



The Planning Inspectorate

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# Report to Hertsmere Borough Council

by **Beverley Doward BSc BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 18<sup>th</sup> May 2015

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO THE ELSTREE WAY CORRIDOR AREA ACTION PLAN**

Document submitted for examination on 23 July 2014

Examination hearings held between 21 and 23 October 2014

File Ref: PINS/N1920/429/11

## **Abbreviations Used in this Report**

AA	Appropriate Assessment
AAP	Area Action Plan
CIL	Community Infrastructure Levy
CS	Hertsmere Borough Council Local Plan Core Strategy Development Plan Document January 2013
DtC	Duty to Co-operate
EWC	Elstree Way Corridor
FE	Form Entry
Framework	National Planning Policy Framework
HCC	Hertfordshire County Council
LDS	Local Development Scheme
MM	Main Modification
MPCC	Maxwell Park Community Centre
PPG	Planning Practice Guidance
S106	Legal agreement (S106 Town and Country Planning Act 1990)
SA	Sustainability Appraisal
SADMP	Site Allocations and Development Management Policies Development Plan Document
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document

## Non-Technical Summary

This report concludes that the Elstree Way Corridor Area Action Plan provides an appropriate basis for the planning of the Elstree Way Corridor (EWC), providing a number of modifications are made to the Plan. Hertsmere Borough Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

Almost all of the modifications were proposed by the Council but where necessary I have amended detailed wording and/or added consequential modifications in the interests of clarity. I have recommended the modifications after full consideration of the representations from other parties on the relevant matters.

The main modifications can be summarised as follows:

- Clarifying the extent of the EWC, ensuring the objectives and general development principles reflect the strategic vision, clarifying the relationship between the strategic vision, objectives, development principles and policies and highlighting the consistency with the Core Strategy;
- Indicating comprehensive development as the preferred approach for development within the identified 'opportunity sites';
- Clarifying the number of residential units to be provided within the EWC and within the 'identified opportunity area';
- Amending the boundaries of the density areas to reflect actual overall densities achieved on sites that have already been developed and to ensure that they are appropriate to adjacent development;
- Ensuring that housing developments of more than 25 units provide for a variation of housing types and sizes in order to create a balanced community and address local need whilst also ensuring that viability is taken into account;
- Clarifying the approach to be taken to retail development proposals within the EWC;
- Recognising that the retention of public services such as the Police or Fire and Rescue Service cannot be enforced through planning policy;
- Clarifying the approach to be applied to proposals for the development of the site identified as a reserve site for a new 2 FE primary school;
- Identifying the most viable option as the preferred site for a health care facility and reallocating the previously preferred site for a new educational facility as part of a mixed used development;
- Amending the policy on supporting community facilities to clarify those that require the safeguarding of land and those for which financial contributions will be sought for their delivery;
- Amending the key interventions necessary to cater for the transport and movement needs of the area to reflect the most up to date modelling and including an indicative scheme layout within the Plan;
- Amending the policy on public realm and townscape to provide sufficient detail to ensure that it is effective;
- Clarifying the application of the design principles to ensure that development proposals do not create an unacceptable impact;

- Clarifying the approach to be applied to development proposals that exceed the general building heights identified to ensure the Plan is effective;
- Clarifying the approach to be applied in relation to parking standards for non-residential development and shared parking to ensure the Plan is effective;
- Clarifying the delivery mechanism proposed for the various infrastructure improvements; and
- Strengthening the monitoring framework to assist the delivery of the Plan.

## Introduction

1. This report contains my assessment of the Elstree Way Corridor Area Action Plan (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (the Framework) (paragraph 182), makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted Plan (July 2014) which is the same as the document published for consultation in February 2014.
3. The formatting error affecting two tables in the electronic version of the Plan was dealt with at the time and I am satisfied that the steps taken to remedy this omission were adequate and that no one has been disadvantaged as a result.
4. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix.
5. The main modifications have been subject to public consultation and I have taken the consultation responses into account in coming to my conclusions in this report. The Council also updated the Sustainability Appraisal. I have made a few amendments to the wording of the proposed main modifications where these were necessary for clarity. None of these changes significantly alter the modifications published for consultation or undermine the participatory process and sustainability appraisal undertaken.

