

# Sele Neighbourhood Area Plan 2018-2033

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## Submission Version

A Report to East Herts District Council on the Examination of the Sele Neighbourhood Area Plan

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## Executive Summary

My examination has concluded that the Sele Neighbourhood Area Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Linking the requirements to provide access to green areas to those sites requiring the preparation of a master plan.
- Removing the reference to ownership / community stewardship in the Protected Open Space Policy.
- Removing the part of the policy regarding the protection of sites identified as having important species and habitats as defined by section 41 of the NERC Act which duplicates existing District Plan policy.
- Inserting a green infrastructure network plan into the Green Corridor and Network policy.
- Removal of the floodplain policy, which duplicates District Plan Policy WAT1.
- Deletion of viewpoint 2.
- Separating the requirements for non-designated heritage assets from those protecting designated heritage assets.
- Removing the wildlife protection criteria from the Golding policy, which relates to its historic park status.
- Removing the St John Ambulance site from the list of protected community buildings.
- Not making support for improvements to the Fleming Crescent Shopping Parade conditional on meeting the policy requirements.
- Retaining the threshold of 10 dwellings before triggering requirements to deliver affordable rental housing/shared ownership housing.
- Amending the land policy to refer to new residential development.
- Minor amendments to the Design of New Housing Policy.
- Removing the requirements for a 15- metre landscape buffer between new and existing development.
- Requiring the replacement of lost parking spaces in a garage court to the replacement only of the number of spaces which are shown to be actually used based on survey.

The referendum area does not need to be extended beyond the plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted East Herts District Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Hertford Town Council. A Community Steering Group was appointed to undertake the plan's preparations on behalf of the Town Council.
3. This report is the outcome of my examination of the Submission Version of the Sele Neighbourhood Area Plan. I will from this point onwards, tend to refer to the plan as the Sele Neighbourhood Plan, to be consistent with the approach in the submission document. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by East Herts District Council.
4. It will be appreciated that in the light of the COVID 19 crisis, a referendum cannot be held until at least May 2021. However, upon East Herts District Council issuing of the Decision Statement, under Regulation 18 of the Neighbourhood Planning Regulations, indicating how it intends to respond to my recommendations, the plan as modified, can be accorded *significant weight* in development management decisions, until such time as a referendum is held.

## The Examiner's Role

5. I was appointed by East Herts District Council in mid - September 2020, with the agreement of Hertford Town Council to conduct this examination.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 42 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of East Herts District Council and Hertford Town Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

7. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
  - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the plan should proceed to referendum, if modified.
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements
8. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Sele Neighbourhood Plan area.
9. In examining the Plan, the Independent Examiner is expected to address the following questions
  - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
  - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
  - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?
10. I am able to confirm that the Plan, if modified in accordance with my recommendations, does now only relate to the development and use of land, covering the area designated by East Herts District Council, for the Sele Neighbourhood Plan, on 5<sup>th</sup> April 2016.
11. I can also confirm that it does specify the period over which the plan has effect, namely the period from 2018 up to 2033.
12. I can confirm that the plan does not contain policies dealing with any “excluded development”.
13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
14. I am satisfied that Hertford Town Council as a parish council can act as a qualifying body under the terms of the legislation.

## **The Examination Process**

15. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
16. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

17. Firstly, I am satisfied that I can properly examine the plan without the need for a hearing.
18. I carried out an unaccompanied visit to Sele on the afternoon of 5<sup>th</sup> October 2020 and also the following morning. I had that morning visited neighbouring Bengoe where I was also examining their neighbourhood plan. I started at the shopping parade at Fleming Crescent before driving around the plan area, looking at all the sites proposed for designation, including all the proposed viewpoints. I drove around the various residential areas, saw the Local Plan allocation sites and was able to assess the relationship with the surrounding countryside including its views of the urban area.
19. Following my site visits, I prepared a document seeking clarification on a number of matters, which I sent to both the Town Council and East Herts District Council, entitled Initial Comments of the Independent Examiner, dated 8<sup>th</sup> October 2020. I received a response from East Herts District Council on 26<sup>th</sup> October 2020 and a response from the Town Council on 26<sup>th</sup> and 28<sup>th</sup> October 2020. These responses have been placed on the respective websites.

