

STATEMENT OF COMMON GROUND

BETWEEN

NORTH HERTFORDSHIRE DISTRICT COUNCIL (NHDC)

AND

NATURAL ENGLAND

IN RESPECT OF

**THE NORTH HERTFORDSHIRE LOCAL PLAN, PROPOSED SUBMISSION VERSION,
NOVEMBER 2016**

1 Introduction

- 1.1 This Statement of Common Ground has been prepared jointly by North Hertfordshire District Council (NHDC) and Natural England.
- 1.2 The Statement sets out the confirmed points of agreement between NHDC and the Natural England with regard to the North Hertfordshire Local Plan and supporting evidence base, which will assist the Inspector during the Examination of the Local Plan.
- 1.3 Local Authorities are required through the Duty to Co-operate (the Duty) to engage constructively and actively on an on-going basis on planning matters that impact on more than one local planning area.
- 1.4 The National Planning Policy Framework (NPPF) sets out the requirement that public bodies should cooperate on planning issues that cross administrative boundaries and, at Paragraph 156, identifies a series of strategic priorities:
 - The homes and jobs needed in the area.
 - The provision of retail, leisure, and other commercial development.
 - The provision of infrastructure for transport telecommunications, waste management, water supply, wastewater, flood risk and coastal change management.
 - The provision of minerals and energy (including heat).
 - The provision of health, security, community and cultural infrastructure and other local facilities.
 - Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment including landscape.
- 1.5 The NPPF requires Local Planning Authorities to work collaboratively with other bodies to make sure that these strategic priorities are properly co-ordinated across local boundaries and clearly reflected in individual Local Plans.

- 1.6 Local Planning authorities are expected to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts when their Local Plans are submitted for examination.

2 Background

- 2.1 This Statement of Common Ground relates to the representations made by Natural England to the District Council's Proposed Submission Local Plan (2016) regarding a number of matters.

3 Duty to Cooperate

- 3.1 As set out in the Council's Duty to Cooperate statement the District Council has continuously engaged with Natural England over the duration of the plan's production.
- 3.2 Natural England has continuously responded to public consultations and liaised with Officers as the Local Plan process has developed which has helped inform both the strategy and policy framework within the plan.
- 3.3 Comments received from Natural England have been used to draft the different iterations of the plan so that it delivers the infrastructure and framework required to support sustainable development for water and wastewater infrastructure.

4 Agreed Matters

- 4.1 NHDC and Natural England **agree** that the draft North Hertfordshire Local Plan, November 2016 is sound insofar as it relates to matters covered by the Duty to Cooperate. NHDC and Natural England commit to continuing their active and on-going co-operation through to Local Plan adoption and implementation.
- 4.2 Natural England's representation to the Proposed Submission plan identified suggested changes to a number of policies. In some instances, changes were identified for both the strategic and detailed policies. As the plan is to be read as a whole, changes have largely been proposed to the strategic policies, this ensures that the matters are dealt with at the highest level. The relevant changes are contained in the Council's Schedule of Proposed Additional Modifications and are detailed in Appendix 1 along with changes to the SA/SEA.
- 4.2 Natural England's representation to the Proposed Submission Local Plan also suggested additional wording for inclusion within Policy SP11. These are now agreed and are listed in Appendix 2 of this document.
- 4.3 Natural England's representation also identified the need for additional work in relation to mitigation of the impact of housing development on Therfield Heath SSSI and the Sustainability Appraisal. These matters are also described in more detail below.
- 4.4 Subject to the changes detailed in Appendices 1 and 2 and the information available at this time, it is **agreed** that the strategy and policies within the NHDC Local Plan

provide a sound basis for the protection and enhancement of the environment up to 2031 in accordance with national and European legislation. It is also **agreed** that the plan provides appropriate framework for water and wastewater infrastructure in the district up to 2031. The agreed changes to Policy SP11 specifically limits development to 2026 unless the required capacity at Rye Meads STW, including any required sewer connections are available.