## Assessment of Duty to Co-operate

6. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation.
7. The statement on the DtC<sup>1</sup> indicates that the Council does not believe that the EWCAAP, in itself, is a Local Plan that raises any significant strategic or cross-border issues, the principle of the development within the EWC having been tested through the adopted CS. I agree with this view. Therefore, in this case the DtC is not engaged. Nevertheless, the Council has engaged constructively, actively and on an on-going basis with the relevant bodies to which the DtC requirements relate in the preparation of the Plan.

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<sup>1</sup> Duty to Co-operate Statement: Elstree Way Corridor AAP [Core Document DOC7]

## Assessment of Soundness

### Main Issues

8. Taking account of all the representations, written evidence and the discussions that took place at the examination Hearings I have identified seven main issues upon which the soundness of the Plan depends.

### **Issue 1 - Whether the Strategic Vision/Development Framework of the Plan is justified and would be effective in delivering physical change in a planned and comprehensive way**

9. The CS<sup>2</sup> indicates that Borehamwood will deliver a significant proportion of the required housing for the Borough over the plan period including a large amount within the EWC. Accordingly, the principle of the residential-led regeneration of the EWC has been established in the CS. Policy CS23 of the CS provides the strategic framework for the EWC. It indicates that the development and refurbishment of employment, civic and community uses will be actively encouraged and that residential development on appropriate sites will be accepted. It also indicates that any development should be brought forward in a co-ordinated manner and that such development will be required to support the funding of essential enabling infrastructure through S106 contributions or Community Infrastructure Levy (CIL).
10. The CS identifies the EWC as delivering about 800 residential units towards the projected Housing Supply in the Borough for the plan period 2012-2027. This figure is based upon feasibility and transport studies commissioned in 2010. However, various developments have taken place and further development proposals have emerged in the intervening period such that the extent of the EWC identified in the Plan is now greater than that envisaged in the CS and is capable of accommodating a greater number of units, although the 'identified opportunity area' included within the earlier feasibility study will remain the focus of activity. Modifications on this matter are necessary to provide clarity and ensure the plan is justified and effective. Accordingly, I recommend that the Plan is modified as set out in **MM1, MM2 and MM4**. The reference to the number of residential units that the EWC is capable of accommodating in these modifications is as a consequence of MM11 and MM13, dealt with in Issue 2.
11. The nature of the EWC and the type of development/redevelopment envisaged means that, rather than being a detailed master plan, the Plan sets out a series of guiding principles to ensure that development within the EWC contributes towards the delivery of the strategic vision. Overall, I am satisfied that such an approach would be effective in delivering physical change to realise the opportunities in the EWC in a planned and comprehensive way.
12. The policies of the Plan, when taken together, demonstrate how the strategic vision for the EWC is to be achieved. Equally, the objectives form the basis for the policies themselves and will guide the master planning of sites and areas and the preparation and determination of planning applications.

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<sup>2</sup> Hertsmere Borough Council Local Plan Core Strategy Development Plan Document Adopted January 2013 [Core Document DOC24]

