



# Strategic Planning & Environment

## Overview & Scrutiny

### Agenda

**TUESDAY 12 APRIL 2016 AT 7.30 PM**

**DBC Bulbourne Room - Civic Centre**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

#### Membership

Councillor G Adshead  
Councillor Anderson (Chairman)  
Councillor Ashbourn  
Councillor Bateman  
Councillor E Collins  
Councillor Fisher  
Councillor S Hearn

Councillor Hicks  
Councillor Howard  
Councillor Matthews  
Councillor Ransley  
Councillor Riddick  
Councillor C Wyatt-Lowe (Vice-Chairman)

#### **Substitute Members:**

Councillors Birnie, Link, McLean, Ritchie, R Sutton and Tindall

For further information, please contact Katie Mogan or Member Support

## **AGENDA**

### **1. MINUTES**

To agree the minutes of the previous meeting.

### **2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

### **3. DECLARATIONS OF INTEREST**

To receive any declarations of interest.

### **4. PUBLIC PARTICIPATION**

**5. CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN  
RELATION TO CALL-IN**

**6. RECYCLING CONTRACT** (Pages 3 - 11)

**7. CONSERVATION STRATEGY PROGRESS** (Pages 12 - 36)

**8. DEVELOPMENT MANAGEMENT SERVICE** (Pages 37 - 42)

**9. BUILDING CONTROL** (Pages 43 - 48)

**10. LAND CHARGES** (Pages 49 - 57)

**11. EXCLUSION OF THE PUBLIC**

To consider passing a resolution in the following terms: That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the items in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during these items there would be disclosure to them of exempt information relating to:



## AGENDA ITEM:

### SUMMARY

<b>Report for:</b>	<b>SPAЕ Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>12 April 2016</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	Recycling Contract
Contact:	Cllr Janice Marshall, Portfolio Holder for Environmental and Regulatory Services.  Author/Responsible Officer : David Austin , Assistant Director Neighbourhood Delivery
Purpose of report:	To seek comments from this Committee on a proposal for Dacorum Borough Council to enter into a consortium contract with selected members of the Hertfordshire Waste Partnership (HWP) for the bulk receipt and processing of mixed dry recyclables.
Recommendations	<ol style="list-style-type: none"> <li>1. That Committee note the contents of this report.</li> <li>2. That any comments from this Committee are passed to the Portfolio Holder for consideration.</li> </ol>
Corporate Objectives:	<ul style="list-style-type: none"> <li>• Safe and Clean Environment</li> <li>• Dacorum Delivers</li> </ul>
Financial Implications:	<u>Financial</u> As detailed in this report, there has been a significant decline in market values for recyclables over recent years which has resulted in the Council currently incurring a gate fee for the processing of mixed recyclables. Clearly with either a consortium or individual approach to securing a new contract the Council will be subject to the same market conditions and possible cost volatility.
'Value For Money Implications'	<u>Value for Money</u> The approach to collecting mixed recyclables as opposed to the material being collected separately at the kerbside has previously demonstrated that the current approach with wheeled bins provides the best value for money for the residents of Dacorum.
Risk Implications	Dacorum Borough Council has to sell its collected recycling material in a free market. It is not possible therefore to predict the value of the material at the time of the tender or future commodity markets so there is a risk of higher costs to the

	<p>Council.</p> <p>The other main risk could have been around the quality of material. Dacorum Borough Council has traditionally supplied material of high quality which is clearly important in a market which is often in a state of oversupply. The risk therefore could have been that our recyclables may have been ‘contaminated’ by the other consortium partners leading to potential financial implications. This however has been prevented by officers as part of the clauses in the specification of the contract so that we are individually responsible for the quality of the material collected in Dacorum.</p>
Community Impact Assessment	This has not been carried out as the proposals set out in this report will not require a policy or service change.
Health And Safety Implications	There are no health and safety implications to this report.
Consultees:	Ben Hosier, Group Manager for Procurement James Deane, Corporate Director (Finance & Operations) Duncan Jones, Hertfordshire Waste Partnership Development Manager
Background papers:	Cabinet Report – Waste Strategy (11 <sup>th</sup> Feb 2014)
Glossary of acronyms and any other abbreviations used in this report:	MRF – Material Recycling Facility, a facility that separates and processes recycling collected at the kerbside.

## 1. Background

- 1.1 The Authority’s current contract for dry recycling is with Viridor Waste Management based at Crayford in East London and involves the bulk receipt and processing of approximately 15,000 tonnes of mixed recyclables per annum. The location of the Viridor MRF necessitates that Dacorum’s recyclables are bulked at Cupid Green before delivery to the reprocessing facility at Crayford. This bulking and haulage operation costs Dacorum in the region of £200,000 per year.
- 1.2 The mixed recyclables contract expires in October 2017 which means a new procurement process to secure arrangements from November 2017 onwards needs to commence in 2016.
- 1.3 As part of an early review of options, it became apparent that the contracts of neighbouring authorities were also coming to an end in 2017. Given the changes in market conditions over recent years it was sensible to investigate whether the option of entering into a consortium arrangement with Three Rivers, Welwyn Hatfield and Watford Councils would result in a stronger negotiating position for Dacorum.
- 1.4 With regards to market conditions, there have been significant changes in recent years, with an over-supply of recycled materials leading to a global drop in selling prices. This shift has impacted on a number of local authority contracts, including Dacorum, causing the disposal of recyclates

to stop being an income generator (i.e. through the sale of materials) and to start becoming an actual cost in the form of a gate fee (i.e. paying for the disposal of the materials).

### **The risks of entering a group contract rather than lone contract**

1.5 As referred to in paragraph 1.2, the Council's contract for commingled recycling expires in November 2017. Whether the Council lets the next contract jointly or individually it will face market risk determined by the market conditions at the time of the procurement exercise. As a result, this section focuses on addressing only the additional risks that arise purely as a result of entering into a *joint* contract.

## **2. Financial Risk**

2.1 The obvious potential benefit of a consortium contract is that the combined tonnage of the consortium enables it to influence the market in a way that each individual member would be unable to do on the basis of their own, lower tonnage.

2.2 Dacorum currently generates around 15,000 tonnes per annum of commingled recyclates, whereas the proposed consortium would generate a combined 40,000 tonnes per annum.

2.3 Dacorum Waste and Procurement officers carried out soft market testing to specifically address the key question of whether 40,000 tonnes would achieve the critical mass needed to influence the market and therefore drive price benefits for individual consortium members.

2.4 Feedback from operators within the market was that a combined tonnage of around **80,000** tonnes would be required to drive material pricing benefits for the Council. On this basis, Dacorum is likely to attain the same pricing when going out as part of a group, as it would if going to tender individually.

2.5 However, the market testing did indicate that the rationale of forming a consortium to increase tonnages and reduce pricing was sound. Given that the total available recycling tonnage across Hertfordshire is currently around **100,000** tonnes per annum, way in excess of the market influencing amount suggested through market-testing, there could be a longer-term benefit for Dacorum of laying the basis for a larger county-wide consortium that will deliver savings in the future.

2.6 On this basis, Dacorum will not be financially worse off by increasing its tonnage as part of the proposed consortium and there could be some longer-term benefits that would not accrue from a lone tender.

### **Contamination Risk**

2.7 The primary risk to Dacorum of entering into the consortium is around the quality of the combined recyclates, and whether Dacorum would face financial penalties if the quality of other members' was below that of our own and effectively contaminated our materials.

2.8 The quality of the material collected in Dacorum is currently very good for a variety of factors. These include socio-economic reasons; our previous

source separated collection system for recyclables and because we operate our own licensed waste transfer facility. With this new contract, there will still be individual checking of recyclates by Authority so we cannot be adversely affected if there are poorer quality loads delivered by Partner Authorities.

2.9 On this basis, the contamination risk to Dacorum is eliminated and does not therefore offset the benefits identified in the previous section.

### **Procurement Risk**

2.10 Potential bidders for a tender will only undertake detailed work on a contract as part of their bid submission once the procurement exercise has formally begun. Consequently, although soft market testing has already been undertaken by the Council, there is a risk that on further, more detailed work the bidders' final submissions will have identified a previously unforeseen complication of entering into a joint contract.

2.11 Members should note that the Council is not contractually committed to a joint approach merely by virtue of a joint procurement exercise. As a result, if final bid submissions were to identify new, unacceptable risks each of the councils involved retains the right to withdraw from the process without penalty.

2.12 Given the due diligence already undertaken, this outcome is considered low risk. Withdrawal from the process should be considered a last resort as it may necessitate a further procurement exercise for any councils that wished to remain within the consortium.

2.13 The procurement exercise will be designed, and all submissions evaluated, jointly and equally by Procurement and Waste Officers from the four councils. This will ensure that all risks and rewards are accrued equally by all members.

### **Lead Authority Risk**

2.14 It is currently proposed that Welwyn Hatfield will act as the lead authority on this procurement exercise and on the subsequent management of the contract.

2.15 This is the arrangement has worked well with previous consortia and the fee for doing this is already included in the HWP annual subscription. In effect it means that the contractual relationship is between Welwyn Hatfield and the winning bidder with an agreement between Welwyn Hatfield and the other three Authorities including Dacorum.

## **3. Timescales for procurement and new arrangements**

3.1 Taking into account current arrangements, and subject to Member approval, the intention is to let a joint contract covering Dacorum, Three Rivers, Welwyn Hatfield and Watford Councils. Officers are recommending that the contract be let for a period of 7 years with an option, by mutual agreement, to extend for 3 years subject to market testing at the time. The contract will be awarded and managed by Welwyn Hatfield on behalf of all consortium members.

3.2 The anticipated timeline for the procurement of the new contract is noted below and has been structured to allow maximum time for tender submission, tender evaluation and internal reporting:

<b>Table 1 – Anticipated Procurement timetable</b>	
<b>STAGE</b>	<b>Date</b>
Tender (OJEU) Advert	April/May 2016
Last date / time for questions relating to the tender	TBC
Tender Return	Mid July 2016
Assessment and agreement by Partner Authorities	End of August 2016
Partner Authority Approvals process	End of September 2016
Lead Authority Cabinet – tender decision	Early Nov 2016
Standstill period	Mid Nov 2016
Contract(s) award	End Nov 2016
Contract start (intended) <b>(Dacorum Joins)</b>	1st February 2017 <b>1st November 2017</b>

#### 4. Summary

4.1 The contract for the processing of comingled recyclate has to be tendered as our current agreement expires next year. In retendering, the Council has a choice as to whether to go to the market 'alone' or as part of a consortium.

4.2 As highlighted in this report, there are no potential disadvantages of retendering as part of a consortium – given we retain control of any issues with contamination of recyclable material collected in the Borough – so it would be sensible to proceed on this basis. This could set a foundation for further benefits from future joint working on a larger scale as part of the Hertfordshire Waste Partnership.

4.3 Further background information with regards procurement of this contract is included as Appendix A.

## APPENDIX A – Procurement Background Information

### 1. Financial Implications

1.1 When assessing the likely financial implications of a tender for the bulk receipt and processing of mixed dry recyclables 3 key elements need to be considered. These include:

- the 'basket value' of a commingled tonne of mixed dry recyclables;
- the processing cost per tonne – often referred to as the 'gate fee';
- for those authorities that cannot direct deliver the cost of any bulk haulage arrangements.

