

Dear Mr Saminaden

**The Selection of a Housing Target and Distribution Strategy for the Core Strategy
(Forward Plan Reference FP554)**

We are writing on behalf the Welwyn Garden City Society, Panshanger People and the Garden Village Preservation Society.

We are writing to you as the Chief Executive of the Borough and as the officer responsible for ensuring that due process is properly carried out in all borough decisions. We are asking you to review the issue set out below.

We are very concerned that any failure to follow due process will result in opening the Borough and this town to unwelcome planning development that will be difficult to resist.

The issue

We refer to the decision taken as Minute 73.1(1) (2) at a meeting of the Cabinet held on Tuesday 9 October 2012. It reads as follows:

“That Option 4 (growth focused mainly in Hatfield and Welwyn Garden City) be selected as the preferred strategy for the distribution of growth)”

We believe that this decision is unsound and that the draft Core Strategy as currently proposed is flawed and, as a result, the Core Strategy when examined in public will fail. For this reason we believe the issue should be reviewed immediately and that appropriate guidance be given to the Cabinet. This would enable the draft Core Strategy to be rebuilt and enable it to be properly robust when examined in public.

We set out our reasons below.

Reasons for review

There are three reasons why the decision taken is unsound. Each is dealt with in turn below.

1. Lack of proper consideration

In the minutes of the same Cabinet meeting, it explains that the reason for its decision is based on the need to provide the Cabinet Housing and Planning Panel with the location of future growth, as this decision would be a key component of the Borough strategy.

We do not think that this explanation is valid reasoning. If the Cabinet was making a decision and then was giving direction to any other body that will be basing its own work upon the consequences of the Cabinet’s decision, then we suggest the Cabinet has an overriding obligation to ensure that its decision is arrived at properly and is soundly based. It simply cannot be because another body needs an answer.

The minutes of the same Cabinet meeting also reveal that it had been asked to defer its decision on the grounds that the full Sustainability Report was not available to members. By inference, the Cabinet is assumed to have considered the sustainability matrices for the distribution options that had been made available to the Cabinet Housing and Planning Panel that had taken place on 27 September before.

The Cabinet meeting took place for a period of 20 minutes between 7.30pm and 7.50pm as noted in the minutes, and it is clear that “sustainability” was not even considered. In fact, the reason subsequently given for the decision the Cabinet took was wholly unrelated to sustainability.

We also touch upon this under the section marked “Lack of Sustainability” below”.

The minutes suggest that there was a debate on the issues and this is recorded under “Alternative Options”. Indeed, the minutes refer to the fact that arguments in favour of one option over the other were “finally” balanced. We think that this should read “finely balanced”. However, it was apparent to those that attended the meeting that no such debate took place. Indeed, Councillor Perkins read from a prepared statement which included the reference to “finely balanced”. Subsequently, this phrase has now been incorporated in the minutes as “finally balanced”. The fact that Councillor Perkins read from a prepared statement indicated to those present that the Cabinet members had met earlier and had decided on a course of action that was set out in that prepared statement.

In the event that the minute is correct and the cabinet is seeking to define finality to its decision, then we suggest that the Cabinet should have awaited the full sustainability report together with the officer’s recommendation. Sustainability goes to the heart of what the National Planning Policy Framework (NPPF) requires and it would appear that the decision did not even consider it. This alone gives ground for a challenge for Judicial Review.

This prepared statement then went on to justify the Cabinet’s decision on the grounds that, as there had been substantial objection from the local community around, it would be “perverse” to recommend Option 6. This is the option concentrating future development around Welwyn Garden City and Hatfield together with the need for some limited development around the large villages of Cuffley, Brookmans Park and Welham Green.

We suggest that the Cabinet has acted in haste, without all the information to make a decision, failed to consider all the facts and alighted on an option that they had agreed in advance. This part of the decision making process alone makes the process wholly flawed.

2. Justification in terms of opposition to the location of growth around the villages

The opposition from the local community that was the basis for the Cabinet’s decision came from those villages described in the minutes as “Cuffley, Brookmans Park and Welham Green”. The Cabinet minutes do not specify the evidence base where this opposition is recorded.

There are two possible sources for this evidence base: the 2011 consultation on “How many new homes?” and the earlier 2009 consultation on the “Issues and Options” paper. Indeed, there is some doubt as to what evidence the Cabinet relied on to justify its decision. However, we deal with each in turn.

a. 2011 consultation on “How many new homes?”

This document was issued to ask borough residents their opinion as to the number of homes that should be built in the Borough in the period to 2031. It is a general paper explaining that as housing targets are increased, so the amount of land that would have to be released in the green belt would increase. It is, therefore, unsurprising that those parts of the Borough where there is a greater amount of green belt to lose were more in favour of fewer homes being built.