13. The general development principles specifically support the Development Strategy, as set out in policy EWC1, but are to be read alongside all the policies of the Plan. However, this being so, the objectives and general development principles should be sufficiently comprehensive to reflect the strategic vision and ensure that the Plan is effective in delivering sustainable development consistent with the Framework and PPG. Conversely, in order to be effective in delivering the strategic vision, the Development Strategy set out in Policy EWC1 should be specific to the EWC. Accordingly, I recommend **MM5**, **MM7** and **MM8**.
14. In addition, in order to ensure that the Plan is positively prepared, justified and effective, it is necessary to clarify the relationship between the strategic vision, objectives, development principles and policies of the Plan and highlight the consistency of the policies of the Plan with the CS. **MM44** is therefore recommended. Equally **MM3** and **MM7** are recommended in so far as they cross reference to MM44.
15. The Council indicates that whilst its preference is for sites within the EWC to be brought forward together it also recognises that the Plan needs to be sufficiently flexible to respond to development proposals and avoid a level of specificity that could reduce the practical delivery of development. However, it was generally accepted at the Hearing session that development proposals within the identified 'opportunity sites' in particular, many of which are in public ownership, should seek to deliver the comprehensive development of that site in order to ensure the Plan is effective in delivering the physical change necessary. I therefore recommend **MM9**, **MM10** and **MM32** in this respect.
16. In summary, I conclude that with the main modifications recommended, the Strategic Vision/Development Framework of the Plan is justified and would be effective in delivering physical change to realise the opportunities in a planned and comprehensive way.

**Issue 2 - Whether the amount, form and location of the housing development proposed in the Plan is justified and whether the relevant policy (policy EWC3) is likely to be effective in delivering the strategy**

17. The plan period for the EWCAAP is 2012-27, the same as the CS. Policy CS23 of the CS does not specify a figure for the number of residential units to be delivered within the EWC although a figure of 800 units is identified as the amount that the EWC is anticipated to contribute towards the overall housing supply for the Borough. The Council indicates that this figure of 800 relates to the 'identified opportunity area' and was based on the Buchanan Feasibility Study<sup>3</sup> which proposed up to 1000 residential units within the EWC study area, a smaller area than that identified as the EWC in the submitted Plan.
18. Evidence submitted at the Hearing session indicates that since April 2012 some 343 residential units have either already been built or are under construction within the EWC, with 153 residential units having been delivered

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<sup>3</sup> Colin Buchanan: Hertsmere Borough Council Elstree Way Corridor Feasibility Study Draft Stage 3 Final Report April 2010 [Core Document DOC36]

prior to this date<sup>4</sup>. Another 150 units have the benefit of planning permission and between 114 and 139 further units are being proposed by a current planning application and in pre-application discussions on an imminent planning application. In addition, scoping/feasibility work has been undertaken by Hertfordshire County Council (HCC) for the development/redevelopment of opportunity sites 4 and 5 within the 'identified opportunity area'. Even taking account of the reduction in the number of potential residential units likely to be caused by the relocation of the fire station to and the provision of a health facility on opportunity site 4, there is the potential to deliver between 375 and 475 units on these sites. These figures are based on densities broadly consistent with those identified in the Plan and commensurate with those which have been achieved or exceeded on sites which have already been approved and/or delivered to date.

19. It was suggested at the Hearing session that some of the sites identified in the EWC may not be available and that other sites outside, albeit immediately adjacent to the area, may be better placed to contribute towards the housing supply. However, on the basis of the above alone there is the potential for at least 1000 units to be delivered within the EWC on sites which are available in the short to medium term. Additional sites coming forward within the plan period are likely to further contribute toward the supply such that I am satisfied that there is the potential for up to 1500 units to be provided in the EWC within the plan period, as indicated by the Council at the Hearing session. The main focus for development would be within the 'identified opportunity area' which is largely in public ownership.
20. These figures are broadly consistent with the provision for the EWC indicated in the CS and would contribute towards boosting significantly the supply of housing as indicated in the Framework (paragraph 47). The existence of other sites outside, but close to, the plan area which are known to be the subject of interest for housing development gives support to the indication of demand for the level of residential development proposed in the plan. The future of these sites should, as indicated by the Council, be considered in due course through either, the SADMP, or in some cases following a review of employment land as part of the CS review.
21. The Plan is somewhat inconsistent in so far as it refers in policy EWC3 to at least 800 residential units being provided within the EWC, and in other parts of the Plan, to this number of units being provided within the 'identified opportunity area'. The Council accepts that there is scope for some confusion as a result. I therefore recommend **MM11** and **MM13**, in so far as it refers to the number of residential units, for clarity and to ensure that the Plan is justified and effective.
22. The Plan indicates the area at the north eastern end of the EWC along the frontage of Elstree Way to be developed at the higher density band. **MM14** is recommended to ensure the Plan is justified by reflecting the overall densities achieved on sites already developed within this area and to tie in with adjacent development.

