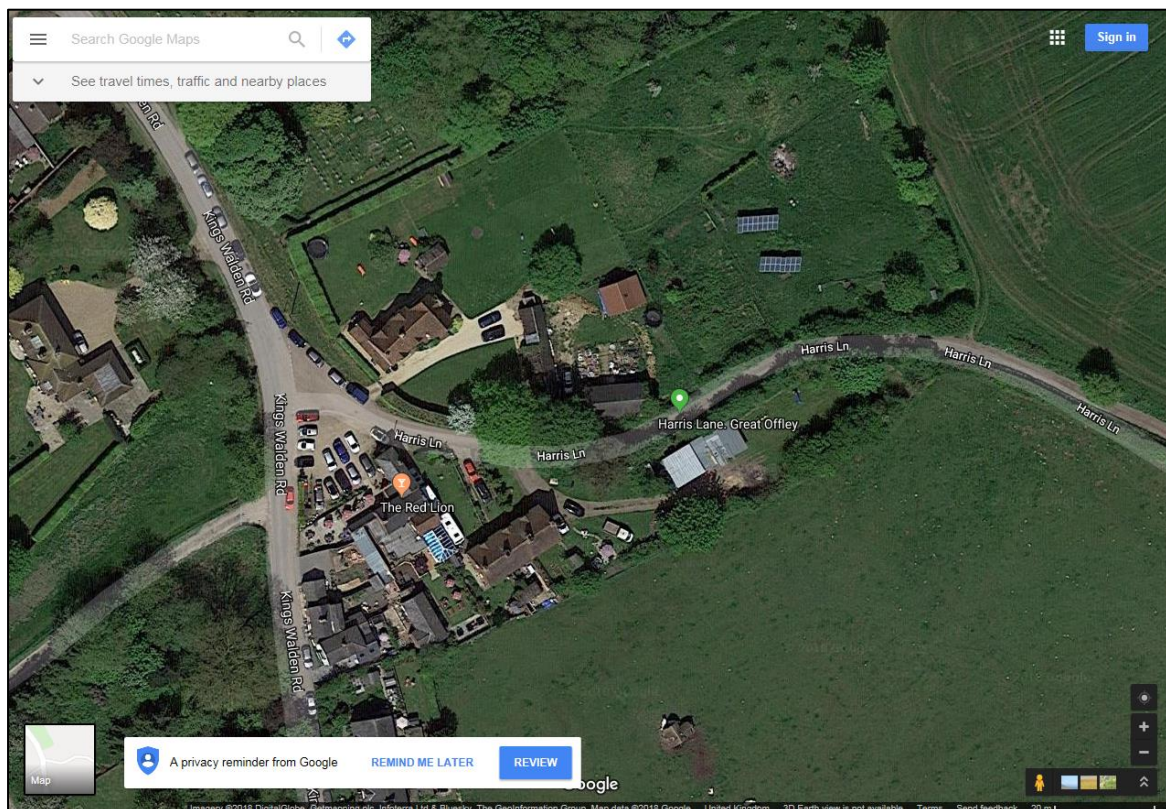
22. Similarly, the Council proposed a modification to delete 'Long Innings' from the site allocated through Policy HT3, as it is in third party ownership. Has this alteration been included in the schedule?

No. The submission Policies Map does not show an access from Long Innings within the allocation boundary. MM250 deletes the reference from the text of the Plan.

23. During the hearing discussion concerning Offley, the Council proposed to modify the settlement boundary to the north of Harris Lane to reflect the planning permission given by the Council and to re-define the green belt boundary using the belt of trees to the north west as the 'defensible boundary'. However, from MM393 and the accompanying map, it appears that land to the south of Harris Lane has also been removed from the green belt. Please explain the rationale for this.

The proposed Green Belt boundary to the south of Harris Lane as shown on the submission Policies Map and the 'before modifications' map does not follow any defined feature on the ground; it was drawn as a continuation of the now superseded boundary that was proposed to the north of Harris Lane.

Following the modification of the Green Belt boundary to the north of Harris Lane, the rear boundaries of the properties to the south of Harris Lane, which provide separation from the agricultural field beyond, form the most appropriate defensible boundary having regard to Paragraph 85 of the 2012 NPPF. This is illustrated by the aerial photograph attached below.



Source: Google Maps (accessed 5 November 2018)

24. The draft main modifications schedule includes main modifications to the Policies Map, numbered MM380 to MM396. However, the Policies Map is not defined in statute as a development plan document and I do not have the power to recommend main modifications to it. As a consequence, I ask that the Council removes from the main modifications schedule all of the maps, and instead compiles them in a separate document entitled "Proposed Changes to the Policies Map", or something of that sort. The section of the main modifications schedule relating to these changes – MM380 to MM396 – should also be within this separate document. For the purposes of consultation, those main

modifications can also remain within the general schedule. To ensure clarity through the consultation, it would assist if this section of the schedule included some text 'signposting' the separate document showing the Policies Map changes intended.

Modifications schedule amended as requested. Explanatory text has been added to the schedule broadly as per the Inspector's explanation above. The maps have been compiled into a separate 'Proposed Changes to the Policies Map' document to be made available as a supporting document to any future Main Modifications consultation.