Confirmation the LPA is satisfied that the neighbourhood development plan meets the requirements of the 1990 Act

1. Introduction

This Statement sets out the legal framework surrounding the requirements of The Town and Country Planning Act 1990 and confirms that the Local Planning Authority considers that the Elstree and Borehamwood Neighbourhood Development Plan

2. Legal Framework

The relevant legal framework for the preparation and making of neighbourhood plans is supported by the Localism Act 2011 and the Neighbourhood Planning Act 2017 and found in the:

- Town and Country Planning Act 1990: ss. 61F, 61I, 61M-P and Schedule 4B
- Planning and Compulsory Purchase Act 2004: ss 38A-C
- Neighbourhood Planning (General) Regulations 2012 (2012 No.637) (as amended)

Sections 98 and 99 of the Levelling-up and Regeneration Act 2023 and The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026 amend the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990 in respect of the legal compliance and the Basic Conditions requirements.

3. Basic Conditions and other compliance

Paragraph 8(2) of Schedule 4B to the Town & Country Planning Act 1990 requires a neighbourhood plan to meet five basic conditions before it can proceed to a referendum.

(2) A draft order meets the basic conditions if—

a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,

(b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order,

(c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order,

(d) the making of the order contributes to the achievement of sustainable development,

(ea) the making of the order would not have the effect of preventing development from taking place which—

(i) is proposed in the development plan for the area of the authority (or any part of that area), and

(ii) if it took place, would provide housing.

There are three further basic conditions which are relevant only to the making of a Neighbourhood Development Order and are therefore not relevant to this Neighbourhood Plan proposal.

The further legal compliance requirements that come out of The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026 are as follows:

- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and
- so far as the qualifying body considers appropriate and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area.
- A further basic condition related to the new environmental assessment framework is commenced as of March 2026, however until such time as a completed framework for the implementation of Environmental Assessment Reports is in place, compliance with this Basic Condition cannot be assessed.

4. Compliance

The appendices to this Statement consist of the Qualifying Body's Basic Conditions Statement and Addendum (published after the changes came into effect in March 2026). These set out the detail of the compliance with each condition, and this Statement confirms that Hertsmere Borough Council as Local Planning Authority accepts and agrees with the assessment made by the Qualifying Body (Elstree and Borehamwood Town Council).

- The proposed EBNP would help ensure that development and use of land in the neighbourhood area would contribute to the mitigation of, and adaptation to, climate change.
- The proposed EBNP takes account of the Hertfordshire Local Nature Recovery Strategy under section 104 of the Environment Act 2021 that relates to all of the neighbourhood plan area.
- The making of the policies in the proposed EBNP would not have the effect of preventing development from taking place which—
  (i) is proposed in the development plan for the area of the authority (or any part of that area), and
  (ii) (ii) if it took place, would provide housing.

- Compliance with the new environmental assessment framework cannot be assessed until such time as a completed framework for the implementation of Environmental Assessment Reports is in place.

5. Conclusion

The relevant basic conditions as set out in Schedule 4B to the TCPA 1990 are considered to be met by the Elstree and Borehamwood Neighbourhood Plan and all the policies therein. This is further detailed in Appendices A and B.

Attachments:

Appendix A - EBNP_Basic Conditions Statement.pdf

Appendix B - EBNP_Basic Conditions Statement Addendum.pdf

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