### **The Consultation Process**

20. Following the designation of the plan area the Town Clerk wrote to several residents who are believed to have been able to offer a good insight into the Sele community in order to enlist their support for the neighbourhood plan initiative.
21. The first public event was held on 26<sup>th</sup> May 2016 at Sele School which was attended by 70 members of the public. This led to the setting up of the Community Steering Group.
22. In October 2016 the Town Council organised a series of public workshops which were attended by 50 members of the public and their feedback informed the production of a ward survey. This survey was carried out between November 2016 and February 2017 and was promoted through a number of different avenues which generated a total of 151 responses.
23. Two public engagement events were organised to seek the residents' views on the plan's objectives and policies. This took place at Sele School on 18<sup>th</sup> July 2017 which was attended by over 60 people. The second session took place on 22<sup>nd</sup> July 2017 at a fun day event organised by one of the housing associations in the area. This generated additional comments from 50 people.
24. An exhibition, based on the draft plan took place at Sele School on 19<sup>th</sup> April 2018 which included displays from three potential developers. This was attended by around 180 people. A separate event was held on 3<sup>rd</sup> June 2018 for the Goldings area, which was held at the Waterford Village Hall and was attended by 21 Goldings residents.
25. All this activity culminated with the preparation of the Pre-Submission version of the neighbourhood plan which was the subject of a consultation, known as the Regulation 14 consultation, which ran from 4<sup>th</sup> February to 22<sup>nd</sup> March 2019. This consultation included a 2-hour drop-in session, at the Fleming Crescent shopping parade. In total, 16 residents made comments on the pre- submission version, plus 15 other consultees responded. These are fully set out in Appendix 21 of the

Consultation Statement, which both records the comments made and the resultant changes made to the plan as a result of consultation responses.

26. I am satisfied that the Town Council and the Community Steering Group has actively sought the views of local residents and other stakeholders and their input has helped shape the plan.

### **Regulation 16 Consultation**

27. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over an 8-week period, between 16<sup>th</sup> July 2020 and 10<sup>th</sup> September 2020. This consultation was organised by East Herts District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

28. In total, 20 responses were received, from Natural England, Historic England, Thames Water, Affinity Water, Hertfordshire County Council, Hertford Civic Society, National Grid, Hertfordshire Constabulary, Sports England, Environment Agency, East Hertfordshire Housing Service and Tarmac Trading Limited and from 8 local residents.

29. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

### **The Basic Conditions**

30. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

31. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## Compliance with the Development Plan

33. For the purpose of this neighbourhood plan, the overarching strategic policy context is provided by the East Herts District Plan, which was adopted in October 2018. That contains the strategic policies of the development plan, for the consideration of one of the above basic conditions. The other part of the development plan covering this area is the Hertfordshire County Council Minerals and Waste Local Plan, which deals with what are county matters, which are defined as “excluded development” which are beyond the scope of what a neighbourhood plan can address.
34. Policy DPS1 sets a figure of 18,458 new homes to be built in the period up to 2033.
35. Sele is not specifically referred to in the District Plan, although the urban part of the neighbourhood area falls within the county town of Hertford, which features strongly. The spatial strategy proposes, in Policy DPS2, a number of urban extensions to the district’s larger towns, which are set out individually by Policy DPS3. Two of these sites fall within the plan area, together identified as HERT3, which is referred to as Land West of Hertford, split on two sites, to the north of, and south of Welwyn Road. Collectively, the two sites are expected to deliver 550 new homes, 300 north of Welwyn Road and 250 to the south, west of Thieves Lane.
36. Beyond the urban boundary the countryside lies in the Green Belt, where the relevant policy is set out in Policy GBR1.
37. Chapter 7 of the plan document, specifically relates to Hertford. In total the plan requires the town to deliver a minimum of 950 new homes, inclusive of the strategic allocation and windfall sites.
38. Policy HERT3 requires the sites to be masterplanned and the development requires the provision of additional infrastructure including an upgrade to the sewerage system, communication infrastructure and SUDS and sustainable drainage, contributions to highway mitigation and the encouragement of sustainable transport measures, landscaping within and on the periphery of the site to provide a defined recognisable boundary to the Green Belt. The policy requires the protection of public rights of way and contributions to the Panshanger Country Park.
39. In terms of the plan’s housing policies, Policy HOU1 introduces a requirement for an appropriate mix of housing on schemes of five or more additional units. Policy HOU2 requires development to make efficient use of land for housing, at the same time as being informed by the underlying character of the area. It recognises that higher densities will be favourably considered, closer to the town centre. Affordable housing thresholds are set out in Policy HOU3. Policy HOU8 requires on schemes of over 200 units that at least 1% of dwelling plots should be for sale to self-builders.

40. Policy RTC5 deals with maintaining the vitality and viability of local parades of which Fleming Crescent is identified in Table 16.1
41. Policy DES1 requires the preparation of master plans on what it describes as “significant” development proposals. Policy DES2 deals with the protection of the district’s landscape character and more detailed proposals for landscaping are set out in Policy DES3.
42. High design expectations are set out in what is a comprehensive design policy, Policy DES4. Sustainable transport issues are promoted in Policy TRA1 including the improvement of pedestrian links, cycle paths, public transport including the creation of new routes and other off site mitigation measures.
43. Vehicle parking standards are covered by Policy TRA3 which refers in itself to the currently adopted Vehicle Parking Provision at New Development SPD.
44. Community facilities are protected by Policy CFLR8. Policy NE1 deals with the protection of designated nature conservation sites and for non-designated sites or features of nature conservation interest, the policy points, in Policy NE2, to all proposals needing to seek to achieve a net gain in biodiversity. Policy NE4 looks for the protection or enhancement of the green infrastructure network.
45. Policies HA1 and HA2 cover respectively, designated and non-designated heritage assets. Flood risk management is covered by Policy WAT1 which refers to protecting from inappropriate development the functional floodplain. The provision of infrastructure associated with new development is set out in Policy DEL1. The requirements regarding the seeking of planning obligations are covered by Policy DEL2 which sets out the three tests contained in Reg 122 of the Community Infrastructure Levy Regulations.
46. My overall conclusion is that the neighbourhood plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the East Herts District Plan.