#### Basket Value

1.2 The basket value of a commingled tonne is the total value of each component part as measured by an agreed index multiplied by the percentage that the component makes up of the whole.

1.3 Table 2 illustrates how this works in practice. The figures quoted are for illustrative purposes only based on the latest average prices available from Letsrecycle.com for September – November 2015. Letsrecycle.com is the index officers will be specifying for use in the new consortium:

1.4

<b>Part 2 – Income share – basket value calculation</b>				
<b>Column A</b>	<b>Column B</b>	<b>Column C</b>	<b>Column D</b>	<b>Column E</b>
<b>Component Material</b>	<b>Letsrecycle Price Index</b>	<b>Composition (as of %age of 1 tonne from section X)</b>	<b>Mid Point Price</b>	<b>Value per tonne</b>
Paper (mixed)	Mixed Paper	50.55%	£48.50	£24.51
Glass	MRF Glass	26.67%	-£20.33	-£5.42
Plastics (mixed)	Mixed plastic	8.51%	£54.17	£4.61
Steel Cans	Steel cans	4.72%	£21.50	£1.01
Aluminium	Aluminium cans	1.18%	£686.67	£8.10
Soft plastic (non target)	None specified	4.15%	---	---
Prohibited	None specified	4.23%	---	---
<b>Sub Total...</b>		<b>100%</b>		<b>£32.82</b>



- 1.5 In the example noted above the value of 1 tonne of commingled material works out at £32.82 per tonne with those component parts which either have a significant value and / or make up a large percentage key to the overall value.
- 1.6 Therefore in terms of managing such a contract prices and related issues to watch would include things such as packaging targets and market prices for aluminium, glass, newspapers and magazines. The example shown also reflects current negative prices (charges) for mixed glass which act to reduce the basket value.
- 1.7 Whilst markets for recyclables are cyclical in nature they also differ fundamentally from markets for virgin materials in that supply cannot be switched off or even significantly reduced to match economic cycles.
- 1.8 For example whereas a mining company can scale back the production of raw materials when economies dip, this is not something that can happen with dry recyclables sourced from domestic and commercial waste streams. As a consequence this can exacerbate market fluctuations and other disruptions.

#### **Gate Fees & Risk**

- 1.9 The processing fees charged by a MRF relates to costs associated with processing 1 tonne of mixed dry recyclables and covers both fixed and variable costs including, labour, power, maintenance, capital financing costs etc. Such fees are commonly referred to as gate fees.
- 1.10 Each year the Waste Resources Action Programme (WRAP) carries out a survey of gate fees reported by local authorities across the UK. The 2015 report found that the median gate fee in the 2015 survey was £6 per tonne, down from £10 per tonne reported in 2014.
- 1.11 However, the survey also noted that both years included MRF gate fees for on-going contracts, with some of these starting as far back as 1995. The inclusion of such contracts has the effect of dampening the impact of gate fees in more recent contracts as older contracts were signed when commodity prices were significantly higher.
- 1.12 Such a wide variation will be related to a number of factors including:
  - contract length and commencement date;
  - the level of tonnage - this can have a very significant impact on the level of cost incurred or income earned;
  - different levels of sophistication and cost associated with the MRF technologies being employed – more modern MRFs are capable of sorting more materials creating better income streams but inevitably such capability also costs more;
  - linked to the ability to sort - different prices for sale of materials; i.e. mixed plastics from a MRF with lesser sorting capabilities will earn less than better sorted plastics available from a more technological advanced facility;

- composition of incoming material – mixed dry recyclables with higher value contents and lower contamination levels will be worth more than mixes with lower value materials and higher contamination levels.
  - different ways of apportioning materials revenue risk between the MRF operator and the local authority – in other words how much risk are the client authorities asking potential bidders to assume based on the specification detailed in the contract.
- 1.13 The majority of local authorities (65%; 99 authorities) who answered questions on future trends thought that MRF gate fees would increase. The factors that local authorities identified as being most likely to influence future gate fees are commodity prices for secondary materials and the quality of input material. A study carried out by the HWP in 2014 suggested gate fees of £55 per tonne for fully commingled material.
- 1.14 These issues combine to create significant risks which need to be understood both by potential bidders as well as the client authorities who need to structure the tender and bidding process in such a way as to minimise the level of risk that all parties are exposed to.
- 1.15 Historically, especially with older contracts, the gate fee element of any contract was largely funded through sharing income between the MRF provider and the client local authority.

#### **Bulk Transport costs**

- 1.16 The final cost element to consider is the cost of delivering bulk recyclables from the Cupid Green depot to the successful bidders MRF. As noted above this element currently costs the authority £200,000 per annum which is equivalent to an additional cost of circa £13 per tonne and reflects the lack of close by facilities which the Authority could ideally deliver directly too
- 1.17 Previous HWP procurements have looked to include this element as part of the contract with prices sought for both delivered and collected material. However, the 2014 investigation conducted by the HWP identified a strong preference for keeping bulk transport needs separate to the main processing contract.
- 1.18 However, at the same time we need to be careful how this issue is handled at the tender evaluation stage as financially advantageous bids could be received from MRFs located at considerable distance with any such gains negated by excessive transportation costs.
- 1.19 Therefore following discussion among the 4 client authorities it has been agreed to deal with bulk transport needs separately to the main processing contract. As such the specification will include a note for bidders highlighting that whole service costs will be taken into account as part the evaluation process with costs related to bulk transportation specifically highlighted.
- 1.20 It is anticipated that such a statement in combination with any queries during the tender submission stage should prevent bids for MRFs that

may be able to offer a good combination of gate fee / basket value for the material but are in a location that would entail excessive costs.

### **Recommended pricing approach**

1.21 Taking the above into account and focusing on the need to reduce risk throughout the process the pricing aspect of the tender will be structured as follows.

- The specification will require individual materials to be priced based on a 3-monthly average value as detailed on the Letsrecycle.com index as demonstrated under paragraph 6.3.
- The composition of a single tonne of commingled material in the first year will be set by the client authorities with all 4 tonnage sources combined to form a single composition. From year 2 onwards composition will be derived from MRF Regulation testing carried out on all materials coming into the plant.
- Bidders will be asked to submit a gate fee calculated to cover the cost of processing a tonne of fully commingled material. This should significantly de-risk the process by reassuring bidders that the cost of accepting and processing consortium material is not dependent income from selling the materials once processed.
- The bidders will be asked to specify what share of the basket value will be given to the HWP with a range set by the HWP of between 25% - 100% of the basket value. At the time of tender this will allow officers to better forecast the range of likely outcomes.

1.22 When combined these 2 elements will give an effective likely net cost per tonne derived from subtracting any income share from the gate fee's proposed by the bidders.

1.23 In turn once the net costs are known these will be considered under the context of projected bulk transport arrangements and costs to determine which is the likely best overall economic result.

# Agenda Item 7



## AGENDA ITEM:

### SUMMARY

<b>Report for:</b>	<b>Strategic Planning and Environment Overview &amp; Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>12 April 2016</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Conservation Service</b>
Contact:	Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration  James Doe, Assistant Director – Planning, Development and Regeneration
Purpose of report:	To update the Committee on the work of the Conservation Service and to seek views on the proposed Conservation Action Plan
Recommendations	That the report be noted and that the Conservation Action Plan be endorsed for consideration by Cabinet.
Corporate objectives:	The implementation of the Conservation Strategy supports all of the corporate objectives.
Implications:	<u>Financial</u>  None arising directly from this report.
'Value For Money Implications'	<u>Value for Money</u>  None arising directly from this report.
Risk Implications	Risk Assessment completed as part of the service plan.
Equalities Implications	None arising from this report.

Health And Safety Implications	None arising from this report.
Consultees:	Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration. Mark Gaynor, Corporate Director for Housing and Regeneration Sara Whelan, Group Manager for Development Management and Planning Chris Taylor, Group Manager for Strategic Planning and Regeneration
Background papers:	Planning and Regeneration Service Plan 2013-2015 Conservation Strategy

## Background

1. This report provides an update on the Conservation service and how it is being developed.
2. Conservation of the built environment is important to the Borough of Dacorum. It has a rich historic environment with 941 Listed Building entries, relating to some 2,000 individual buildings and 25 Conservation Areas. The Borough also benefits from having 28 scheduled monuments and 3 historic gardens within its area.
3. The Borough Council has a range of statutory responsibilities towards its built heritage, principally in terms of works to Listed Buildings and developments within Conservation Areas. The principal piece of legislation that applies is the Planning (Listed Buildings and Conservation Areas) Act 1990. The Enterprise and Regulatory Reform Act 2013 updated some of the provisions of the 1990 Act, and these changes are set out in the Conservation Strategy (see below).
4. Given the Council's statutory responsibilities and the high quality of the historic environment in the Borough, it is important that the Council is sufficiently well resourced with specialist expertise to deal with both a direct caseload of Listed Building applications and proposals in Conservation Areas and to advise both Planning Officers and Members on the effect of new developments on the historic environment.
5. Dacorum is relatively well resourced with Conservation staff. Over the past year a new specialist planning team has been created within the Development Management service. Essentially this covers planning enforcement and the Conservation and Design service. The team is led by a senior Planning Officer. An Assistant Team Leader post has been created and this will be staffed shortly by a new senior Conservation professional, with recruitment into this role having been completed recently. A further part time post, together with budgetary provision for consultancy support completes the capacity that the Council holds for dealing with built heritage matters.

6. The Dacorum Conservation Strategy was approved by Cabinet on 24 November 2015, and is attached to this report for reference at Appendix 1. The purpose of the Strategy is to establish a comprehensive and agreed approach to the work of the Borough Council as a whole in the field of built heritage conservation.
7. The Conservation Strategy is currently being delivered and a draft action plan for activities in 2016 has been prepared. This is attached at Appendix 2. The key priorities proposed are as follows:
  - Continue work on the Conservation Area Character Appraisals.
  - Consider 'Buildings at Risk', locally-listed buildings and Article 4 Directions in respect of the areas being considered through the Conservation Area Character Appraisals.
  - Complete the photographic database of Listed Buildings.
  - Prepare for the move to the new Council Offices ('The Forum') through an appropriate assessment and archiving of the Council's heritage assets contained within the Civic Centre.
  - Complete the integration of the Conservation Team within the Development Management service.
  - Set out a clear framework for joint working with Planning Enforcement.
8. With reference to the detail at Appendix 2, the Committee's views on the proposed action plan is sought at the meeting.
9. Whereas conservation activity can be seen as a regulatory and reactive service, there is also a proactive side to the work of the Council in this regard, which is supported through the Conservation Strategy. Recent successes include:
  - Completion of Conservation Area Character Appraisals
  - Significant input into the design of the highly successful urban realm and one-way system in Hemel Hempstead Old Town
  - Creation of the Old Town Heritage Trail, in partnership with Dacorum Heritage Trust.
  - Assisting in securing funding for the Jellicoe Water Gardens restoration from the Heritage Lottery Fund/BIG
  - Strong input to the design of the Water Gardens restoration work.