If you look at the results of that consultation shown in “Responses to Housing Targets Consultation”, the results are set out as follows:

	Yes	No	Don't know	Total
Target 1	765*	127	15	907
Target 2	78	192	8	278
Target 3	39	224	9	272
Target 4	27	239	6	272
Target 5	30	237	8	275
Total	939	1019	46	

*This figure is skewed by a petition from the North Mymms District Green Belt Society that has submitted some 614 names in support of “Yes” to the minimum number of homes to be built in the Borough. If this petition was discounted the number of people in support of “Yes” would fall to 151.

But for the petition of 614 names submitted by the North Mymms District Green Belt Society, the figures set out in the above table would appear to be consistent with the notion that no one wants to lose green belt land. Furthermore, it should be noted that the 614 names from the North Mymms Green Belt Society represent 67.7% of the total of 907 people voting in favour of Target 1.

We submit that the sample shown is a skewed one as it is significantly influenced by a single local amenity group; it does not represent a borough wide view of the questions the consultation sought; nor can it be inferred that more or less houses should be built in any particular village or locality. No such inference can be drawn from this consultation as it was not about that but about the targets for housing in the Borough as a whole over a given period into the future.

We also submit that the petition made by the North Mymms Green Belt Society does not indicate that opposition to more houses being built in a particular part of the green belt is any stronger than elsewhere in the Borough. What it does do is merely skew the results of the consultation.

b. 2009 consultation on core strategy Issues and Options paper

Councillor Trigg states in a letter to the Welwyn Hatfield Times published on 13 March 2013 that the results of this consultation were in fact the basis for the Cabinet’s decision. He states “there was indeed, a very substantial number of objections to the suggestion that land should be released around villages to provide for new housing”.

The result of this consultation was published by the Borough Council in a paper headed “The Headlines” in 2010. In particular, it carried the following bullet point statement:

“Over 1,000 objections to each of the potential broad locations for growth: south of Hatfield, east of Welham Green, Brookmans Park and Little Heath”

This document summarises a much larger analysis set out in a Summary of Responses Parts 1 & 2. A look at these documents reveals the following as regards the key sites that relate to the areas Welham Green, Brookmans Park and Little Heath. They are referred to as PG38, PG39, PG40 and PG45 in the consultation. The summary reads as follows:

“A large number of comments were made on standard forms. In summary:

PG38: Welham Green (South of Hatfield). 1,078 comments were submitted in objection to a possible option of large scale growth at this broad location (F on the key diagram). Concerns raised included infrastructure – schools, roads and sewerage capacity, flooding, loss of high grade agricultural land, traffic, coalescence between Hatfield and Welham Green.

PG39: East of Welham Green (Marshmoor). 1,050 comments were submitted in objection to a possible option of large scale growth at this broad location (G on the key diagram). Concerns raised included a previously rejected location, development would be separated from Welham Green by the railway line, run-off from “Marshmoor”, scale of development could discourage mixed-tenure development, need for affordable housing, Welham Green has a slow railway line so commuters may drive to other stations.

PG40: Expansion of Brookmans Park. 1,049 comments were submitted in objection to a possible option of large scale growth at this broad location (H on the key diagram). Concerns raised included development at the Royal Veterinary College should be included in housing numbers, would result in an excessive amount of land being removed from the green belt, area is segregated from Brookmans Park by railway line, negative effect on the identity of the new community, potential for coalescence with Swanley Bar and Potters Bar, lack of employment opportunities, impact on historic and natural environment, development would not support regeneration of Hatfield town centre, slow railway line.

PG45: Expansion of Little Heath. 1,118 comments were submitted in objection to a possible option of large scale growth at this broad location (M on the key diagram). Concerns raised included development would be segregated from Potters Bar, would generate traffic by encouraging car journeys, proximity to sites of historic and natural value, too small for mixed-use development, will not support Hatfield or Welwyn Garden City town centres, loss of high grade agricultural land, surface water run-off issues.”

In the cases of PG40 and PG45, the North Mymms District Green Belt Society is credited with the preparation of the leaflets and their submission, whereas no such comment refers to PG38 and PG39. However, it is apparent that the forms for all four submissions were prepared in the same format, layout and typeface and we have been informed that they were all (including the one on Gypsies and Travellers, but see below) largely submitted at the same time in a single delivery. Accordingly, we suggest it is reasonable to conclude that all these forms were organised by the single organising entity of the North Mymms District Green Belt Society.

If any local amenity group, including any of the signatories to this letter, had decided to lobby its membership and prepare letters for the general public to complete and send in, they too would have generated volumes of objections by a great number of people probably in excess of those generated by the North Mymms District Green Belt Society. However, we suggest that such action has no merit in the context of a Borough wide consultation and does not show that any one particular part of the Borough is more or less in favour or otherwise of any course of action about housing plans that have yet to be determined.