- 4.5 It is **agreed** that the Council's Local Plan Habitats Regulations Assessment report provides an accurate assessment of the district, and in concluding that no significant effects are likely, it is agreed that no Appropriate Assessment is needed to support the North Hertfordshire Local Plan.
- 4.6 It is **agreed** that there are no outstanding issues in relation to the Habitats Regulation Assessment in the area of North Hertfordshire (in addition to the changes set out in the schedule of minor modifications (appendices 1 and 2 of this document)

Therfield Heath SSSI

- 4.7 It is **agreed** that following preparation of the plan, planning applications have been submitted on the three largest sites around Royston (RY1, RY2 and RY10). Following submission of additional information by the applicant in relation to site RY1 and a planning application for 279 homes, it is agreed that Natural England consider that the identified impacts on Therfield Heath Site of Special Scientific Interest (SSSI) arising from the development of this site can be appropriately mitigated with measures secured via planning conditions or obligations as advised and have withdrawn their previous objection to the development of this site.
- 4.8 It is **agreed** that impacts arising from the proposed allocations within Royston and surrounding areas on Therfield Heath SSSI (both alone and in combination) can be appropriately mitigated and that a mitigation strategy will be developed in consultation with Natural England and that this will be agreed prior to the adoption of the Local Plan.
- 4.9 It is **agreed** that this resolves the objections made by Natural England on these matters at the Regulation 19 consultation stage.'

Area of Outstanding Natural Beauty

- 4.10 It is **agreed** that the sites to the East of Luton (SP19) do not have a material impact on the AONB (or its setting) as confirmed by the landscape assessments accompanying the planning applications¹ in this area. The SA/SEA (and associated landscape assessment) however state that the allocations can only accommodate small scale development, with respect to non-AONB landscapes of high value.

Sustainability Appraisal

- 4.11 Minor changes to scoring were **agreed** in relation to RY1 to accord with concerns NE had with the possible impact of recreation on Therfield Heath SSSI. In addition, the impact of recreational pressure on all designated sites needed to figure in the key

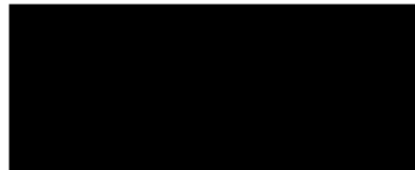
¹ 16/02014/1 and 17/00830/1

sustainability issues table and also the overall residual significant impacts of the plan, although this is only true of Therfield Heath.

- 4.12 In relation to the East of Luton sites (SP19), Natural England's representations suggested some further justification was needed regarding where the unmet need is to be met. Natural England still considers that the SA does not currently allow allocations EL1, EL2 and EL3 to be adequately assessed against all other potential sites within the Luton HMA beyond the North Hertfordshire District but otherwise agrees that the Council's Sustainability Appraisal provides a sound assessment of the plan and accords with the SEA Directive.
- 4.13 North Hertfordshire District Council considers that the SA is proportionate and reasonable in its approach to the sites East of Luton. It is **agreed** the Luton Housing Market Area Growth Study has been published and the SA/SEA has been updated to take this into account. Additional wording has been added to the SA/SEA to reflect this updated position and to justify the sites in that location.



Mr John Torlesse
Manager – West Anglia
Area Team
Signed on behalf of
Natural England
24 November 2017



Cllr David Levett
Executive Member for Planning and
Enterprise
Signed on behalf of
North Hertfordshire District Council
22 November 2017

Appendix 1: Submitted Proposed Modifications to the Plan / SASEA

Changes to Plan (*please note para. 4.138 has additional proposed changes in Appendix 2)