# CONSERVATION STRATEGY

## 2016 ACTION PLAN



## **PART 1: INTRODUCTION**

The Council's Conservation Strategy 2014-2019 identifies the Council's priorities over the next six years for the conservation, enhancement and regeneration of the Borough's heritage assets, through the creation of 13 'Areas for Action'. It represents a significant opportunity for conservation to play a dynamic role in ensuring these assets are at the centre of place-making in Dacorum.

This document sets out the 'Areas for Action' for Heritage Conservation for 2016. It will have regard for the aims and objectives as set out in the overarching Conservation Strategy 2014-2019. It will set out the particular areas that will be the focus of the work of the Conservation Team in 2016, together with details of what will be achieved and by when.

## **PART 2: KEY PRIORITIES FOR 2016**

The key priorities for 2016 are as follows:

1. Continue work on the Conservation Area Character Appraisals.
2. Consider 'Buildings at Risk', locally-listed buildings and Article 4 Directions in respect of the areas being considered through the Conservation Area Character Appraisals.
3. Complete the photographic database of Listed Buildings.
4. Prepare for the move to the new Council Offices ('The Forum') through supporting an appropriate assessment and archiving of the Council's heritage assets contained within the Civic Centre.
5. Complete the integration of the Conservation Team within the Development Management service.
6. Set out a clear framework for joint working with Planning Enforcement.

These six key priorities will be discussed in turn in the following section.



## **PART 3: DETAILS AND TIMETABLES**

### **1. CONSERVATION AREA CHARACTER APPRAISALS**

The programme of completing the Borough's Conservation Area Character Appraisals (CACAs) will continue in 2016. The work in 2016 will be principally be undertaken by a consultancy firm, Emma Adams & Partners, but with support and checking from Conservation Officers.

In 2016 the CACAs for the following areas will be completed:

- Kings Langley (3 areas)
- Dudswell
- Northchurch

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
1.1	Draft CACAs received for all areas	End of March 2016
1.2	Consultation of all CACAs	End of April 2016
1.3	Amended CACAs received for all areas	End of May 2016
1.4	Council adopts all CACAs (via Cabinet)	End of July 2016

### **2. WORK LINKED TO CONSERVATION AREA CHARACTER APPRAISALS**

Within the work undertaken for the Kings Langley, Dudswell and Northchurch Conservation Area Character Appraisals the following aspects will be considered:

- Any boundary changes to the Conservation Areas
- Buildings at Risk
- Locally Listed Buildings
- Article 4 Directions

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
2.1	Assessment of (and consultation of) any proposed Conservation Area boundary changes	End of April 2016
2.2	Implementation of any final agreed Conservation Area boundary changes	End of August 2016
2.3	Review of Buildings at Risk, Locally Listed Buildings and Article 4 Directions in the 2016 CACA areas.	End of March 2016
2.4	Agreed Locally Listed Buildings to be incorporated within final CACAs	End of May 2016
2.5	Implementation of Building at Risk and Article 4 Direction proposals within final CACAs	End of December 2016

### **3. PHOTOGRAPHIC DATABASE OF LISTED BUILDINGS**

The 2015 Listed Building Photographic Survey (being undertaken by BEAMS) is near completion. In 2016 the work of the Conservation team will involve ensuring this survey is received, checking the quality of the Survey and establishing a method for storing this Survey.

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
3.1	Ensure receipt of 2015 LB Photographic Survey	End of January 2016
3.2	Go through 2015 LB Photographic Survey to check for quality and completeness	End of May 2016
3.3	Establish and complete an appropriate storage of the 2015 LB Photographic Survey	End of October 2016

### **4. ARCHIVES**

The new Council offices (The Forum) are presently being constructed and on time. It is expected that Officers will vacate the current Council offices (The Civic Centre) by January 2017. Therefore, an important part of the work of the Conservation team will be to support the smooth and appropriate transition for the Heritage assets contained within the Civic Centre.

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
4.1	Inventory of Civic Centre Heritage assets to be completed corporately	End of January 2016
4.2	Participate in working groups involved in programming the move to The Forum	Ongoing

## **5. WORK WITH DEVELOPMENT MANAGEMENT**

2016 would see the full integration of the Conservation Team within the Development Management function. This involves:

- Conservation Officers taking on listed building consent applications (and linked planning applications) – subject to appropriate training.
- Conservation Officers providing advice on applications and appeals as a consultee.
- Conservation Officers providing training to Planning Officers on heritage measures.

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
5.1	Set up Conservation Surgery (to provide an opportunity for DM Officers to receive advice on applications).	End of February 2016 (to be reviewed in July 2016)
5.2	Undertake Conservation Training Day (to provide an overview of heritage matters)	End of February 2016
5.3	Undertake two 'breakfast' / 'lunch' training sessions (focusing on key areas highlighting by DM Officers)	One by end of July 2016; the second by end of November 2016

## **6. WORK WITH PLANNING ENFORCEMENT**

In 2016 Conservation Officers will improve joint-working with Enforcement Officers to ensure a timely and proportionate response to breaches of listed building and wider planning controls.

<b>REF:</b>	<b>TARGET ACTIONS IN 2016</b>	<b>COMPLETION DATE</b>
6.1	Formulate a joint-working Procedural Note (to assess roles, responsibilities, tasks, and knowledge gaps)	End of August 2016 (to be reviewed in December 2016)
6.2	Create database of breaches in respect of the Borough's Heritage assets	End of March 2016
6.3	Combined Enforcement and Conservation team meeting (to review cases in database)	End of March 2016 (to take place once a quarter)

# CONSERVATION STRATEGY

2014-2019



## Conservation Strategy 2014-19

Comment by Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration

*“The Council has the twin role of ensuring the protection of the historic environment together with its enhancement through the delivery of high quality buildings.*

*The last Conservation Strategy was approved in July 2007, and now requires updating. Significant changes have occurred: at the national level, the National Planning Policy Framework and the new Enterprise and Regulatory Reform Act have been introduced; at Borough level, a new Core Strategy has been adopted.*

*The NPPF recognises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*

*Our Local Plan meets the NPPF requirements in providing a positive strategy for the conservation and enjoyment of the historic environment including heritage assets most at risk through neglect, decay or other threats. The policy recognises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.*

*Recognising the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring, this strategy represents Dacorum’s commitment to protect and enhance the historic built environment by*

- *sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *ensuring new development makes a positive contribution to local character and distinctiveness; and opportunities to draw on the contribution made by the historic environment to the character of a place”.*



Cllr Graham Sutton

Front cover photographs: Grade I Listed Ashridge House and Charles Street, Berkhamsted.

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*Bovington Conservation Area*

## Introduction

Dacorum has a rich historic environment with 941 Listed Building entries, relating to some 2,000 individual buildings and 25 Conservation Areas. The Borough also benefits from having 28 scheduled monuments and 3 historic gardens within its area.



The historic environment contributes immeasurably to the quality of our lives. Historic features add tradition, continuity and character to a place, as well as being an asset for the economy, the environment and the wider community. There are education and community benefits to discovering our heritage and crafts. There are significant benefits to the environment through the reuse of historic buildings. The promotion of cultural heritage and tourism, associated with historic places, is a driver of economic development. Higher land values are invariably linked with such design excellence. Total return on listed properties outperforms non-listed properties over the short, medium and long-term.<sup>1</sup>

The historic built environment is under pressure from development and regeneration - the threat of infilling and replacement with new, sometimes uninspiring buildings and the erosion of historic features in the public realm need to be carefully mitigated and managed. Equally, there is scope for regeneration and considerable enhancement of the character and appearance of some existing places in the Borough.



This strategy identifies the Council's priorities over the next seven years for the conservation, enhancement and regeneration of the Borough's heritage assets. It represents a significant opportunity for conservation to play a dynamic role in ensuring these assets are at the centre of place-making in Dacorum.

<sup>1</sup> <http://www.english-heritage.org.uk/content/imported-docs/a-e/encouraging-investment-industrial-heritage-at-risk-investment-performance.pdf>

*All development will favour the conservation of heritage assets. (Policy CS27)*

## **Heritage and the Council's Vision and Priorities**

This Conservation Strategy will assist in delivering the Council's Vision and some of its Key Priorities:

### *Regeneration*

Heritage excellence and variety encourages tourism to Dacorum, which in turn creates economic benefits. Every £1 of investment in the historic environment generates £1.6 of additional economic activity over a ten year period.<sup>2</sup> People gain enjoyment from visiting memorable places. Opportunities for engagement with heritage activities comprise part of the tourism offer of an attractive place to live and work and visit. Having a vibrant community that appreciates, engages with and actively promotes its heritage helps regenerate the area as a whole and enhances its reputation.

### *Safe and Clean Environment*

In conserving and enhancing our built and natural environment, heritage excellence helps to promote active and healthy lifestyles and reduce crime.

### *Building Community Capacity*

Dacorum has a thriving heritage community. Heritage activity provides opportunities for volunteering and a focus for community action and engagement, thereby building community capacity. By engaging with our stakeholders, the Borough will deliver the infrastructure necessary to promote our vibrant heritage sector and rich local history.

### *Dacorum Delivers*

The promotion of local heritage engenders a sense of civic pride, encouraging residents to be proud to be part of Dacorum. Heritage excellence clearly benefits the reputation of the Borough. The role of the local population in supporting the Borough's heritage is recognised.



<sup>2</sup> <http://hc.english-heritage.org.uk/Previous-Reports/1204-Economic-Impact/>



Heritage Assets include all the valued components of the historic environment. *“All heritage assets are important and should be conserved. The weight given to the specific form of protection or conservation will vary according to the importance of that asset.”*<sup>3</sup>

**Our remit**

**All aspects of Dacorum’s historic environment**

- Listed Buildings
- Locally Listed Buildings
- Conservation Areas
- Parks & Gardens
- Buildings at Risk
- Historic landscapes including our portion of the Chilterns AONB
- Scheduled Ancient Monuments
- Archaeology
- Heritage Assets within the Public Realm

<b>How we do it</b>		
<p><b>RESEARCH to</b></p> <ul style="list-style-type: none"> <li>• identify ‘significance’ of assets, gaps in knowledge and aspects of local distinctiveness</li> <li>• consult and liaise with stakeholders and partners on heritage issues</li> <li>• work in partnership to secure funding to improve heritage assets</li> <li>• feed into watching and development briefs</li> </ul>	<p><b>ADVICE on</b></p> <ul style="list-style-type: none"> <li>• conservation of existing listed buildings</li> <li>• changes to Conservation Areas</li> <li>• changes to heritage assets through the planning process</li> <li>• new buildings within their settings</li> <li>• the Council’s own historic property and asset transfer</li> <li>• public realm enhancements where they affect heritage assets</li> <li>• policy development affecting heritage</li> <li>• development briefs and regeneration proposals</li> <li>• 106/CIL Agreements</li> <li>• enforcement issues</li> </ul>	<p><b>ACTION to</b></p> <ul style="list-style-type: none"> <li>• work with owners and agents to achieve satisfactory outcomes to applications affecting heritage assets</li> <li>• deliver the programme of Conservation Area Appraisals</li> <li>• deliver high quality enhancement projects where they affect heritage assets</li> <li>• recommend Article 4 Directions</li> <li>• produce descriptions and lists of locally listed buildings</li> <li>• secure ‘Spot Listings’</li> <li>• work with Enforcement where necessary</li> <li>• recommend Building Preservation Notices and Compulsory Purchase Orders and serve where appropriate</li> <li>• take part in relevant Appeals</li> <li>• maintain records of heritage assets</li> <li>• find solutions for Buildings at Risk</li> <li>• proactively explore opportunities for generating income</li> </ul>

<sup>3</sup> Dacorum Borough Council’s Core Strategy: Paragraph 17.3

*The integrity, setting and distinctiveness of designated and undesignated heritage assets will be protected, conserved and if appropriate enhanced. CS27*

### **Areas for Action**

The Conservation Strategy sets out the areas for action as described below. The exact detailing of this work will be set out in the Action Plan. This will be a rolling 12 monthly document to reflect the fact that priorities and budgets can change over the period of the Strategy.