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<sup>4</sup> Information on housing starts/under construction/completions April 2010 to April 2014 submitted by Hertsmere Borough Council, 22 October 2014 [Hearing Statement HBC/5]

23. Policy EWC3 of the Plan reflects the requirement within the CS (policy CS7) that housing developments should provide an appropriate mix and size of new homes. It applies that part of the CS policy relating to sites over 25 units (gross) by specifying the need for additional 3 bed units in the plan area as identified in the SHMA and the Council's housing waiting list. Given the densities proposed within the EWC and the nature of the area, it is generally accepted that a significant proportion of the residential units are likely to be provided in flatted developments.
24. However, the viability of 3 bed flats is somewhat limited by the local housing market, the demand being for 3 bed houses rather than flats. Accordingly, whilst I accept that it is necessary on housing developments in excess of 25 units (gross) to provide for a variation of housing types and sizes in order to create a balanced community and address local need, it is equally necessary to ensure that the viability of the specific proposal in meeting that need is taken into account. I therefore recommend **MM13** to ensure that the policy is effective in this respect. **MM12** is a consequential change within the explanatory text to policy EWC3 as recommended by MM13.
25. I conclude therefore that subject to the above main modifications, the amount, form and location of the housing development proposed in the Plan is justified and that the relevant policy (policy EWC3) is likely to be effective in delivering the strategy of the Plan.

**Issue 3 - Whether the social infrastructure (community facilities, education, health and other uses) proposed in the Plan is justified and likely to be effective in supporting the proposed level of development.**

26. As detailed above, Borehamwood will deliver a significant proportion of the required housing for the Borough over the CS plan period, a large amount of which will be within the EWC. It is necessary therefore to ensure that there is sufficient social infrastructure to support that level of development.
27. The Plan envisages a range of new and improved community and cultural facilities for Borehamwood to meet the needs arising from the level of new development envisaged and also to be of benefit to existing residents. This is consistent with the Framework's requirement that planning policies should plan positively for community facilities and other local services to enhance the sustainability of communities and residential environments (paragraph 70).
28. The EWC is in close proximity to Borehamwood town centre. The Plan does not allocate sites for retail development to ensure that the retail function of the town centre is not undermined by new retail floorspace in the EWC. Any such development proposals within the EWC would therefore be considered against the relevant CS policy. Accordingly, I recommend **MM18** in the interests of clarity and to ensure the Plan is effective in delivering sustainable development in accordance with the Framework.
29. The EWC currently includes a range of civic and other public sector uses. The retention and rationalisation of these public sector uses to create a civic cluster will both benefit the users of these services and release sites for development within the EWC. However, public services such as the Police or Fire and Rescue Service have statutory responsibilities to fulfil their functions

and are best placed to plan for their delivery. The retention of these uses within Borehamwood cannot be enforced through planning policy. Accordingly, in order to ensure that the Plan is justified and effective I recommend **MM15**.