Policy / para	Page	Change	Reason
Policy SP1(c)(iv)	31	Protect key elements of North Hertfordshire's environment including biodiversity , important landscapes...	Representations by Natural England [15697]
Policy SP11 [new criterion]	55	Work with utilities providers, East Hertfordshire District Council and relevant agencies to ensure additional wastewater treatment capacity is delivered without harm to protected European sites.	Representations by Natural England [15697]
After para 4.138 [new para.]	56	Wastewater from some parts of North Hertfordshire is treated at Rye Meads on the Hertfordshire / Essex border. This site lies within a protected site of European importance and currently has capacity to serve additional development until 2026. We will work with the relevant bodies to ensure long-term wastewater treatment solutions are available which will not have an adverse impact upon the Lee Valley Special Protection Area.*	Representations by Natural England [15697]
Policy SP12 [new criterion]	56	<p>a. Protect, enhance and manage designated sites in accordance with the following hierarchy of designations:</p> <ul style="list-style-type: none"> • Internationally designated sites • Nationally designated sites • Priority species & habitats • Locally designated sites 	Representations by Natural England [15697], Hertfordshire County Council [310] and Royal Society for the Protection of Birds [855]

<p>After para 4.144 [new paras, moved from paras 11.41- 11.45]</p>	<p>56</p>	<p>Whilst there are no biodiversity sites designated at the European level in the District, for example Ramsar sites, Special Areas of Conservation or Special Protection Areas, there are a number of nationally designated sites. This includes six Sites of Special Scientific Interest (SSSIs) as shown on the Proposals Map and eight designated Local Nature Reserves (LNRs).</p> <p>Ancient woodland is a nationally agreed designation for land that has been woodland since at least 1600 AD. The District’s woodlands will be managed over the plan period to provide recreation and amenity for local residents, and also to ensure their survival to benefit biodiversity.</p> <p>Species or Habitats of Principal Importance as identified in S41 of the Natural Environment and Rural Communities Act 2006 are defined at the national level and the Hertfordshire Biodiversity Action Plan^[x] sets out an approach to biodiversity at the county level. In addition to this, the Hertfordshire Local Nature Partnership (LNP) Guiding Principles have informed the policies in this Plan.</p> <p>The District has over 300 designated Wildlife Sites^[y]. The Hertfordshire Environmental Records Centre updates the list of designated Wildlife Sites on a regular basis. Sites identified or designated as Wildlife Sites are afforded protection as sites of substantive nature conservation value.</p> <p>Local Geological Sites are given the same level of protection as Wildlife Sites and are considered important for their educational or historical value. There are currently 11 Local Geological Sites in North Hertfordshire.</p> <p>[x] Hertfordshire Environmental Forum (2006) A Biodiversity Action Plan for Hertfordshire, http://www.hef.org.uk/nature/biodiversity_vision/index.htm</p> <p>[y] Please refer to the list held by the Hertfordshire Environmental Records Centre for the current list of designated Wildlife Sites</p>	<p>Consequential to suggested changes to Policy SP12</p>
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Policy NE6	117	<p>POLICY NE6: Designated Biodiversity and geological sites</p> <p>...</p> <p>a. Protect, enhance and manage designated sites in accordance with the following hierarchy of designations:</p> <ul style="list-style-type: none"> • Internationally designated sites • Nationally designated sites • National Planning Policy Framework sites • Locally designated sites <p>a. Submit an ecological survey and demonstrate that adverse effects can be avoided and / or satisfactorily minimised by following the hierarchy below...</p> <p>...</p> <p>b. Manage construction impacts by:</p> <ol style="list-style-type: none"> i. Demonstrating how existing wildlife habitats supporting priority species will be retained, safeguarded and managed during construction; and ii. Providing a buffer of complimentary habitat for all connective features of wildlife habitats, or priority habitats and species <p>...</p> <p>Development proposals on non-designated sites that include important habitats and species will be expected to meet parts (b) to (d) the requirements of this policy...</p>	<p>Representations by Herts & Middlesex Wildlife Trust [5907], Natural England [15697] and Royal Society for the Protection of Birds [855]</p>
Para 13.297	204	<p>....is one of the key considerations. The district council is preparing a mitigation strategy to identify specific requirements for sites in Royston to mitigate the potential impact on the SSSI. Our evidence base concludes that,</p>	<p>Representations by Natural England [15697] – and further discussion</p>