### **Compliance with European and Human Rights Legislation**

47. Hertford Town Council issued a Screening Opinion, in a report dated August 2019, which concluded that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required. In a report dated 13<sup>th</sup> January 2020, the District Council confirmed that an SEA would not be required, as the plan is unlikely to have significant environmental effects.
48. East Hertfordshire District Council, as competent authority, in the same report also screened the plan under the Conservation of Habitat and Species Regulations. This report also considered the neighbourhood plan in terms of the impact on the nearest European protected sites, which are the Lee Valley SPA / Ramsar site and the Wormley- Hoddesdonpark Woods SAC and it concluded that there were no significant impacts and the plan could be screened out.
49. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance

with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

## **The Neighbourhood Plan: An Overview**

49. I must firstly commend the Town Council and the Community Steering Group on the quality and quantity of the submission documents. As I found with the Bengeo Neighbourhood Area Plan which the Town Council had produced, this plan is also well set out and is an easy read. It makes good use of photographs and the mapping is clear. Again, as a document I find that the plan is fit for purpose.
50. The plan, in a number of policies, seeks to designate particular areas for protection, whether it be as local green space, important views, non-designated heritage assets or community facilities to be protected. This is an important role that allows neighbourhood plans to reflect what is important to the community in terms of their environment. I am generally satisfied that most of the individual designations are appropriate and have been justified. There are a small number of proposed designations which I have not been able to support, in particular, one of the three views and a proposed non designated heritage asset.
51. It is important to appreciate that neighbourhood plans are the opportunity for the community to prepare the planning policies which will be used to determine planning applications. The Town Council has already included within the plan document – Appendix F an Action Plan, a list of non-planning related projects and actions, which will not form part of the development plan. That is in line with approach recommended by the Secretary of State. It is important to understand the implications of policies which apply to all development proposals.
52. The plan advocates the use of planning obligations in a number of policies. Since 2010 they have been strict rules imposed as to where planning obligations can be taken into consideration when determining a planning application. These are set out in regulation and are referred to in paragraph 56 of the NPPF. These state
  - “planning obligations must only be sought where they meet all the following tests
  - necessary to make the development acceptable in planning terms
  - directly related to the development
  - fairly related in scale and kind to the development.”
53. The District Plan incorporates this wording into its Planning Obligation policy, Policy DEL2. There are other policies in the District Plan which provide the hook to seek funding through developer contributions where it meets the above tests. I have cross referenced these so the two plans can work together in a complimentary fashion.
54. It is important that the neighbourhood plans add additional detail or a particular local dimension to the development plan and is not essentially repeating the requirements set out in the District Plan. There is no value in duplicating existing

policy which will already be covering the plan area and this is be contrary to NPPF policy as set out in paragraph 16 f.

55. The plan adds these local dimensions by, for example, seeking to protect assets which are important to the community, whether it be the access to the countryside and open space, heritage assets, wildlife sites or important views. The plan does focus on specific planning issues that are unique to Sele, particularly in the areas of car parking and the need to have the necessary social infrastructure to support the needs of residents as well as maintaining access to green spaces and the countryside.
56. It is apparent to me that the Town Council has sought to influence through this neighbourhood plan, the two District Plan allocation sites which fall within the plan area under Policy HERT3. However, in some respects, and particularly regarding the site to the west of Thieves Lane, these developments are now running in advance of the neighbourhood plan. The masterplans for both have been agreed and in the case of the more southerly site the necessary planning applications have been approved and conditions discharged. Construction work is well underway. The ability of the plan to guide that development is now somewhat limited. This is not an altogether unusual eventuality, as often the plan making programme will not coincide with site development. However, from what I have seen many of the aspirations of the neighbourhood plan have been taken on board and this has been confirmed in the District Council's response to my Initial Comments document.
57. The development of the northern site, known as Archers Spring is running behind the southern site, but I do know that the District Council as Local Planning Authority approved the masterplan for the site in March 2019, which establishes the principles of development which is now the subject of an outline planning application.
58. It was important that the plan's focus does not concentrate just on these strategic developments and it does not do so. Many of the plan's aspirations can only be delivered on larger sites, such as providing continuity of access to green infrastructure or open spaces and the District Plan's threshold of "significant" developments where masterplans are required, is I believe, a suitable threshold to trigger these requirements.
59. I conclude that the plan, taken as a whole, does help with the delivery of sustainable development, especially when used in conjunction with the District Plan.
60. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, in order that the plan will still read as a coherent planning document.
61. Following the publication of this report, I would urge the Town Council and East Herts planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood

plan matches the policy, once amended in line with my recommendations. There will also need to be editorial matters to resolve such as policy numbering, as a consequence of my recommended changes.