30. A site for a new 2 form entry (2 FE) primary school is necessary to support the level of development proposed for Borehamwood in the CS, a significant proportion of which will be delivered within the EWC. Existing demand for primary school places in the area is high and HCC indicate that it would have serious concerns if the level of development proposed in the Plan were to come forward without the necessary primary school provision to support it.
31. At the Hearing session the Council and HCC indicated that they are working together to identify a suitable site for a 2 FE primary school outside the EWC to take forward through the SADMP and that this is the preferred option. However, I am mindful that no such site has been identified in the consultation draft SADMP<sup>5</sup>. Therefore, in order to ensure that the Plan is positively prepared it is necessary to plan prudently by reserving a site for a 2 FE primary school within the Plan for development in the event that either an alternative site within Borehamwood is not identified within the SAMDP or that there is a continued unmet need.
32. The reserve site identified within the Plan comprises the site of the current Girl Guide Hut and Maxwell Park Community Centre (MPCC). Initial feasibility work undertaken by HCC indicates that this site could accommodate a 2 FE primary school and further appraisal work is underway. Furthermore, the high level traffic assessment undertaken as part of this work indicates that, combined with a robust School Travel Plan, the traffic implications of a school on the site could be satisfactorily accommodated within the Movement Framework proposed within the Plan.
33. A study undertaken by Community Action Hertsmere in 2012 concluded that availability across the 14 community centres in Borehamwood exceeded demand and that there was sufficient capacity at other community centres to accommodate all the activities at MPCC. However, it is clear from the representations submitted on the Plan, the discussion at the Hearing session and from the submitted evidence<sup>6</sup> that the MPCC is an important resource for the local community and is well used by a variety of groups and clubs for a wide range of activities.
34. The CS (policy CS19) seeks to protect existing key community facilities against loss, reduction or displacement to an inappropriate location or unsuitable building. Whilst any proposal for the development of the reserve site for a 2 FE primary school would need to satisfy the CS policy, it does not follow that its allocation as such would necessarily be inconsistent with the CS. In order to ensure the Plan is effective it is necessary to make clear how policy CS19 of the CS will be applied in these circumstances and to refer, amongst other things, to the possibilities of providing for community use of the school outside

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<sup>5</sup> Hertsmere Local Plan: Site Allocations and Development Management Policies Consultation Draft, March 2014 [Core Document DOC41, 42 and 43]

<sup>6</sup> Maxwell Park Community Centre – Requirement Specification & User Groups [Core Document DOC 59]

of school hours and of replacement community facilities elsewhere. For the reasons set out above therefore, I recommend **MM16 and MM17**.

35. The evidence indicates that there is a need for increased healthcare provision in the area. Two of the three GP facilities in Borehamwood are already constrained, in so far as they are working to over-capacity for the size of the premises and the clinical space available to provide the required general medical services to their patients. The third, despite having some capacity, is the furthest away from the EWC. Accordingly, the need to make provision for a new health facility within the Plan is justified.
36. Since the Plan was submitted the National Health Service and the local Clinical Commissioning Group have developed their proposals further for a health care facility in the EWC. The site identified on opportunity site 4 in the submitted Plan as a reserve site for a health care facility is now considered to be the most viable option and is therefore the preferred option. However, it is appropriate to retain a reserve site for a health care facility, within opportunity site 3, not least to provide for any temporary decanting of existing healthcare facilities during the development of opportunity site 4.
37. At the same time, evidence submitted by Oaklands College indicates a requirement to provide a permanent educational facility to replace that currently occupied on a short term lease at the Kinetic Centre in Borehamwood and to provide sufficient space to offer vocational skills training to provide a progression route through to main stream courses offered at its larger facilities in St. Albans and Welwyn Garden City.
38. The site identified in the submitted Plan as the preferred site for a health care facility is suitable for such an educational purpose, it already benefitting from an extant planning permission for such a use, and is the preference of the College.
39. The evidence indicates that the educational facility now required by the College is likely to be of a smaller scale than that which has the benefit of planning permission. There is no reason to doubt the assessment of need in this respect and there is no substantive evidence from the relevant education authorities to indicate that there is a need to provide additional educational facilities for 16-18 year olds in the area, beyond that currently sought by the College, such as to limit the use of the site purely to an educational one. Therefore, it would be appropriate to reallocate the site identified in the submitted Plan as the preferred site for a health care facility for a new education facility as part of a mixed use development which would also include provision for community uses outside the normal hours of operation of the college and an element of residential development.
40. The provision of community uses in any such scheme could assist in accommodating any displaced organisations from the MPCC, should that site be taken forward for development as a primary school, although the Council does not propose that it would serve as a direct replacement for the MPCC. Any residential development as part of a mixed use scheme would be subject to the feasibility of the educational/community facility being provided on the lower floors. It would also be likely to be limited in numbers, given the need for any scheme to be broadly consistent in scale, mass and siting with the