Changes to SA SEA

Representation	Consultee	NHDC response	Change to be made to Submission SA
<p>Policy SP19: Sites EL1, EL2 & EL3 – East of Luton</p> <p>There hasn't been an adequate assessment of alternatives. The Sustainability Appraisal (SA) should set out the alternative locations/sites considered to meet the housing need elsewhere or alternative ways of meeting the need, as well as the rationale for selecting the allocation site. We note that only 150 homes are required to meet North Hertfordshire's housing requirement with the remaining 1950 homes addressing needs that cannot be physically accommodated within Luton. Thus, alternatives for this 1950 should be presented both within Luton and other neighbouring local authorities.</p>	<p>Representations by Natural England [15697] (Rep 5526)</p>	<p>Alternatives were considered, but no reasonable alternatives were identified to providing EL1, EL2 and EL3 to contribute to the housing need in the Luton Housing Market Area. However, it is acknowledged that this wasn't outlined in the Draft SA report.</p>	<p>Information on the approach to selecting EL1, EL2 and EL3 to be added to section 4 of the report as follows:</p> <p>The four local authorities in the Luton Housing Marking Area (HMA) commissioned a study to consider reasonable alternatives for delivering the housing need for the HMA and to help meet unmet need arising from Luton BC. The four authorities on the Steering Group for the study comprise Central Bedfordshire Council (CBC), Luton Borough Council (Luton BC), Aylesbury Vale District Council (AVDC), and North Hertfordshire District Council (NHDC).</p> <p>As outlined in this study^[1], it is possible to meet this need within the HMA. As part of the study, sites EL1, EL2 and EL3 (jointly named East Luton) are assessed as having a high deliverability and medium viability. NHDC has concluded that there are no reasonable alternatives to developing these sites to contribute to the need for the HMA and unmet need arising from Luton. That is because:</p> <ul style="list-style-type: none"> • The duty to co-operate as set out in the NPPF and PPG requires the Council to make every effort to secure cooperation

^[1] Luton HMA Growth Options Study, LUC in association with BBP Regeneration, November 2016

Representation	Consultee	NHDC response	Change to be made to Submission SA
			<p>on strategic issues. In this regard meeting, unmet need arising from Luton - The sites to the east of Luton are in close proximity to Luton (within the HMA) and are deliverable within the timescale and their selection is justified through the plan process;</p> <ul style="list-style-type: none"> <li data-bbox="1518 475 2087 1074">• The NPPF outlines that housing need should be met within a HMA (i.e. it is not reasonable to seek sites outside the HMA for this purpose) - Whilst large portions of the HMA lie outside the North Hertfordshire district area, it is not in the authority's jurisdiction to make judgements regarding the acceptability of these alternative sites. As neighbouring authorities plans emerge the provision of need within the HMA will become clearer. The HMA Growth Study has highlighted that the need can be accommodated within the HMA boundary and so alternatives outside the HMA boundary cannot be considered as reasonable at this time; and <li data-bbox="1518 1086 2087 1345">• There are no other reasonable alternative sites within the North Hertfordshire part of the HMA that can contribute significantly to meeting the need. The HMA area is assessed in the growth study through constraints mapping and absolute constraints cover a large majority of the area within North

Representation	Consultee	NHDC response	Change to be made to Submission SA
<p>Table 6: Key sustainability issues - Specific reference needs to be made to the issue of recreational disturbance on ecological designated sites under the heading 'Environmental protection. This is a key issue at, for example, Therfield Heath SSSI and should be a prominent element of the assessment of sites.</p>	<p>Representations by Natural England [15697] Rep 5526</p>	<p>Impacts on ecological sites were considered in each appraisal. Table 6 (and table 17) noted the pressure that key habitats are under pressure from a number of sources, including new development.</p>	<p>Hertfordshire outside of the allocated sites.</p> <p>Add recreational disturbance as a cause of pressure on habitats in tables 6, 17 and Appendix 2.</p>
<p>Table 7: Appraisal framework - The SA objectives and sub objectives make no reference to geodiversity and soils. We would also expect to see an objective relating to Green Infrastructure.</p>	<p>Representations by Natural England [15697] Rep 5526</p>	<p>Protecting soil quality is included within objective 3(d). Geodiversity was included within objective 3(d) but this was not made clear. Impacts on RIGS sites has now been included in the significance criteria (appendix 5) and we have reviewed the appraisals to ensure that potential impacts on RIGS sites have been considered. It is considered that green infrastructure is adequately addressed by a combination of objective 2(b) and 3(a).</p>	<p>Significance criteria for objective 3(d) changed to reference impacts on RIGS sites (appendix 5) and reflect this in appraisal matrices for preferred sites(appendix 6).</p>
<p>Table 9: Residual significant sustainability effects of the Plan - Residual effects should include increased recreational pressure on ecological sites such Therfield Heath SSSI and appropriate monitoring should be added to Table 10 -</p>	<p>Representations by Natural England [15697] Rep 5526</p>	<p>As noted below, it is acknowledged that there are likely to be significant negative effects on the SSSI due to recreational pressures.</p>	<p>See below</p>