#### **Photographic Database of Listed Buildings**

The Council will seek to construct a database of photographs of Listed Buildings in the Borough. This is a vital record of historic buildings which aids assessment of applications for listed building consent and provides a dated benchmark for use in investigating any alleged unauthorised changes to Listed Buildings. The original 1994 Survey Photographs will be scanned for comparison.



#### **Listed Building Survey**

Currently some of Dacorum's Listed Building surveys are the oldest in Hertfordshire dating back to 1973. Through the on-going programme of Conservation Area Appraisals the Council will review of the current stock of Listed Buildings, and potential additional buildings worthy of Listing. Buildings and structures outside a Conservation Area will be assessed and re-assessed on an ad-hoc basis as they come to light.

#### **“Buildings at Risk”**

Dacorum's 'Buildings at Risk' register was originally produced in 1993 and was last reviewed in 1999. The Council will seek during the period of this strategy to re-assess all of the buildings at Risk in the Borough, initially to be achieved in conjunction with the Listed Building Photographic Survey.

The Council will seek to identify vulnerable heritage assets which are not being maintained or allowed to fall into a state of disrepair. Assessments will be made, as required, when these vulnerable assets come to light as the appropriate and proportionate course of action to protect them. This may include the use of formal enforcement action, Article 4 Directions, building preservation and urgent work notices, spot listing and applications for funding.



*Development will positively conserve and enhance the appearance and character of conservation areas. Negative features and problems identified in conservation area appraisals will be ameliorated or removed. (Policy CS27)*

### Conservation Area Character Appraisals

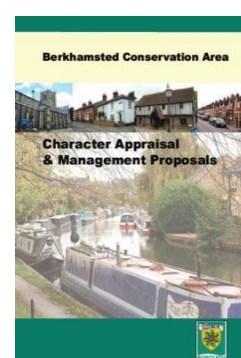
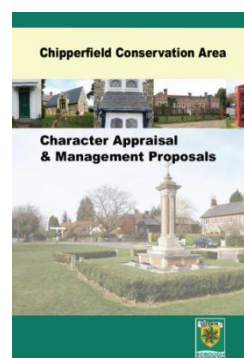
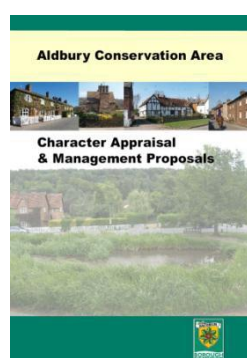
Appraisals assist in defining local distinctiveness and help to guide applicants and agents on planning issues. Character statements with policy objectives are the main outputs of the appraisal work. It also provides the basis for promoting enhancement work in historic areas. Conservation Area boundaries are also reviewed during the Appraisal process.

Of the 25 Conservation Areas in the Borough, the following have been completed:

Conservation Area	Approved
Aldbury	29 July 2008
Bovingdon	28 July 2011
Chipperfield	28 July 2011
Frithsden	28 July 2011
Great Gaddesden	28 July 2011
Nettleden	28 July 2011
Hemel Hempstead	21 January 2014
Berkhamsted	21 January 2014

Appraisals for all remaining conservation areas will be produced within the timescale of this strategy.

Tring & Markyate	2014-15
Kings Langley (3 areas), Dudswell, Northchurch	2016
Ringhshall, Flaunden, Winkwell	2017
Wilstone, Flamstead, Potten End, Water End	2018
Piccotts End, Little Gaddesden, Long Marston	2019



*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining it (NPPF)*



### Locally Listed Buildings and Non-Designated Heritage Assets

Many of Dacorum's heritage assets are already covered by formal designations. There are however other heritage assets without such protection under national legislation, but whose architectural and/or historic role needs to be recognised to ensure they are accorded an appropriate level of protection.

Locally listed buildings are being identified through the production of Conservation Area Appraisals. Hertfordshire Gardens Trust is surveying Dacorum's Parks and Gardens. Other locally-listed buildings and non-designated heritage assets will be identified through the planning process and considered according to policy and guidance.

Methods of identifying non-designated assets outside Conservation Areas being considered are:

- site allocations DPD and associated master planning process
- neighbourhood plans
- nominations to the Assistant Director, Planning and Regeneration.

Whichever route is followed, owners and local residents or groups with local knowledge are consulted. Reasonable steps will be taken to ensure property owners are informed of the Council's intention to locally list or designate their property in some way and are provided with draft descriptions.

The process allows for properties to be afforded weight as a heritage asset for the purposes of Policy CS27 in the Council's Core Strategy whilst the consultation is undertaken. The process will operate to a 3 month time frame with any decisions to designate requiring the approval of the Development Control Committee of the Council.

The process for the assessment of whether buildings or structures should be designated as heritage assets is set out at Appendix 1.

The criteria used for assessing any undesigned heritage assets are set out in Appendix 2.

## Article 4 Directions

Article 4 Directions are issued by the Council in exceptional circumstances where specific control over development is required, primarily where the character of an area of acknowledged importance would be threatened. Such Directions are usually applied over an area rather than an individual property and are registered as a Local Land Charge, so that subsequent owners of a property affected will normally be aware of their existence. The effect of such a Direction is to remove permitted development rights, thereby necessitating a planning application to be made.

The use of Article 4(2) Directions can in certain circumstances be used as a tool for controlling development in sensitive areas where survival of important architectural features is threatened. The Council has applied Article 4 Directions in a number of key areas, particularly in Berkhamsted.

In deciding which buildings should be protected we follow certain criteria to make sure that the same standards are used on all properties considered for Article 4 Protection.

<i>Individual</i>	The building should have some distinctive feature that is either architectural, historical, representative of a particular style or form of building or make a positive contribution to the street scene and its surroundings.
<i>Group Value</i>	Although individual buildings are considered, in general, groups of buildings are preferred because of their greater contribution to the environment of the area.
<i>State of Preservation</i>	Where possible buildings should be in their original, or near original, condition. The greater the degree of alteration the less suitable the property is for protection. The exception to this is where one building in a group has been drastically altered but the remainder are intact.
<i>The Surroundings</i>	The quality of the building's surroundings is important, not so much the state of upkeep as the proximity of Listed Buildings, or other groups to be protected by a Direction.
<i>Potential Threat</i>	Evidence that the building itself, or a similar building elsewhere, is likely to be altered.
<i>Suitability</i>	The particular features or character of the building to be protected must satisfy one of the categories controlled by an Article 4 Direction.

With the production of the Conservation Area Appraisals, the significance of heritage assets within each area has been identified and informs the selection of properties for Article 4(2) Directions.

Some properties outside Conservation Areas will also benefit from the serving of an Article 4 Direction. These will be considered on an ad hoc basis as opportunities arise.



## Enhancement Projects

The Council's Corporate Regeneration Group will play a role in shaping and delivering capital projects.

- Town Centre Improvements across the Borough
- Projects in Hemel Hempstead identified from the Town Masterplan 2013 such as the Restoration of the Water Gardens and others affecting heritage assets
- Environmental improvements across the Borough identified through local development documents and Conservation Area Appraisals
- Enhanced interpretation and recognition of the New Town and key buildings
- Potential regeneration schemes identified through conservation area appraisals.

In addition, the Council will seek to support schemes that are developed in partnership or that attract additional external funding.



### Guidance

The adopted Core Strategy provides the policy framework for considering development proposals for Listed Buildings and Conservation Areas. The Council will only produce specific guidance if it is unavailable elsewhere, and it is necessary to support the Council's priorities.

The new Local Plan for the Borough will be supported by SPD Guidance relating to the Historic Environment. This will follow the completion of the Conservation Area Appraisals, which is planned for 2019.

Specific guidance can also provide a valuable source of information to property owners of Listed Buildings, help promote the enhancement and protection of historic areas and provide clarity for applicants to guide them through the pre-application process. The intention is not to duplicate advice which is readily available on other organisations' websites, such as that provided by English Heritage.

### Supporting the Planning Enforcement function

Listed buildings are a finite and irreplaceable asset. The Council will use the powers invested in us through this legislation to ensure that Listed Buildings, Conservation Areas and other such protected areas and assets, their settings and any features of special architectural or historic interest which they possess are conserved to the highest standards.

Where harm has been incurred, support will be given to assist any enforcement investigation in assessing whether a breach of Listed Building control has taken place and works have been carried out against adopted policies and national advice provided in the NPPF and legislation.

### Archives

The Council offices will be moving to The Forum at the beginning of 2017. The current Council offices, the Civic Centre, contain a number of historical documents. These documents include early twentieth century planning application documents, New Town documents, historical maps, paintings, photographs and the Henry VIII plaque on the front of the Civic Centre.

These artefacts will be needed to be assessed and where appropriate recorded and / or moved to alternative locations. The important role of the Dacorum Heritage Trust and other local community groups will be considered when undertaking this work.

## Promoting Heritage in Dacorum

There are many ways in which the Council helps to raise awareness of the rich heritage within the Borough.

- Putting forward buildings in the Borough for awards
- Identifying and building awareness raising into enhancement projects
- Working with a wide range of partners internally and externally to raise awareness of heritage assets and how they can be appreciated as a means of promoting tourism
- Working with Town and Parish Councils and local Citizens Associations.
- Exploring new methods to engage with communities when consulting on historic building environment issues
- Heritage Open Days
- Drawing up and entering into Heritage Partnership Agreements
- Identifying significant heritage assets and where appropriate, putting forward buildings for 'Spot-listing'
- Providing talks to stakeholder groups in the Borough
- Collaborative working with museums /archives in the promotion of the local historic environment.





*In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.*

### Improving Conservation advice in Development Management

Conservation officers provide advice on Planning and Listed Building Applications and generally advise on numerous enquiries regarding development proposals.

In the light of policy and legislation, any applications involving alterations to Listed Buildings are fully assessed and provided with specialist informed advice. The Council seeks to provide effective and speedy advice with consistency running through from inception with pre-application enquiries to applications to ensure the quality of applications and decisions.