## The Neighbourhood Development Plan Policies

### Policy HSHE1: Access to Green Space

62. It is important that the policy is not seen as being restricted to just the HERT3 sites. It requires other developments to incorporate access to green open spaces, including the green open spaces created within the district plan allocations.
63. I consider that the aspirations contained within the policy are in line with national and local plan policies. However, it would not be appropriate for every development proposal within the plan area, to have to “aim to improve access”. As a workable policy, it will only be limited development, namely those that pass the threshold of being required to prepare a masterplan as required by District Plan Policy DES1 that could justify the creation of these links to green / open spaces.

#### *Recommendation*

***After “Development proposals” insert “that require the preparation of a masterplan under the terms of District Plan Policy DES1”.***

### Policy HSHE2 – Protected Recreational Open Space

64. I have no comments on the community’s choice of the nine areas which are proposed to be designated as protected recreational open space.
65. My only concern relates to criterion III which relates to the management of the spaces rather than the land use. The question of ownership/community stewardship are matters that can be referred to in the neighbourhood plan but in the supporting text or the Action Plan in Appendix F and should not be included within the planning policy, which is used to determine a planning application.

#### *Recommendation*

***Delete III and move to the supporting text or the Action Plan***

### Policy HSHE3 – Conserve and Enhance Biodiversity

66. The policy should acknowledge that the need to secure net biodiversity gains derive from District Plan Policy NE2 as well as the NPPF (para 174).
67. I identified a typographical error in the policy which should refer to the local wildlife sites shown as Appendix D rather than Appendix A.
68. The final part of the policy seeks to protect from significant harm sites that have been identified by the Hertfordshire Ecological Network Mapping as sites which contain Species and Habitats of Importance, as set out in Section 41 of the Natural Environment and Rural Communities Act 2006. These are not mapped in the plan and a user of the plan would not know, whether the policy applied to a specific site or not. Such sites are already protected within the Sele

Neighbourhood Area by District Plan Policy NE3 and there is no value in this policy just duplicating that policy, which would be against Secretary of State policy for plan making. I will therefore recommend that the final paragraph of the policy be deleted, but the District Plan Policy NE3 can be signposted in the supporting text.

### **Recommendations**

***In the last sentence of the first paragraph, change “Appendix A” to “Appendix D”***

***Delete Clause III from the policy and instead refer to the protection of the Section 41 of the NERC Act sites, provided by District Plan Policy NE3***

### **Policy HSHE4 – Green Corridors and Networks**

69. This policy seeks to protect and, and if possible, enhance to grant public access to what are described as *green corridors*. These green corridors are not defined nor are they shown on a map where they are in the neighbourhood area. Green corridors are not mentioned in the plan’s glossary nor defined in the NPPF or the District Plan. The NPPF and the East Hertfordshire Green Infrastructure Plan, which is part of the evidence base behind the District Plan refers to either green links, green infrastructure or wildlife corridors.
70. The Green Infrastructure Plan does show proposed strategic and local links, as well as mapping existing linear green infrastructure networks. It will be helpful for applicants and decision-makers to know where these are, in terms of a particular site. They are shown on the Proposed Green Infrastructure Network Map, set out in Figure 3.1 of the Green Infrastructure Plan. The plan area is set out in the following map which is an extract from that map.



71. I consider that the policy's desire to reflect this proposed new network is consistent with Secretary of State advice that plans should take a "strategic approach to maintaining and enhancing networks of habitats and green infrastructure". I will maintain the requirements set out in clause I but relate it to the networks which are shown on the above extract from the Proposed Green Infrastructure Network Map, which should be incorporated into the plan.
72. In terms of clause II, the plan, in its glossary defines a major development proposal, as a scheme of 10 units or more or over 1000 m<sup>2</sup> in respect of non-residential development. However, there could be situations where redevelopment takes place within the main part of the built-up area, rather than at the fringes of the ward, where it would not be a practical proposition for a development to have to provide green infrastructure links to other habitats. The objective of the policy is to be supported, but it should only be a requirement, where it is "appropriate" and "practical."
73. In terms of clause III, the opportunity should be taken to introduce new corridors for wildlife into the HERT3 allocation. Both sites have approved master plans. The northern sites will include a new green corridor from Panshanger Park to the dedicated wildlife site which lies in the south west corner of the Arches Spring development. The development will also include green links to the north.
74. The Archers Spring masterplan provides for the retention and enhancement of the green corridor at the western extremities of the plan area, which is shown on the Policies Map in Appendix A as Green Corridor GC1.
75. That map also shows a second link, shown as GC2, running along the rear of the Bentley Road and The Ridgeway properties. In b) it is suggested that this could be achieved by appropriate design of the rear gardens. I have significant concerns as to the likely efficacy of such a route, once future houses are occupied and achieving the objective of ensuring the physical continuity of a wildlife corridor could be better achieved through a more strategic landscape solution. I propose that the policy be amended so that it provides that the "harmful impact of development" is clarified as having regard to the ability of wildlife to move through the site, as well as providing for the connectivity of humans. I will also retain the first sentence in b) which refers to the inclusion of a green corridor linking Longwood with Blakemore Wood, but to leave the routing to the development management stage rather than being enshrined in policy. The final sentence relating to the choice of species which offer positive benefits for biodiversity, can be retained.