building permitted under the extant planning permission in order to ensure it provides an appropriate response to the surrounding area and to existing site constraints.

41. For the reasons outlined above therefore, I recommend **MM19, MM20, MM21** and **MM38** in order to ensure the Plan is positively prepared, justified and effective in delivering sustainable development in accordance with the Framework. **MM6** and **MM36** are also recommended as consequential changes.
42. Policy EWC4 seeks to identify sites for new/improved community facilities and detail those for which financial contributions from developers will be sought. The matter of the effectiveness of the delivery mechanism is dealt with in Issue 6.
43. The former police station has now been relocated to the Civic Centre and a new library has been provided on Shenley Road. In addition the scoping/feasibility work undertaken by HCC for the development of opportunity sites 4 and 5 has identified opportunity site 4 as the site for a relocated fire station. Therefore, in order to ensure the policy is clear and effective I recommend **MM21**. **MM6** and **MM37** are also recommended as consequential changes.
44. Subject to the modifications recommended above, I conclude that the social infrastructure (community facilities, education, health and other uses) proposed in the Plan is justified and the Plan is likely to be effective in supporting the proposed level of development in this respect.

**Issue 4 - Whether the Movement Framework has been positively prepared and is justified and whether the Plan would be effective in delivering the necessary interventions to cater for the transport and movement needs of the area**

45. A key objective in the residential-led regeneration of the EWC is improving movement through the corridor and strengthening links with Borehamwood town centre. The Movement Framework of the Plan has been developed in conjunction with HCC and the proposed highway improvements in particular form part of the wider transport interventions proposed in the Elstree and Borehamwood Urban Transport Plan<sup>7</sup>, a daughter document of the Local Transport Plan.
46. The Movement Framework is supported by traffic modelling, the model having been developed using the predicted growth figures from the EWC and growth from across the wider area. The highway improvements included within the submitted Plan emerged from the modelling of various schemes of highway improvements aimed at reducing severance, facilitating a modal shift and being capable of supporting the growth proposed in the Plan. However, as explained at the Hearing session, the layout included in the Plan represented the preliminary feasibility stage of the design process and, following extensive

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<sup>7</sup> Borehamwood and Elstree Urban Transport Plan 2013: AECOM Transportation for Hertfordshire County Council [Core Document DOC 14]

design development and further modelling<sup>8</sup>, a subsequent revised layout has been produced that will facilitate the level of development envisaged, improve connectivity and provide the optimum solution to facilitate modal shift.

47. From the evidence I am satisfied that the key interventions proposed by this revised layout are justified and would effectively cater for the transport and movement needs of the area. The approach suggested by the Council and HCC<sup>9</sup> to detail the key interventions and include an indicative scheme layout within the Movement Framework of the Plan whilst including the revised scheme layout within an appendix would allow flexibility for specific access points and minor design factors to be developed as the scheme moves forward to detailed design. At the same time it would ensure that the Plan is sufficiently effective for development management purposes to enable the delivery of sustainable development in accordance with the Framework. For the above reasons therefore I recommend **MM22, MM23, MM24, MM25** and **MM45**.
48. The EWC functions as a gateway into Borehamwood town centre. However, the existing public realm within the corridor lacks the quality and consistency which such a role merits. The strategic vision of the Plan indicates that development within the EWC will facilitate connectivity and public realm improvements linking the area to the town centre and improving its physical appearance. Policy EWC6 of the Plan seeks to provide guidance on how new development will be expected to make a positive contribution to the quality of the public realm. Whilst I appreciate that the Council is seeking not to be overly prescriptive on the design of buildings or public realm in accordance with the advice within the Framework (paragraph 59), equally the policy should provide sufficient detail to ensure that it is effective for development management purposes. Accordingly, I recommend **MM26** in this respect.
49. I conclude on this issue therefore that subject to the modifications recommended above, the Movement Framework has been positively prepared and is justified and the Plan is likely to be effective in delivering the necessary interventions to cater for the transport and movement needs of the area.