Since Conservation officers have moved back within the Development Management function it is expected that a key task of Conservation Officers will be to support the Development Management function through their work on planning applications, consultee responses and appeal cases. This will enable a more comprehensive process in dealing with any heritage concerns arising from development pressures.

### Responding to Changes in Legislation

The Enterprise and Regulatory Reform (ERR) Act 2013 has introduced a number of changes to the listed building consent system in England. Apart from replacing Conservation Area Consent with the need to apply for Planning Permission, and allowing new listings to be more precise in defining the special interest of the structure, opportunities exist:

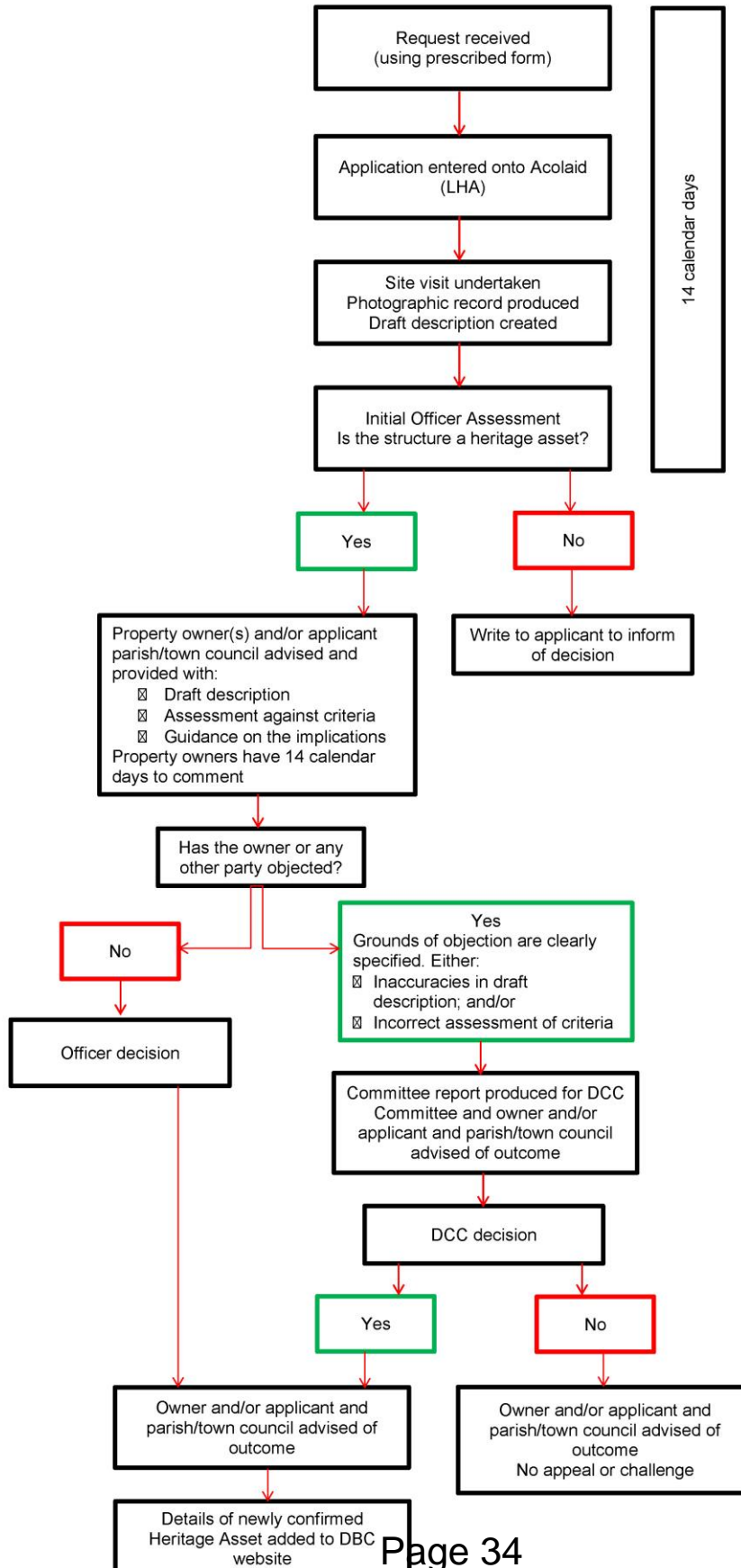
- to establish Heritage Partnership Agreements which allow listed building consent to be granted for specified works of alteration or extension, but not demolition, to individual or groups of listed buildings covered by the Agreement.
- for Local planning authorities to create Listed Building Consent Orders which grants listed building consent in respect of works of any description for the alteration or extension, but not demolition, of listed buildings. The consent granted by the Order means that the owner(s) of the listed buildings covered will not need to submit repetitive applications for works already granted consent by the Order.
- to apply at any time for a Certificate of Immunity from listing, which lasts for five years, Previously it could only be done if the building was subject to an application for planning permission. This is so that the special interest of the building can be established at the earliest stage in planning for any development.
- for Local Planning Authorities to issue Certificates of Lawfulness of Proposed Works. These provide formal confirmation that proposed works of alteration or extension, but not demolition, of a listed building do not require listed building consent because they do not affect its character. There is no obligation for anyone to apply for a Certificate.

Heritage Partnership Agreements will be supported where it can be demonstrated that they promote improvements and understanding. Whilst this Strategy does not highlight the Council's specific intention to apply any listed building consent orders, these will be considered on an ad hoc basis as opportunities arise.

A system will be implemented to respond to requests for Certificates of Lawfulness. The process essentially formalises a process already followed whereby enquiries as to whether listed building consent is required are logged and answered.

## Appendix I - Map: Assessment of Heritage Assets

### Process Map: Assessment of Heritage Assets



## Appendix 2 - Criteria for assessing undesignated Heritage Assets

<i>Age</i>	The age of the asset may be an important criterion and can be adjusted to take into account distinctive local characteristics
<i>Rarity</i>	Appropriate for all assets, as judged against local characteristics
<i>Aesthetic value</i>	The intrinsic design value of an asset relating to local styles, materials or any other distinctive local characteristics
<i>Group value</i>	Groupings of assets with a clear visual design or historic relationship
<i>Evidential value</i>	The significance of a local historic asset of any kind may be enhanced by a significant contemporary or historic written record
<i>Historic association</i>	The significance of a local heritage asset of any kind may be enhanced by a significant historical association of local or national note, including links to important figures
<i>Archaeological interest</i>	This may be an appropriate reason to designate a locally significant asset on the grounds of archaeological interest if the evidence base is sufficiently compelling and if a distinct area can be identified
<i>Designed landscape</i>	Relating to the interest attached to locally important designed landscapes, parks and gardens
<i>Landmark status</i>	An asset with strong communal or historical associations, or because it has especially striking aesthetic value, may be singled out as a landmark within the local scene
<i>Social and communal value</i>	Relating to places perceived as a source of local identity, distinctiveness, social interaction and coherence; often residing in intangible aspects of heritage contributing to the “collective memory” of a place

## Glossary

**Article 4 direction:** A direction which withdraws automatic planning permission granted by the General Permitted Development Order.

**Buildings at Risk:** The Building at Risk register is a register of buildings whose structure & stability is at risk or being compromised due to lack of maintenance

**Certificate of Immunity:** Confirms that a building will not be subject to Listing for a period of five years.

**Certificates of Lawfulness of Proposed Works:** Formal confirmation that proposed works of alteration or extension, but not demolition, of a listed building do not require listed building consent.

**Conservation Area:** A Conservation Area comprises an area of special architectural or historic interest. Designation as a Conservation Area provides the opportunity to preserve or enhance the area's character by controlling building demolition, allowing greater control over new development and protecting important features such as trees.

**Heritage asset:** A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).

**Heritage Partnership Agreement:** Allows listed building consent to be granted for specified works of alteration or extension, but not demolition, to individual or groups of listed buildings covered by the Agreement.

**Historic environment:** All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

**Listed building:** A Listed Building is included in the Statutory List of buildings of special architectural or historic interest, Grade II, Grade II\* and Grade I.

**Listed Building Consent Orders:** Grants listed building consent in respect of works of any description for the alteration or extension, but not demolition, of listed buildings.

**Locally Listed Building:** A Locally Listed Building is a building, structure or feature which, whilst not listed by the Secretary of State, the Council feels to be an important part of Dacorum's heritage due to its architectural, historic or archaeological significance.



**Agenda item:**

**Summary**

<b>Report for:</b>	<b>Strategic Planning and Environment Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>12 April 2016</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Development Management update</b>
<b>Contact:</b>	Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration  James Doe, Assistant Director – Planning, Development and Regeneration
<b>Purpose of report:</b>	To report on development management service update
<b>Recommendations</b>	That the report be noted
<b>Corporate objectives:</b>	The report focuses on the service plan for the area and key performance indicators. All corporate objectives are therefore relevant.
<b>Implications:</b>	<u>Financial</u>  None arising directly from this report.
<b>‘Value for money’ implications</b>	<u>Value for money</u>  None arising directly from this report
<b>Risk implications</b>	Risk Assessment completed as part of the service plan.

Community Impact Assessment	None arising from this report.
Health and safety Implications	None arising from this report.
Consultees:	<p>Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration.</p> <p>Mark Gaynor, Corporate Director for Housing and Regeneration</p> <p>Sara Whelan, Group Manager for Development Management and Planning</p> <p>Chris Taylor, Group Manager for Strategic Planning and Regeneration</p>
Background papers:	<p>Planning and Regeneration Service Plan 2013-2015</p> <p>Performance information held on the CorVu system.</p>

## Background

This is an update paper setting out the position of the Development Management service and discussing the options for its future.

## Context

Central Government is currently putting in motion many fundamental changes to the planning system, ranging from technical changes to the National Planning Policy Framework and strategic changes in the Housing and Planning Bill.

The National Planning Policy Framework underpins sustainable development and planning in England. The consultation launched by the Department for Communities and Local Government (DCLG) in December 2015 proposes the first changes since its publication in March 2012. The Housing and Planning Bill introduces many fundamental changes within the planning and housing functions of local authorities.

The resulting uncertainty created by the fundamental policy changes presents challenges both to assessing the cumulative impact on wider planning policy and to coordinate the resourcing of the planning service and review the way we work.

## Housing and Planning Bill

The Bill allows a change to planning policy that will mean that current section 106 requirements for affordable housing will be replaced with a requirement to build a proportion of homes in a development as 'Starter Homes' (to be sold at 80% of market rent to first time buyers under 40, and to be capped at £250,000 outside

London and £400,000 within London). These homes will themselves not be subject to section 106 or Community Infrastructure Levy (CIL) requirements.

The Bill gives the Secretary of State further powers to intervene if Local Plans are not delivered effectively by local authorities and extends the DCLG monitoring to small applications as well as major.

The Bill creates a duty for local authorities to maintain a local register of brownfield land. The Bill also requires all areas on the brownfield register, or land identified in local or neighbourhood plans, to be granted with 'permission in principle'. This is to facilitate sales of land for development.