### ***Recommendations***

***In the second sentence, after "plan area" insert "as shown in Appendix X"***

***Insert the map shown in paragraph 69 above as an Appendix and number consequently as necessary.***

***At the end of the first sentence of II insert "where it is appropriate and practical to do so" In the second sentence after "should" insert "if possible".***

***In III b), delete the second sentence***

## Policy HSH5 – Green Infrastructure and SUDS

76. I have no concerns regarding the first paragraph which is consistent with and builds upon District Plan Policy WA25: Sustainable Drainage.
77. My main concern is that the second paragraph is effectively duplicating policy which is already set out in the NPPF and District Plan Policy WAT1: Flood Risk Management. Furthermore, it is not the role of a planning policy to dictate what documents are required to accompany a planning application. That is a matter that is dealt with separately by the District Council in its published Local Validation Checklist.
78. Paragraph 16f) of the NPPF states the plans should “avoid unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)”. This policy has no local dimension, except that it refers to part of the plan area falling within the floodplain of the River Beane, which actually is a statement of fact, rather than of policy. I will therefore accordingly be recommending that the second paragraph of the policy be deleted.

### *Recommendation*

***Delete the second paragraph of the policy***

## Policy HSHE6 – Local Green Space

79. The information provided within the supporting text and the Appendix E spreadsheet, provides justification as to why these areas are demonstrably special to the local community and I am satisfied that they all pass the threshold set out in paragraph 100 of the NPPF.
80. I have no concerns with regard to this policy meeting the basic conditions.

## Policy HSHE7 – Views and Vistas

81. During my site visit I was not able to appreciate the vista as set out in view one due to the direction of temporary site hoardings around the development site. However, I note that the approval layout does create a vista through the creation of an avenue, running from the roundabout towards Blakemore Wood. I recognise that this will remain an important view from a public viewpoint.
82. I do not believe that the same status can be accorded to View 2. I was conscious that the inclusion of this view is the subject of a Regulation 16 objection submitted on behalf of Tarmac Trading Ltd. On my site visit I attempted to identify the specific public viewpoint where the photograph was taken, or where that view would be appreciated from. I noted that there was no footpath along the section of Bramfield Road and no obvious stopping point. Rather the experience of this view is of transitory nature, with views across the fields and of Long Wood being experienced as one travelled along the road. This lack of a specific viewpoint was confirmed by the Town Council in its response to my Initial Comments. The absence of a specific viewpoint to assess a view is, in my opinion, a major failing of this policy, which is seeking to influence the impact of the Archers Spring allocation on the general landscape as appreciated by drivers or cyclists who would be travelling along this section Bramwell Road.

83. The absence of a specific viewpoint would make it impossible for a decisionmaker to carry out an objective assessment of the impact of any development on that view as the analysis will depend upon which part of the road the development is being viewed from. I do note that there are specific requirements which are set out in policy criteria j) of Policy HERT3 III for peripheral landscaping and planting to include a suitable buffer between development and existing woodland and the need to create a defined recognisable boundary to the Green Belt. This is also shown on the Archer Spring's master plan. I will be recommending that View 2 be deleted.
84. However, this policy will sit alongside District Plan Policy DES2: Landscape Character which requires that major applications or development where there is a potential adverse impact on landscape character, a Landscape and Visual Impact Assessment and/or Landscape Sensitivity and Capacity Assessment should be provided. This policy requires that development will only be permitted where appropriate mitigation measures can be delivered. The Archers Spring development would still be considered against that policy.
85. This policy adds a specific local dimension to Policy DES2 by making specific requirements in terms of the important views but these are not set out in the policy but in the supporting text. It would not be appropriate to refer to such text in say, a planning decision notice. I will recommend the requirements specifically set out in paragraphs 4.30 and 4.32 should be incorporated in the respective policy for each viewpoint.

#### **Recommendations**

***In I replace “Three” with “Two”***

***Delete View 2 and renumber accordingly’***

***At the end of View 1 insert a new sentence “The development of this site should retain a vista through the development to the woodland beyond.”***

***At the end of View 3 insert a new sentence “Any development in the foreground should be designed to maintain a vista through the site so that the historic site of Goldings is still visible”***

***In II at the end of the first sentence insert “as required by District Plan Policy DES 2”***

***Delete III.***

#### **Policy HSHE8 – Listed and Non- Listed Buildings**

86. This policy offers the same level of protection to designated heritage assets such as listed buildings as non-designated heritage assets. Such a stance is not in accordance with the Secretary of State's policy, which is to offer different tests for considering the impact of development on non-designated heritage assets, which is different to those which are designated. Specifically, it requires a decision maker to make a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. I will therefore recommend the removal of the reference to “other non – designated heritage assets” in clause I and these can be covered in clause II.
87. One of the roles that a neighbourhood plan can play, is enabling the community to designate unlisted buildings and structures as non-designated heritage

assets. I have no concerns regarding the first and third element which propose for designation the Cemetery Lodge and its boundary wall and railings on North Road. These need to be shown on a plan.