Further analysis of this consultation reveals that the number of objections was sourced from 1233 separate people or family groupings. The bulk of respondents therefore sent in four (or five, but see below under Gypsies and Travellers) letters, one in respect of each area that might be the subject of development in their area of concern. The Summary of Responses document (Part 2) does not make this clear, as it refers to “comments” only and not to the number of objectors. We consider this to be a material factor. For this reason, we do not believe that the reporting of the result to the Cabinet fairly describes the results of the consultation.

As it is, this results in the odd situation that in the case of one village there are more objectors than residents on the electoral register - possible perhaps, but certainly odd!

It is our view that this organised set of objections skews the result in a survey which is borough wide. Our general comments made earlier in relation to the consultation in relation to the 2011 “How Many New homes?” document also apply in this case. It is also pertinent to point out that the 2009 consultation was for a very much larger number of houses than the proposals set out in Option 6. So,

in effect, the Cabinet is seeking to use “evidence” of large opposition to one proposal as opposition to any housing, however small, in the same area. This is clearly wrong!

Moreover, the Borough Council is well aware that it must guard against skewed results from such consultations as Councillor Nicholls, chair of the Cabinet and Housing Panel, stated in his answer to the first question passed by a member of the public on Thursday 14 March 2013, when he said:

“Consultation responses can be skewed if there is a huge response from one section of the community over another.”

c. Gypsy & Traveller pitch provision

A similar approach was taken by the North Mymms District Green Belt Society as regards that part of the consultation relating to gypsy and traveller pitch provision. Again we find that some 1026 objections were received from largely the very same sources that raised objections against the four areas designated as PG38, PG40, PG39 and PG45.

The statement in the Consultation Statement Part 2: Summary of Responses reads as follows:

“Gypsy and Traveller pitch provision: 1,026 comments were submitted in connection with options for identifying potential areas for additional Gypsy and Traveller pitches. Over 900 respondents ranked the options. Making provision for new sites within areas identified for urban expansion was the most preferred option, followed by a rural exception policy. The least favoured option was limited alterations to the green belt (the standard forms used for most of the comments made on this issue also made reference to Bulls Lane, although the potential location of sites was not a matter raised in the Core Strategy).”

So, apart from the fact that respondents were also responding on standard forms, many of these standard forms had inserted a suggestion that Bulls Lane was a likely place for a gypsy and traveller site. That was not the question asked by the Council but clearly respondents had inferred that the potential pitches would be located in an area that would be detrimental to them. We suggest that this could be construed as misleading.

3. *Lack of Sustainability*

The decision taken by the Cabinet was justified on the grounds that to take the other option open to the Cabinet, namely Option 6 (described as growth mainly focused on Welwyn Garden City and Hatfield with limited growth around the Borough’s large excluded villages) would be “perverse”.

There is evidence that suggests that the officers recommended the more sustainable option of Option 6 but instead the Cabinet chose Option 4, (growth focussed mainly towards Welwyn Garden City and Hatfield). There is reference in the statement made to the Cabinet that Option 6 was the more “sustainable” option and the minutes from their meeting do not explain the planning reasons why the sustainable option was not taken except that it would be “perverse”. This is not justification within the context of the NPPF and it does not meet the need for “objectively assessed development” as the NPPF requires.

There is a further statement in the minutes that indicates that “much more would be needed to deliver the development”. This refers to Option 4 and seems to suggest that it is likely to be less sustainable.

We doubt that this decision is consistent with national policy and it can also be argued that the plan has not been “positively prepared” – both of which are requirements of the NPPF.

Conclusion

We submit that:

1. The reliance on consultations made for other purposes and on the use of results skewed by any particular section of the community is flawed.
2. The reliance on the skewed results of consultations is all the more blatant in so far as it applies to the results of the gypsy and traveller pitches. Essentially, respondents were saying “Put them in the towns and not on any green belt land near us.” In many cases this has even been referenced to a particular local road.
3. The Cabinet has failed to exercise its duty to ensure that skewed results should be eliminated from the results of such consultations. Indeed, they have taken the opposite approach: it now endorses the use of multiple letters from small sections of the community to make decisions which must clearly follow the NPPF. By taking this decision, the Cabinet is effectively legitimising NIMBYism – which is precisely what the entire planning process and the NPPF are intended to prevent.

The Cabinet decision is likely to fail the “soundness” test as set out in Section 182 of the NPPF. Therefore we consider it essential to review the plan as it currently stands in order to ensure that the draft plan is placed on a more “sustainable” and sound footing as a matter of urgency. Otherwise it will open the Borough to widespread planning applications from developers that the Council will find difficult to resist: this is in no one’s interests.

We would ask you to review the decision taken and advise the Cabinet accordingly.

Yours sincerely

For Welwyn Garden City Society

For Panshanger People

For Garden Village Preservation Society