#### **Issue 5 - Whether the design strategy set out in the Plan is justified and whether it would be effective in delivering the strategic vision for the EWC**

50. The CS (policy CS16) indicates that the Council will work with key partners, including the Environment Agency, to ensure that development proposals do not create an unacceptable environmental impact. It also indicates that proposals will be required to incorporate sustainability principles, minimising their impact on the environment and ensuring prudent use of natural resources by measures including, amongst other things, the use of Sustainable Urban Drainage Systems (SUDS). In order to ensure the Plan can be effective in delivering sustainable development consistent with the Framework, the design principles of the Plan should make clear how the policy of the CS will be applied to development proposals within the EWC. I

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<sup>8</sup> Elstree Way Corridor Area Action Plan - Scheme 3, Primary Report July 2014: AECOM on behalf of Hertsmere Borough Council and Hertfordshire County Council [Core Document DOC 34]

<sup>9</sup> Statement of Common Ground between Hertsmere Borough Council and Hertfordshire County Council [Core Document DOC 9A]

therefore recommend **MM27** in this respect. **MM7** similarly incorporates this concept within the general development principles of the Plan.

51. The general building heights set out in policy EWC7 of the Plan and indicated on figure 4 seek to reflect the existing urban form of the area with taller buildings along Elstree Way and lower level buildings along the roads leading to the north and south. Although taller buildings may be appropriate in some instances, any such proposals should not adversely impact upon the living conditions of the occupiers of neighbouring residential buildings. Accordingly, in order to provide further clarity in these respects I recommend **MM28** and **MM29**.
52. EWC has good access to public transport and key services. The Parking Standards SPD<sup>10</sup> provides for a discounted rate for both residential and non-residential proposals. The Plan does not specify the standards to be applied to non-residential proposals. Therefore, those to be applied to the school, health facility and educational facility will be determined once the operational requirements of these uses are identified having regard to the SPD and the opportunity of shared parking afforded by the existing car parks within the EWC. **MM30** and **MM31** are recommended to provide clarity on the approach to be adopted in these respects and to ensure that policy EWC8 is effective for development management purposes.
53. I conclude on this issue therefore that subject to the modifications recommended above, the design strategy set out in the Plan is justified and is likely to be effective in delivering the strategic vision for the EWC.

#### **Issue 6 - Whether the delivery mechanisms identified in the Plan would be effective in delivering the strategic vision for the EWC**

54. The Council's CIL Charging Schedule was examined and found to be sound in December 2013<sup>11</sup>. The CIL Charging Schedule and Regulation 123 List<sup>12</sup> respectively indicate the majority of the EWC area identified in the Plan as having a Nil CIL rate and exclude education facilities and transport and highways improvements within the EWC from being wholly or partly funded through CIL.
55. The delivery of the primary school and highway improvements are key infrastructure improvements necessary to support the development proposed within the Plan. It is therefore justified, as intended, that these be funded through S106 obligations from residential development within the EWC charging area. With the exception of the opportunity site which is on the western side of Manor Way and falls within the adopted 'CIL Charging Zone Area A', all the opportunity sites identified in the Plan fall within the EWC charging area.