88. I sought clarification from the Town Council as to what buildings or structures were being identified as “remains of Sele Farm, off North Road. The Town Council’s response indicated that it could not identify where that is or how it had been identified. The supporting text in the plan refers to “further investigations are being undertaken.” As I do not know what is being proposed as a heritage asset, I cannot recommend that it be protected and accordingly I will be recommending that this element to the policy be removed.

#### **Recommendations**

***In I delete” and other non-designated heritage assets”***

***In II replace “Three” with “Two”***

***Delete “Remains of Sele Farm off North Road”***

***Add at the end of II “Development proposals which effect these non - designated heritage assets will be permitted provided that the scale of any harm or loss is balanced against the significance of the asset”.***

#### **Policy HSHE9 – Listed and Non-Listed Historic Parks and Gardens**

89. I consider this is a locally distinct policy and I have no comments to make.

#### **Policy HSHE 10 – Goldings**

90. This policy builds on the District Plan’s Policy HA8: Historic Parks and Gardens. It requires the submission of a Heritage Impact Assessment, which again is a matter for the Local Validation Checklist. A policy can require that proposals should have demonstrated that the impact of the development on the matters which are set out in the considerations a) to f) in terms of any impact on the historic park, Goldings have been addressed.

91. The significance of Goldings is as a historic park or garden rather than its significance for wildlife. As such I do not consider this heritage policy can appropriately reflect the issue of harm of proposals which impact on the site’s ecological significance, which are covered by other biodiversity / wildlife protection policies.

92. The second element of the policy relates to consultation procedures for any proposals that affect the parkland and as such that is not a matter for a planning policy, which relates to how an application should be determined rather than how the proposal should have been prepared and consulted upon, prior to its submission. It is appropriate that these matters can be dealt with within the text of the neighbourhood plan, but not as a development plan policy.

#### **Recommendations**

***Delete c) and renumber accordingly***

***Delete II and move to the supporting text.***

#### **Policy HSC1 – Provision of Education Facilities**

93. I have no concerns with regard to a policy that supports additional accessible childcare/preschool facilities. I believe that it could be covered by contributions

where required under the terms of District Plan Policy CFLR10: Education. It is appropriate for the community to express this as a priority, when proposals are assessed against the infrastructure requirements set out in District Plan Policy DEL1: Infrastructure and Service Delivery so long as financial contributions meet the requirements of Policy DEL2: Planning Obligations which incorporates the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

#### **Recommendation**

***At the end of II, insert “sought under the provisions of District Plan Policies CFLR10: Education, DEL1: Infrastructure and Service Delivery and DEL2: Planning Obligations***

### **Policy HSC2: Existing Community Buildings and Land**

94. I have no issues with the identification of the four community buildings as community facilities to be protected. I do not believe that the retention of the vacant site of the former training facilities for St John’s Ambulance in Hawthorn Close is necessarily justified. I note that the final clause in the policy refers to the possibility of replacement facilities for young people and adults being required for a joint Town Council / District Council funded venture. I consider that the policy could support a new community use in that location but I am not convinced that the policy will be delivering sustainable development if it meant that the use of a vacant brownfield site in the middle of the built-up area could not be used for alternative appropriate uses, other than community use. I do not have any information as to the ownership of the land, but I could envisage a scenario where the site could be sold for a residential development which could allow the charity to fund replacement or enhanced facilities in the area, which would also offer continued community benefits. This appears to be accepted in the policy which supports a re-provision of a similar facility in Sele.
95. The possible intention of the Town Council to seek the registration of the four community buildings as Assets of Community Value is a statement of intent on behalf of the Town Council. It is not a policy capable of being used to determine a planning application. The Community Right to Bid provisions is not actually a planning power, although it is part of the suite of localism measures established by the Localism Act 2012. The registration of a community asset only lasts for three years and provides for a moratorium period to allow the community to try to secure the site, before it is put on the property market. The Town Council’s initiative on this matter can be included within the neighbourhood plan, for example, within the action plan set out in Appendix F. but it cannot be part of a development plan policy.
96. However, the objectives of the policy can be achieved by setting a number of criteria for considering planning applications which could result in the loss of these community facilities. It would not be able to control changes of use that do not require planning permission. I will not include b) as the acquisition by the community will ensure the retention of the facilities in perpetuity”.

#### **Recommendations**

***In I delete “sites and”***

**Delete “5. Site of St John Ambulance site”**

**Replace the first paragraph of II with “These community buildings will be retained in community use unless they are:”**

**Delete b)**

**In c) after “contributions” insert “collected pursuant to District Plan Policy CFLR7”**

**In III after “Section 106” insert “collected pursuant to District Plan Policy CFLR7”**

### **Policy HSC3 –New Community Facilities**

97. I have no comments to make on this policy which meets the basic conditions.

### **Policy HSC4 – Contributions to Improve Health Facilities**

98. I consider that it is appropriate for the plan to seek to support a new health centre or an expansion of existing facilities in the area, if it is shown that there is inadequate capacity within the plan area. These could be located at Carlton Court or another accessible location.