Representation	Consultee	NHDC response	Change to be made to Submission SA
<p>2 Context, baseline and sustainability objectives We would have expected to see a list of important ecological features in this section. As a minimum, nationally designated sites within and in close proximity to the district should be included.</p>	Representations by Natural England [15697] Rep 5526		Main reported amended to note the presence of the 6 SSIs and the 3 European sites within 15km of the District.
<p>2.16 Royston - RY1 –formerly site 218 – West of Ivy Farm The site assessment of RY1 has given assigned a ‘?’ indicating uncertainty for SA Objective 3a (will the site protect and enhance biodiversity). Given that we consider current mitigation to be insufficient to prevent impacts on the adjacent SSSI this site should be assigned a negative or major negative score. It is notable that would leave the site scoring negatively in all of the Environmental Protection SA Objectives as well as for soils and a number of other sustainability criteria. There is no cumulative assessment of impacts arising from the sum of development in Royston and no consideration of alternatives.</p>	Representations by Natural England [15697] Rep 5526	A cumulative impact assessment of development in Royston is included within the report -this is cluster A listed and shown in map form in para 7.2 in the report. Potential impacts on Therfield Heath are identified and listed in table 31, and mitigation measures identified. Given the concern expressed by Natural England it is agreed that stronger mitigation measures are needed to address potential disturbance and it is agreed that the site should be assigned a negative score for objective 3a. With regard to options for sites, a wide range of sites have been considered to meet the identified housing need and assessed as described in the report.	Appendix 6 – the summary and matrix for this site amended to reflect a negative score for objective 3a. Mitigation Table (Appendix 9) page 87 amended so that in the row noting impact on Therfield Heath SSSI the last sentence in the column regarding recommendations/mitigation reads: It is recommended that a Mitigation Strategy be developed in consultation with Natural England to ensure that developers of these sites contribute towards appropriate measures to protect the SSSI from recreational pressures. The mitigation strategy should include appropriate monitoring”. Row also amended to show that the residual effect is uncertain (because it is not clear whether the proposed mitigation will fully mitigate the potentially significant effect). Row also amended to correct the typographical error which is in the published version. In the main report, tables 9, 31, 35 and 36 amended to reflect this change

Appendix 2: Additional Proposed Modifications to the Proposed Submission Local Plan

Para / page	Page	Change	Reason
Policy SP11 [New criteria e]	55	Co-operate with utilities and service providers to ensure that appropriate capacity is available to serve new development; and Ensure new development does not have an adverse effect on the Lee Valley Special Protection Area. New development post 2026 will only be permitted if the required capacity is available at Rye Meads STW, including any associated sewer connections.	Representations by Natural England [1569]
After para 4.138 [new para.]	56	Wastewater from some parts of North Hertfordshire is treated at Rye Meads on the Hertfordshire / Essex border. This site lies within a protected site of European importance and currently has capacity to serve additional development until 2026. We will work with the relevant bodies to ensure long-term wastewater treatment solutions are available which will not have an adverse impact upon the Lee Valley Special Protection Area. New development post 2026 will only be permitted if the required capacity is available at Rye Meads STW, including any associated sewer connections.	Representations by Natural England [1569]