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<sup>10</sup> Hertsmere Local Plan: Parking Standards Supplementary Planning Document July 2014 [Core Document DOC 52]

<sup>11</sup> The Planning Inspectorate: Report on the Examination of the draft Hertsmere Borough Council Community Infrastructure Levy Charging Schedule, 13 December 2013 [Core Document DOC 40]

<sup>12</sup> Hertsmere Borough Council: Report to the Council on 17 September 2014: CIL/Developer Contributions Framework [Core Document DOC 57]

56. The Council's Developer Contributions Framework which went live on its website as a Beta version on 20 October 2014 is intended to be used to determine developer contributions through S106 after the implementation of CIL. It indicates that on the basis of the Economic Viability Assessment which underpinned the Council's CIL proposal, development in the EWC could support a contribution towards infrastructure of £8000 per residential unit (index linked). In the light of this and from the evidence submitted at the Hearing<sup>13</sup>, I am satisfied that the cost of delivering the key infrastructure improvements necessary to support the development proposed within the Plan could be met by S106 contributions. Furthermore, that the necessary education facilities and highway improvements could be delivered in a timely fashion in order to serve the development for which it is required.
57. However, in the interests of clarity in relation to the delivery mechanism proposed for the various infrastructure improvements and in order to ensure that the Plan is justified and effective, I recommend **MM33**, **MM34** and **MM35**. In the interests of clarity **MM36** is recommended in so far as it indicates the extent of the Plan area within the EWC charging area (Nil CIL rate) and that within the CIL Charging Zone Area A. **MM21** is recommended in so far as it includes a consequential change resulting from MM34 and MM35.
58. I conclude therefore that subject to the above main modifications the delivery mechanisms identified in the Plan are likely to be effective in delivering the strategic vision for the EWC.

### **Issue 7 - Whether the monitoring framework of the Plan provides the means to monitor its overall effectiveness**

59. A monitoring framework is set out within the Plan which will provide the mechanism to be used in the Annual Monitoring Report produced by the Council. For the Plan to be sound it must be effective and to be effective it must be deliverable. Monitoring provides the means to measure delivery. Accordingly, reflecting the matters discussed at the Hearing sessions there is a need to strengthen the Plan's monitoring framework specifically in relation to housing delivery, dwelling mix, the support and provision of community facilities, the implementation of connectivity improvements and developer contributions to initiatives set out in policy.
60. I therefore recommend that the Plan is modified in accordance with **MM39**, **MM40**, **MM41**, **MM42** and **MM43**. Subject to these recommendations, the monitoring framework of the Plan provides the means to monitor its overall effectiveness.

## **Assessment of Legal Compliance**

61. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

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<sup>13</sup> Hertsmere Borough Council: Funding of highway works in EWC through S106 – based on short/medium with addition of longer term sites and S106 Contributions – Highways and Education [Hearing Statements HBC/6 and HBC/7]

LEGAL REQUIREMENTS	
Local Development Scheme	The AAP is identified within the approved LDS (September 2013) which sets out an expected adoption date of May 2014. Notwithstanding, the slippage in the timetable of the AAP its content and timing are broadly compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in January 2014 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modifications'.
Sustainability Appraisal (SA)	SA has been carried out, including the MMs, and is adequate.
Appropriate Assessment (AA)	The need for an AA was considered during the preparation of the CS. It was concluded that as there are no relevant sensitive sites in Hertsmere or within reasonable proximity to the Borough which could trigger an AA there was no requirement to undertake such an assessment of the CS. As such, and on the basis that these circumstances have not changed an AA under the Habitats Regulations is not necessary.
National Policy	The AAP complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
Public Sector Equality Duty (PSED)	An Equalities Impact Assessment <sup>14</sup> has been submitted. The AAP complies with the PSED.
2004 Act (as amended) and 2012 Regulations.	The AAP complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

62. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
63. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Elstree Way Corridor Area Action Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Beverley Doward*

INSPECTOR

This report is accompanied by the Appendix containing the Main Modifications

<sup>14</sup> Elstree Way Corridor Area Action Plan: Equalities Impact Assessment July 2014 [Core Document DOC 54]