99. The funding of such facilities will be a matter for negotiations under the terms of District Plan Policies CFLR9: Health and Wellbeing and DEL2: Planning Obligations.

#### **Recommendation**

**After “Sele ward” insert “collected pursuant to District Plan Policies CFLR9 and DEL2”**

### **Policy HSC5 – Existing Shops (Fleming Crescent)**

100. I consider that the first part of the policy seeking to maintain the viability of the shopping parade is appropriate although there is now greater flexibility as to the possibility of different uses being accommodated under the terms of the new Use Class E. There are now other permitted developments rights associated with retail uses.

101. I do not consider the proposals for the improvement and enhancement of the parade should be conditional upon meeting the three criteria a) to c) - however it is possible for the policy to state that improvements that meet these objectives will be welcomed.

102. The need for consultation with the community and the shopkeepers as stakeholders is something that should be encouraged and can be included in the supporting text but as this is a process related aspiration rather than a decision-making consideration. It would not be appropriate for it to be a factor in the determination of a planning application.

#### **Recommendations**

**In II replace “provided that” with “especially those that provide for”**

**In a) delete “is included”**

**In b) delete “are introduced”**

**In c) replace “is” with “to be”**

**Delete d) and move to supporting text**

### **Policy HSHT1 – Housing Mix and Affordable Housing**

103. Whilst the first sentence of this policy, essentially is a repeat of District Plan Policy HOU1 it does provide a context for the rest of the policy. It is appropriate for the plan to highlight the type of properties that would meet the housing needs of the existing residents and I will propose that the policy be retained. However, it would appear that relying on a threshold of 5 units and the desire for affordable housing for rent or shared ownership could be interpreted as triggering a lower threshold for its provision than as required by District Plan Policy HOU3 where the trigger for schemes of fewer than 10 dwellings, is a combined floorspace of greater than 1,000 sq.m. A lower threshold would also be contrary to the requirements of paragraph 63 of the NPPF which refers to only being sought on major schemes. In order that the policy meets basic conditions I will add a caveat that the threshold for this bullet point is 10 units.

#### **Recommendation**

**At the end of the third bullet point, insert “(only to be required on schemes of 10 units or more)”**

### **Policy HSHT2 – Layout of Redevelopment and New Development**

104. I saw for myself the extent to which on street parking is characteristic of this part of Hertford. Whilst I can understand the aspiration that any redevelopment should seek to improve parking provision, I do not consider that it is a proportionate or justified response to put the onus on developers of sites in the area to have to resolve existing problems, although I accept that the development should not be making pressures on on-street parking worse.

105. I cannot understand the reference to “*Any increase in density*”, if it is not related to a redevelopment proposal. If it is suggested that, perhaps, a new infill development is proposed, which is consistent with the prevailing density of the immediate area, it is not clear whether the policy would apply or not. In that respect the intention of the policy, and the circumstances where it would apply, is ambiguous. Accordingly, I do not believe it could be used for with confidence by the decisionmaker. However, if the policy related to any new residential development, that could include redevelopment or new infill development within the existing built-up area. As the first part of the policy only applies to the existing built-up area, it will not affect the strategic allocation sites.

106. I can understand the desire for the community to seek to retain the existing areas of green open space within the ward. The desire to improve the quality of that space can be an aspiration of the plan, but it should not be a requirement and it would depend on the extent that the development impacts on that open space, especially if the development were not taking place on it or affecting it directly or indirectly.

107. I am unclear as to what the intention of criteria d) is. This requires decision-makers to ensure spaces have a use. I don't know whether it is referring to green spaces, car parking spaces or avoiding what was once colloquially known

as SLOAP (space left over after planning!). Because the intention of the criteria is unclear, I have to recommend that d) be deleted as it would not meet basic conditions in terms of how policies are drafted.

108. In terms of the second part of the policy, the extent to which this neighbourhood plan policy will be a material consideration in the detailed planning for the HERT3 developments may be limited. Nevertheless, I do not consider that its aspirations need to be limited to the allocation sites. Its ambition for innovative layouts would be just as applicable to any other residential development that comes forward during the plan period. I will make a recommended change that would allow this.

#### **Recommendations**

***In I, replace “increase in density or redevelopment” with “new residential development”***

***In a) replace “reduce” with “not worsen on -street”***

***In c) at the start insert “where possible” and delete “and”***

***Delete d)***

***In II delete all of the first sentence up to “Plan)”***

***In the final sentence, remove “both these”***

#### **Policy HSHT3 – Design of New Homes**

109. The requirements of the policy relate to the design of new homes. This policy needs to be used alongside District Plan Policy DS4 which is a more comprehensive expression of design requirements. However, it is appropriate for the neighbourhood plan to respect and reflect the specific wishes of the local community. Issues of protecting the amenities of existing residents as well as new ones is already covered by criteria c) of the above policy.
110. In a), to be clearer to users of the plan, the test to protect residential amenity would be expressed better, by stating that within the existing built-up area, buildings’ height should reflect the prevailing height of properties in the immediate vicinity of the development.
111. The encouragement of micro renewable energy for domestic scale heating and electricity is in line with the climate change aspiration which are set out in the NPPF.
112. Similarly deriving the benefits of surface water attenuation schemes to enhance the amount of open space is making best use of developable land. That should be a requirement in its own right, rather than being needed to “offset the loss of green space and Green Belt” which is not a statement of policy but the justification for its inclusion.
113. A requirement to adopt domestic rainwater harvesting should be a matter that should be encouraged but the use of permeable surfaces on parking areas should be a policy requirement to reduce surface water runoff.