The Bill requires reports to local authority planning committees to include detail on the estimated financial benefits to a community that will accrue from the proposed development. Government considers that the amount of CIL monies as well as section 106 contributions should be made clear in an Officer's recommendation as this may have an impact on how a community views a scheme.

However, Government is also suggesting that Council tax revenue and Business rate revenue are also calculated as these would be collected if a housing scheme is built. It will be an additional burden on case officers to estimate what the council tax and business rates amounts will be and may be confusing for the community and Councilors to receive this information as part of a planning recommendation as it is not a material planning consideration.

### **Permission in Principle and the Brownfield Register**

The Government is committed to introducing a statutory brownfield register, and wants to ensure that 90% of suitable brownfield sites have planning permission for housing by 2020. This could include full planning permission, outline consent (followed by reserved matters) or a new suggested form of application called permission in principle (to be followed by a technical consent decision).

The brownfield land register is likely to require a call for sites. This will be led by the Strategic Planning and Regeneration service but will need a level of input from DM to ensure that the sites are acceptable for housing and an indication of an appropriate amount. This is a new burden on the DM service and it is not yet known how this register will be formed, there is a requirement to review this at least annually.

The Housing and Planning Bill introduces this new 'permission in principle' route for obtaining planning permission. This is designed to separate decision making on 'in principle' issues (such as land use, location and amount of development) from matters of technical detail (such as what the buildings will look like). The Bill provides for permission in principle to be granted on sites in plans and registers, and for minor sites on application to the local planning authority.

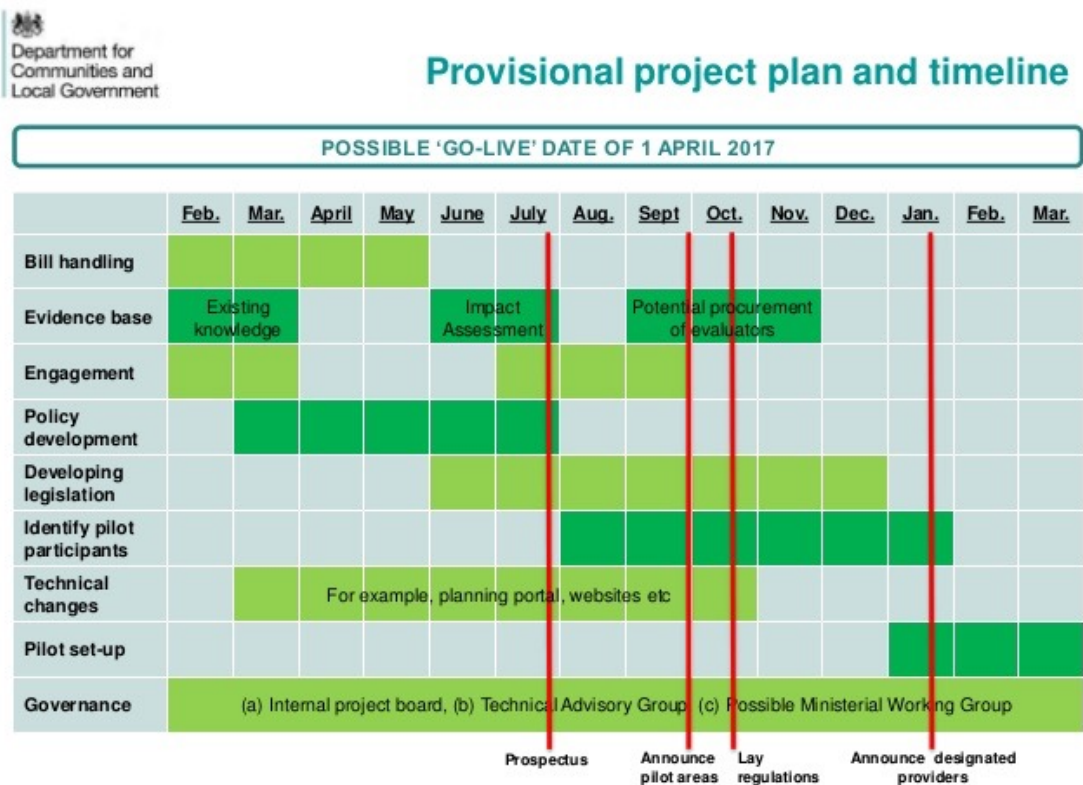
This will be a new type of planning application and therefore application forms, fees and back office management systems will need to be set up. However, more importantly, the Permission in Principle applications will need to be understood by the community and Development Control Committee. The technical details such as flooding, historic constraints and land contamination cannot be assessed at

the initial principle stages when allowing housing. It may be challenging to know how much housing is appropriate without a layout, especially in a conservation area or other constrained areas. The idea is that the principle of development is only established once, and that less upfront costs would be required in submitting details of a planning application. It is hoped that this route will increase the likelihood for suitable sites to be developed.

### Approved Providers

A late amendment to the bill suggests that applicants can choose whether to submit their planning application to a Local Planning Authority or an 'approved provider'. It is unclear how this would work in practice; however it is likely that neighbouring occupiers, town/parish councils and the wider community would be consulted via the approved provider, the Local Planning Authority would be required to provide a planning history of the property. The approved provider would make a recommendation and the Local Planning Authority would then be responsible for the final decision.

It is unclear how the fee would be divided between both parties and who would qualify to be an approved provider. However, many critics are commenting that this is the start of privatising planning. We need to prepare for this direct competition from approved providers as a loss of applications could result in a loss of fees and staff resources. A trial is due to take place with a roll out ready for April 2017; please see a provisional project plan from the DCLG below;





## **Performance and planning fees**

This committee receives quarterly performance data. The DM service for the past few quarters has been meeting our performance targets nationally and our internally set targets. This is good news but we will need to keep an eye on these as the National performance measures are set to get tougher.

Nationally, non-major applications are set to be monitored as well as major applications. Many of these minor applications are referred to committee or are subject to a section 106 Legal Agreement which can delay the process. In addition the quality measure is set to be made tougher so that no more than 10% of applications for major development overturned at appeal, otherwise the authority will be designated.

Government is proposing that national fees are increased by a proportionate amount as they have not increased since 2012. However, they are clear that any changes in fees should go hand in hand with provision of an effective service. Consequently Government is currently suggesting that an increase in fees would not apply to a underperforming authority. Dacorum needs to be clear that we have efficient working processes and staff resources to qualify for the higher level of fees. It is very important that performance management and financial management are linked and considered comprehensively.

The planning service has recently increased its pre-application fees to recover our costs. These came into force from 1 April 2016 and have generally been met with positive feedback. Agents are happy to pay for advice on the provision that a high quality service is provided. We have recently signed our first Planning Performance Agreement which has been entered into with the applicants, Dacorum Borough Council and St Albans District Council. This agreement sets out a project management approach to pre-application advice for a cross-boundary site and secures an appropriate fee for this enhanced level of service.

## **Efficient processes**

The number of planning applications submitted continue to rise and there is more pressure to decide cases in a timely fashion. We are also under financial pressure to make cashable savings to go towards the medium term financial strategy. We are currently reviewing the way we work across all aspects of a planning application to ensure that we are working in the most efficient way possible.

This will maximise the staff resources we have and if there is something we are currently doing which does not add value to the processing of a planning application we should consider stopping doing it. Reviewing our processes is not a quick process and requires working with internal and external statutory consultees, however, it is necessary and a key priority to ensure that we can continue to provide an excellent level of service.

## **Electronic working and IT**

Currently the DM service are working well with a paperless caseload. We have recently rolled out the electronic-post service which removes much of the paper coming into the planning department. However, we are still printing hard copies of planning applications for town and parish councils, letters for neighbours and site notices. There are definitely ways we can reduce the amount of paper we print. This is important as paper is not conducive to working in the Forum and slows the

processing on applications down. However, we will need to work with key stakeholders on any changes we make to our way of working. We need to be sure that the way we process an application is as efficient as possible so we can compete with approved providers and recover our costs appropriately from planning fees.

We have been working closely with IT to ensure our planning webpages are refreshed as part of the launch of the Councils new website. These webpages will continue to be reviewed and reduced where possible. We are also working on a public access system, which will allow customers to register as a user to search and track planning applications through the lifecycle of the planning process. It will also make it easier for users to submit their comments on planning applications on line.

Our back office system is called Acolaid, although it works well there are other systems on the market which would allow us to automate some of our current processes. We are working with the Procurement and IT teams to investigating replacing Acolaid with an improved back office system.

### **Development Control Committee**

The Development Control Committee meet every three weeks to hear officer recommendations and the community's views before making a final decision on planning applications. The committee has a programme of training and support sessions which include keeping up to date with the whole planning system and liaising with key stakeholders such as Hertfordshire Highways. The parish and town councils have been involved in these sessions and it may be useful in the future to liaise closely so they feel fully engaged in the planning process.

The committee reviews the appeal decisions made by the Planning Inspectorate, especially where it has been a decision made by the committee to overturn an officer recommendation. Councillors have often been involved in defending the committee's decision and countering applications for costs made by an appellant. Although in some cases the council has had to pay costs where the Inspector has ruled that a decision has not been defended fully.

When a large scale major application is to be decided at Committee members are invited to attend a pre-briefing which allows Councillors more time to understand the details of a proposal. It is likely that members will also be involved in large scale pre-applications, with support from the Council legal department to ensure that Councillors would not be pre-determined.



**Agenda item:**

**Summary**

<b>Report for:</b>	<b>Strategic Planning and Regeneration Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>12 April 2016</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Building Control update</b>
<b>Contact:</b>	Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration  James Doe, Assistant Director – Planning, Development and Regeneration
<b>Purpose of report:</b>	To report on building control service update.
<b>Recommendations</b>	That the report be noted.
<b>Corporate objectives:</b>	The report focuses on the service plan for the area and key performance indicators. All corporate objectives are therefore relevant.
<b>Implications:</b>	<u>Financial</u>  None arising directly from this report.
<b>'Value for money' implications</b>	<u>Value for money</u>  None arising directly from this report.
<b>Risk implications</b>	Risk Assessment completed as part of the service plan.
<b>Community Impact Assessment</b>	None arising from this report.
<b>Health and safety Implications</b>	None arising from this report.
<b>Consultees:</b>	Cllr Graham Sutton, Portfolio Holder for Planning and

	<p>Regeneration.</p> <p>Mark Gaynor, Corporate Director for Housing and Regeneration</p> <p>Sara Whelan, Group Manager for Development Management and Planning</p> <p>Chris Taylor, Group Manager for Strategic Planning and Regeneration</p>
Background papers:	<p>Planning and Regeneration Service Plan 2013-2015</p> <p>Performance information held on the CorVu system.</p>
Glossary of acronyms and any other abbreviations used in this report:	

## Background

This is an update paper setting out the position of the Building Control service and discussing the options for its future.

## Context

Building Control (BC) is the process by which the Building Regulations as set down by the Department for Communities and Local Government are enforced. They are a set of standards for the design and construction of buildings primarily established to ensure the safety of those people who use the buildings through regulations for fire, electrical and structural safety.