#### **Recommendations**

***In a) replace “be maintained to protect residential amenity” with “reflect the prevailing height of properties in the immediate vicinity of the development”***

***In c) delete “to off-set the loss of green space and Green Belt in the Neighbourhood Plan area.”***

***In the final sentence, add “run-of” after “surface water” and delete “domestic rainwater harvesting -or run-off or”, .***

***Insert a new final sentence. “Domestic rainwater harvesting is encouraged.”***

#### **Policy HSHT4 – Landscaping in New Development**

114. I have no comments to make on the first part of the policy.

115. I do not necessarily accept that it would be justified to require a green buffer between existing housing and any new development, particularly in urban design terms. Leaving a 15-metre buffer, raises the same issues which may have been hinted at in the previous Policy HSHT2 d) with regard to ensuring spaces have a use. A buffer area could be such an area without any apparent use where there was no clear ownership, management or use, which could be used for the dumping of garden waste etc. It is important that as urban extensions, these new developments should become integrated into the existing urban structure. The provision of a buffer between new developments and existing as a statement of policy applicable, without regard to the particular circumstances of each site, could constitute an inefficient use of land.

#### ***Recommendation***

***In II, delete “and between new developments and existing developments”***

#### **Policy HSHT5 – Amenity Greens in Existing Development**

116. This is again a locally distinct policy which is a reflection of the community’s desire to protect such areas which contribute to their immediate environment. I have no comments with regard to basic conditions.

#### **Policy HSHT6 – Vehicle Parking in Residential Areas and New Residential Development**

117. I can appreciate that this will have been important issue during the neighbourhood plan’s preparation.

118. The determination of a planning application affecting residents parking areas cannot be conditional upon there being consultation with local residents although it is a practice that should be encouraged and indeed expected. Residents will, in any event, have an opportunity to be consulted when a planning application has been received, but prior consultation should be strongly encouraged.

119. In terms of redevelopment of garage blocks, I do not consider that it will be sustainable to require replacement of the garage parking, if that garage were not used for car parking, for example if it was rented out for storage. I believe that would effectively preclude any redevelopment of such areas, if the expectation was that the same number of parking spaces had to be provided as garages, in addition to the parking required for new development. I will clarify

that the extent of any parking required to be re-provided, should be established by a survey establishing actual garage usage.

120. I can fully appreciate the desire of the community to ensure that all development has appropriate car parking especially in view of the extent of on street parking in the area. I am happy to conclude that in this location, the proposed level of parking is justified.

#### **Recommendations**

***In the first sentence of I, after “supported” insert “especially”***

***In the final sentence of I after “no net loss of parking” replace “for” with “shown to be used, through surveys, by”***

### **Policy HSHT7 – Safe and Accessible Walking and Cycling Routes**

121. I have no comments to make on this policy except the requirements for new development should only relate to those developments which are, in the words of the District Plan, “significant” in terms of needing the preparation of a master plan.

#### **Recommendation**

***After “New Developments” insert “that require the preparation of a masterplan under the terms of District Plan Policy DES1”.***

### **Policy HSHT8 - Sustainable and Integrated Local Transport Solutions**

122. Much of what is required in this policy is already expected from development in this area, as it is required by Policy TRA1: Sustainable Transport in the District Plan. I will however be proposing to that the parts of the policy be retained to reflect that developments in the plan areas need for incorporating well designed and local bus stops and where required complimentary traffic calming measures, from funds collected via Section 106 payments under Policy TRA 1.

#### **Recommendation**

***In the final sentence, replace “will” with “could” and after “contributions” insert “collected under the provisions of District Plan Policy TRA1”***

### **The Referendum Area**

123. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Sele Neighbourhood Plan as designated by East Herts District Council on 5<sup>th</sup> April 2016 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

### **Summary**

124. I congratulate Hertford Town Council and the Community Steering Group on reaching this important milestone in the preparation of the neighbourhood plan.

I appreciate that a lot of hard work has gone into its production and the Town Council can be proud of the final document, which is well presented. It is a plan that concentrates on a range of issues that are clearly important to the local community as well as seeking to influence strategic allocations taking place in the plan area. The plan will, in conjunction with the District Plan, provide a sound basis for determining planning applications in Sele into the future.

125. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
126. I am therefore delighted to recommend to East Herts District Council that the Sele Neighbourhood Area Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
11th January 2021