## Market share

Historically the Local Authority performed this function exclusively, but since 1997 the private sector through registered individuals and companies has competed with the public sector for fee-earning work. These private sector companies and individuals are known as Approved Inspectors (AIs).

This competition has resulted in Local Authority Building Control being acutely aware of the need for efficient service delivery and excellent customer service in order to be able to compete for work where arguably there is not a level playing field particularly in terms of fee setting and charging.

The Building (Local Authority Charges) Regulations 2010 (Charging Regulations) and associated Chartered Institute of Public Finance and Accountancy guidance require Local Authority Building Control to publish its charging scheme, which in reality gives the private sector a baseline against which to set their own charges and compete on a preferential basis. There is no reciprocal requirement for AIs to publish their

charging schemes, but anecdotal evidence suggests some AIs use the local authority charging scheme as a base line, then deduct a percentage – typically 10% - to arrive at their own charges.

The Government's aim in doing this is to ensure there will always be a building control service to the public available at cost. The over-riding objective of the regulations is to set charges to recover the costs of carrying out the building regulation service for individual building projects as far as is possible. This means that the local authority cannot offer 'loss leaders' as an incentive to attract new work or clients with the aim of recovering costs over a series of building projects rather than just one, which is a commercial approach available to AIs.

Central Government's view at the time was that competition between Local Authority BC and AIs would provide greater stimulus for efficiencies and standards of service so long as appropriate performance standards were applied. There are some key differences between local authority Building Control and AI services:

- AIs have no statutory duty to accept applications under the Building Regulations, therefore they are able to preferentially 'cherry pick' the market for the most profitable / least costly work whereas the local authority must accept and process any application, and are therefore always be the 'provider of last resort'
- AIs are not restricted in their activities by the fixed, and commercially artificial, geographic boundaries that a local authority must individually work within
- Only the local authority can undertake enforcement of the Building Regulations, approved inspectors must 'revert' applications back to the local authority when they are unable to complete a project due to contraventions of the Regulations
- Local authorities are required to assess the legal status of any AI application (known as an Initial Notice: 'IN') before work commences. There is a five day period during which the local authority must approve or reject the Initial Notice on specific grounds set out within legislation (although such rejection is uncommon in practice).
- Local Authorities have a duty to maintain a comprehensive administrative record of all applications and works carried out by AIs and other 'competent persons' such as gas engineers, window installers and electricians who are accredited to carry out work under the Building Regulations without the need to make formal applications (see below).

Local Authority Building Control also undertakes a number of non-fee earning statutory duties or powers which AIs do not. Chargeable and key non-chargeable activities include:

- Dealing with dangerous structures
- Administration of the AI regulations
- Dealing with demolitions
- Enforcement of legislation
- Work in association with disabled persons applications
- Liaison with statutory agencies e.g. Fire Service
- Administration of competent persons scheme; e.g. GasSafe, FENSA, NICEIC
- General advice or the first hour of specific advice
- Applications from disabled persons for certain works.

The market share of AIs has increased over the past three years and whilst we do well to pick up residential work we do not have a good market share of the commercial work. The table below shows the application's received to Dacorum Building Control and the Initial Notices received from AI's in the same period (6/4/2015 to 29/3/2016). Although the data below is useful it does not truly represent the housing application figures as the initial notices tend to be for larger housing schemes where we tend to pick up the smaller infill developments.

<b>Type 6/4/2015 to 29/3/2016</b>	<b>Dacorum</b>	<b>Approved Inspectors</b>
Domestic	999	196
New or conversion to new Housing	78	44
Commercial extensions	26	82

In the recent years more Local Authority Building Control services are joining together, aiming to share resources, staff and skills to provide resilience as this area is very fragile in most Local Authorities. In other cases, private providers are seeking to partner with Local Authorities to create arms-length trading organisations.

In recent years, Dacorum considered a partnership with the Norse Group which was to involve Watford Borough Council in addition. Cabinet had agreed the venture in principle, but it did not progress as the business case, once further due diligence was undertaken, was marginal at best with a degree of financial risk to the Council. This largely revolved around the need to re-assign the costs of the recharges paid by the service which would have been lost from the General Fund budget and would therefore have been a growth pressure, even when savings from transferring the service had been factored in.

Presently, a group of Hertfordshire authorities known as Herts 7 Consortium have come together to form a collaborative venture due to be launched in spring/summer 2016.

Dacorum did consider joining this group; however, financially it is preferable for the building control function to stay in house, largely for the reasons set out above. Having made the decision to keep building control in house the service now needs to undergo investment to compete with not only AIs but also ventures such as the Herts 7.

In the future Building Control could run a service under an umbrella company, this would enable the Local Authority to serve an Initial Notice which sets out that a building regulations application will be submitted in the future. Setting out an Initial Notice early in a build process can secure lower build costs for a developer by securing a scheme to be set in the context of the legislation at the point the Initial Notice is served rather than being caught by any new more stringent legislation changes. This was particularly apparent when the Part L changes came into place. This is a quicker way of starting the BC process, there is no fee to be paid or no agreement required from the applicant. Whereas we have to wait for a building control application to be submitted and a fee paid.

Other options include developing and providing services which are not constrained by the fee-earning account – services on which the Council can make a profit. This

would require the staffing situation – as explained below – to stabilise; the training of staff; and the promotion and marketing of the service.

There could be the opportunity to also collaborate over the provision of LA Building Control services with other authorities, to create greater resilience.

### **Staffing**

We currently have two permanent members of staff who are established in the Council. Two other members of staff have recently left, one retired and one to become an Approved Inspector. We recently advertised for Building Control Lead Officers and an Assistant Team Leader. Unfortunately no candidates were able to be shortlisted as they did not meet the requirements of the role. We have five temporary members of staff on an hourly rate to cover the vacant posts. These members of staff cost considerably more than permanent members of staff and it is not sustainable to continue with such a high reliance on temporary staff. There is a drastic shortage of qualified building control inspectors and of those available it is hard to retain them in the public sector.

Although the team is mostly made up by temporary members of staff, we are working up to establishment. The demand for work is high and all staff are extremely busy, with many staff working above their weekly hours. The performance of the team remains strong with 100% of cases resolved or completed within two months. The Quarter 3 performance report to the last meeting of the Committee refers.

We are working with HR to explore ways to tackle this recruitment and retention problem. It may be that graduate schemes are recruited and supported throughout their qualifications and becoming chartered. This 'grow your own technique' is tried and tested at Dacorum but requires further consideration as would have an implication on training budgets and staff resources.

St Albans City and District Council has recently introduced performance related pay for building control and planning officers, a bonus is calculated based on meeting income targets and other performance measures and paid for from the fee-earning income only if a pre-defined fee income threshold is met, so that the risk to the General Fund is effectively insulated. This is paid to staff annually in April. Other authorities such as Kensington and Chelsea also adopt this approach in planning departments. This can help to recruit and retain staff and could be considered at Dacorum.

Generally there is a need to have better succession planning, career development opportunities for employees, peer support and resilience.

### **Electronic working**

Building Control Officers and Technical Assistants are working through hard copy files to close down as many outstanding cases as possible and scan the remaining files. This will mean that all records are kept in an electronic format and will enable remote working, working from home and flexible working arrangements within The Forum.

Currently all Building Control applications are submitted in hard copy or by email which means support staff have to scan and index drawings as well as logging applications on to the system, making them into a new case. We have been working on making an e-form available on the Council's website so that Building Control

applications can be submitted online and pull through automatically to the back office system. However, a new national portal hosted by Idox has launched called i-apply. We are now looking into a convertor so that applications submitted via i-apply will pull through directly to our back office. This may supersede the need for an e-form on our website. Instead we would advertise a link to i-apply and as the national portal it would be kept up-to-date with Building Control legislation and submission updates.

We are also exploring a new back office computer system to replace Acolaid. This system is used by Planning, Building Control and Land Charges so any changes would need to be in consultation with all users. The aim of replacing Acolaid would be to automate many of the existing steps and provide more opportunity for remote working such as case details available on tablets on site. This is being explored with Procurement and IT colleagues.

## **Summary**

In summary, the BC department has lacked investment over the past four years, mainly due to the various considerations of joint ventures. Now that a decision has been taken to keep BC in house, investment needs to be made to improve the service's resilience. It is likely that a new back office system will be introduced to improve the efficiency of the department. A graduate programme will be introduced and possibly explore performance related pay to increase our ability to retain, develop and recruit staff and this improve service quality. We will continue to work towards providing a broader service offer to customers and will explore setting the department up as an umbrella company and marketing the service to increase our market share. These future options will be worked up in conjunction with Human Resources and Finance as well as other departments across the Council.





Agenda item:

**Summary**

<b>Report for:</b>	<b>Strategic Planning and Environment Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>12 April 2016</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Local Land Charges</b>
<b>Contact:</b>	Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration  James Doe, Assistant Director – Planning, Development and Regeneration
<b>Purpose of report:</b>	To report on land charges service update
<b>Recommendations</b>	That the report be noted
<b>Corporate objectives:</b>	The report focuses on the service plan for the area and key performance indicators. All corporate objectives are therefore relevant.
<b>Implications:</b>	<u>Financial</u>  None arising directly from this report.
<b>'Value for money' implications</b>	<u>Value for money</u>  None arising directly from this report
<b>Risk implications</b>	Risk Assessment completed as part of the service plan.

Community Impact Assessment	None arising from this report.
Health and safety Implications	None arising from this report.
Consultees:	<p>Cllr Graham Sutton, Portfolio Holder for Planning and Regeneration.</p> <p>Mark Gaynor, Corporate Director for Housing and Regeneration</p> <p>Sara Whelan, Group Manager for Development Management and Planning</p> <p>Chris Taylor, Group Manager for Strategic Planning and Regeneration</p> <p>Steve Baker, Assistant Director and chief Monitoring Officer (Chief Executive's Unit)</p>
Background papers:	<p>Planning and Regeneration Service Plan 2013-2015</p> <p>Performance information held on the CorVu system.</p>
Glossary of acronyms and any other abbreviations used in this report:	

## Background

This is an update paper setting out the position of the Land Charges service and discussing the options for its future.

## Glossary

Local Land Charges: (LLC)  
Local Land Charges Register (LLCR)  
Local Land Charges Institute (LLCI)  
HM Land Registry (HMLR)  
Local Authority (LA)  
Local Government Association (LGA)  
Department of Communities and Local Government (DCLG)  
National Land and Information Service (NLIS)  
Land Data is the governing body for NLIS  
Court of Justice of the European Union (CJEU)

COPSO is the representative for the Personal Search companies.

Geographical Information system (GIS)

Environmental Information Regulations (EIR)

Information Commissioner's Office (ICO)

Local Land Charges institute (LLCI)

### **Context**

A Local Land Charge is a restriction or obligation that is binding on future owners of a property or a parcel of land. Examples of such charges are Tree Preservation Orders, Section 106 Legal Agreements, Conditional Planning consents, Listed Building status, Enforcement notices.

The Local Land Charges Team is responsible for maintaining the Register of Local Land Charges and completing the Official Local Authority Local Land Charges search, with the aid of other departments for the Con29 replies. The section plays an important part in the conveyance process.

A Full Local Authority Land Charges Search comprises of:

- LLC1 Form (Register of Local Land Charges)
- CON29R Form (Enquiries of the Local Authority.) These include: Highways information; Building Control; Planning History; Core Strategy policies such as Conservation Areas; possible Enforcement Notices.
- A CON29O Form is also available for optional enquires. These include: Common Land enquiries: Public Rights of Way.

### **Fees:**

<u>Search type</u>	<u>Fee</u>
LLC1 and Con29R (Residential Properties)	£99
LLCI and CON29R (Commercial Properties)	£190
LLC1 (Search of Land Charges Register only)	£30
CON29R Only (Residential Properties)	£69
CON29R Only (Commercial Properties)	£160
CON29O Enquiries	£12 each (Except Q22 - Commons Search)
CON29O Q22 - Commons Search	£20

Extra parcels of land

£20

### **Income received from Local Land Charges searches**

Financial Year 2013 – 2014: £277,518.00

Financial Year 2014 – 2015: £288,004.00

1<sup>st</sup> April – 29<sup>th</sup> February 2016: £258,053.00

### **Personal searches**

The Local Land Charges service provided by the Council operates in a competitive environment, with competition coming from Personal searchers.

A personal search is an inspection of the Local Land Charges Register. Personal searches can be made by members of the public or their Agent, but by appointment only.

The average market share for the Personal Search companies during **2015** was **34.51%**

The average market share for the Personal Search companies during **2014** was **38.55%**

At Dacorum Borough Council the Local Land Charges Register is stored partially electronically and partially in manual files. This data is not currently available for public viewing. This means that in order for a personal search to be conducted the Local Land Charges Team must collate all the relevant information in advance and provide it for inspection. We are working towards making this data wholly electronic, so that staff can work remotely and that our storage requirements suit the new way of working in the Forum building.

A personal search is currently free of charge. If all the information could be made available on line then we may be able to charge for this service. There are challenges in making the information available on line. The results of a personal search include information dating back to 1948, therefore a lot of data would need to be pulled together and be sure that it was correctly laid out, to limit mistakes.

The main reason for error if a member of public was searching on line would be where a site has changed name, for example four houses known as 1-4 High Street, are demolished and redeveloped to provide eight flats, known as 1-8 High Street the land parcel is the same but the address is different. Searching the history of one of the new flats, 7 High Street would also need to include the previous history of 1-4 High Street in its previous form of houses. Therefore the data needs to be plotted correctly.

## **VAT**

It was proposed that on 1<sup>st</sup> February 2016 VAT will become payable on part of the Local Authority Local Land Charges search. This will be payable on the Con29 form fees and **not** the LLCR as this is a statutory service.

This has now been delayed until 4<sup>th</sup> July 2016 after intervention from the Local Land Charges institute (LLCI). This will now give all those involved in the property search market time to prepare, including the software suppliers who have indicated that their system updates may not have been ready in time for the proposed date in February. LLCI have also asked for full implementation details as VAT receipts will have to be produced.

We have set up a VAT Receipt template in readiness for the changes and will advertise the change in fees ahead of the 4<sup>th</sup> July 2016.

## **New Con29 Forms**

New Con29 forms come into effect on the 4<sup>th</sup> July 2016.

The Law Society has released the new CON29 forms to LLCI ahead of the go-live date, to allow local authorities to carry out necessary preparations and training ahead of the formal launch of the new forms on 4<sup>th</sup> July 2016.

This will involve a lot of time and work for the LLC section and we will need to liaise with our software provider IDOX and all the other departments to ensure an easy transition.

As a result of the changes to both the CON29 and CON29O we may need to review our costs, to ensure that they comply with the Charges for Property Search Regulations (in so far as they still apply to “official” CON29 responses and referring to the guidance previously issued by Bevan Brittan/LGA)

Local authorities traditionally review fees in readiness for a 1<sup>st</sup> April introduction, LLCI is asking that wherever it is appropriate and excepting any change to the VAT position CON29 fees are not revised until July 2016.

## **HM Land Registry Local Land Charges Project**

This work will have major implications for how DBC provides the Local Land Charges service.

On the 12<sup>th</sup> February 2015 the Department for Transport announced that the Infrastructure Bill has received Royal Assent. The Bill includes provisions to allow HM Land Registry to provide a single, digital Local Land Charges service. This applies to the Local Land Register and not the replies to the CON29.

### **Timeline**

The migration programme is currently expected to take up to eight years for migration as follows:-

70% by April 2020

80% by December 2020  
100% by July 2023

Migration will not start until the second half of 2017 at the earliest. Every authority needs to provide a full LLC service until at least then, and for most authorities well beyond. Authorities will receive several months' notice of when the migration of their LLC service to Land Registry will start. Following migration of the LLC Register and searches of it authorities will still have to register LLCs with Land Registry and of course be expected to provide a CON29 service for the foreseeable future.

The Land Registry has just announced that the consultation on **secondary legislation** for Local Land Charges (LLC), originally planned for autumn 2015, is being rescheduled. This is to provide an opportunity for Land Registry to share details of the future service with key stakeholders prior to the consultation. The current intention is now to run the 12 week consultation Spring 2016.

Secondary legislation will then be laid before parliament either in October 2016 but if that date is missed it will then be April 2017. It is not completely clear at this stage what the legislation will cover but the rules and fees are expected to be included.

Whilst the Local Land Charges Institute is one of the key stakeholders on the Land Registry LLC Advisory Board, this does not mean the Institute now supports the project but that they are looking to get the best possible outcome for the service, users, and local government.

HM Land Registry has committed to establishing a **New Burdens Working Group** in order to take this piece of work forward in a collaborative way. The group will consist of - Land Registry, Local Government Association (LGA), Local Land Charges Institute (LLCI), DCLG and up to 6 local authorities.

HMLR have started their data sampling exercise which will eventually see them visit every local authority. Each borough has been assigned an HMLR contact and as well as acting as our first point of call with HMLR they will be arranging the data sampling visit. The data sampling meeting for Dacorum was held in October 2015.

The collection of this data not only helps to provide a greater understanding of the volume and types of data and how its stored, which in turn feeds into the data capture and new burdens elements of the project.

Each LA is statutorily bound to continue to maintain, keep and provide official searches and access to the Local Land Charges register until such time as the data for the authority has been migrated to HMLR. At this stage it is thought likely that LAs will be asked to continue to update the LLC register for their LA area post data migration. There are currently no published proposals to take the CON29 Enquiry service away from local authorities. The need for a fully resourced Local Land Charges Service in each LA will remain at the very least until full data migration (for that LA) has taken place and very likely beyond.

### **Environmental Information Regulations**

The Environmental Information Regulations 2004 provide public access to environmental information held by public authorities.

The Regulations do this in two ways:

- public authorities must make environmental information available proactively;

- members of the public are entitled to request environmental information from public authorities.

Following the CJEU ruling in the *East Sussex County Council v (1) Information Commissioner (2) Property Search Group (3) Local Government Association* case, we have received a Legal Briefing Note outlining the outcome and guidance on charging for EIR. The key points being:

**Staff salary costs** for the time staff spend answering requests for environmental information can be included in charges;

**Overheads attributable to staff time** (e.g. heating, lighting, staff training) spent on answering individual requests for information can be recovered through charges for supplying environmental information.

**The overall charge must not exceed a reasonable amount.** The charge must not exceed the authority's actual costs.

**Costs associated with maintaining a database** cannot be included in charges for supplying environmental information;

The Court's decision is binding law in the UK and all public authorities will be expected to comply with it.

### **Litigation summary**

The charges levied by local authority land charges departments for property searches were previously regulated by statute which set out either a mandatory charging basis (the Local Land Charges rules which previously set the fee for a personal search of the local land charges register at £11/£22) or a permissive charging basis (e.g. the Charges Regulations 2008 which direct authorities on how to set their own charges for personal searches of other items, e.g. highways and building control data).

For the last few years, private property search companies ("PSCs") who carry out numerous searches every day in local land charges departments to prepare search materials which are then sold onto the public, have complained that the fees set by authorities are incompatible with the Environmental Information Regulations 2004 (the "EIRs"). The EIRs were brought into force on 1 January 2005 as a means of implementing the 2003 EC Directive on public access to environmental information.

It became clear that central government had failed to realise that the EIRs could be said to apply to the vast majority of property search data, given that the definition of "environmental information" in the EIRs is very wide indeed. In August 2010 the government revoked the personal search fee of the local land charges register because it was incompatible with the EIRs. The EIRs specifically state that environmental information contained on a register or list must be made available for personal inspection free of charge.

The result of central government's failure to appreciate the conflict between the EIRs and the existing legislation is that numerous private property search companies have now brought and or threatened legal action against authorities for charges levied from 1 January 2005 onwards (and in some cases prior to that date) which are alleged to be unlawful under the EIRs.

There are a number of PSCs levying claims for refunds against authorities, but the vast majority have joined one of two camps (the "PSG/Tinkler Solicitors" group, and

the "APPS/Norton Rose Fulbright" group). The PSG/Tinklers group issued proceedings against 185 authorities including Dacorum Borough Council and these have been settled by way of Consent Order, each authority having reached agreement with those claimants on the sums to be refunded.

### **Performance Statistics**

See attached CorVu report graphs which monitor numbers of Official LLC searches received and the average turnaround time to complete them.

Note:

The high turnaround figures in June 2015 were due to the gazetteer migration to Acolaid which had unforeseen complications.

The high turnaround figures at the beginning of 2014 were due to maternity leave and maternity sickness.

### **Paperless working and working from home.**

From 1<sup>st</sup> January 2015, with the introduction of a Local Land Charges Information @ Work system, we no longer keep any paper files.

We receive the vast majority of our searches electronically. We receive almost 50% of our searches electronically via the National Land Information Service (NLIS). We have actively encouraged our customers and solicitors to send in their searches by email with payments by BACS. There are some solicitors however who prefer to send in paper searches but these are now returned to them by email only, thereby cutting down on printing.

The above together with the scanning of the Planning Street Registers, Plotting Sheets and LLC street cards have enabled the team to be able to work from home.

The introduction of E-post for Local Land Charges will also enhance our service. This is due to be introduced in summer 2016.

A fantastic advancement towards paperless working has been made within the LLC section over the past two years. This will hold us in good stead for the move to The Forum.

### **Service Development**

The main work priorities for the next year next year (2016/17) are;

- Scanning - of all remaining paper/microfiche documents including, Tree Preservation Orders, plotting sheets microfiche and various other paper registrations.
- Fees - A full review of our fees to ensure that we comply with the Charging Regulations and to ensure that our current income is not at risk. We will need to review our fees in light of the new CON29 questions. Start charging for EIR. A reduction in the cost of the LLC1 would be beneficial prior to its migration to HMLR.



- LLC Register to be made available on the website - This is primarily for the Personal Search companies. We could then charge for an enhanced service if they wish us to do the work for them. For example we could offer them an official LLC1 at a fee.