



Dacorum Borough Council

Local Planning Framework

DACORUM SITE ALLOCATIONS DPD EXAMINATION IN PUBLIC

Statement by Dacorum Borough Council

Matter 1: Legal compliance, including duty to co-operate

September 2016

Purpose of this statement

The purpose of this statement is to summarise the Council's position regarding the following matters, issues and questions raised by the Inspector in advance of their discussion at the public hearing sessions.

To avoid repetition this statement includes cross references to appropriate technical work and includes relevant extracts as appendices.

Matters raised by Inspector and the Council's response

1. Overall, has the Plan been prepared in accordance with relevant legal requirements, including the 'Duty to Cooperate' imposed by Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended)? Has the duty to co-operate been met? What has been the nature of the co-operation and on what issues? How is the 'Duty to Co-operate' work of the various planning authorities co-ordinated?

(a) Does Plan Meet Relevant Legal Requirement, including the 'Duty to Co-Operate'? Has the DTC been met?

- 1.1 The submitted Site Allocations DPD meets all necessary legal requirements, including the Duty to Co-Operate (DTC).
- 1.3 The Council prepared a DTC statement to accompany submission of its Core Strategy (Examination Document CS10) and has updated this (via an addendum report) to cover the Site Allocations process (Examination Document SUB6). The purpose of these statements is to explain how Dacorum Borough Council has co-operated with other public bodies in the preparation of its planning strategy.
- 1.4 With regard to the Core Strategy, the Planning Inspector, Mr David Hogger concluded in his Report (Examination Document CS6) that he was satisfied that the DTC had been met (Paragraphs 7 and 8).
- 1.5 The DTC document submitted alongside the Site Allocations DPD explains how the DTC has been taken forward through the Site Allocations process. A draft DTC Statement was prepared and made available for comment alongside the Pre-Submission Site Allocations DPD (Examination Document SUB17), before being updated to cover the outcomes of this consultation of the subsequent 'Focussed Changes' stage.
- 1.6 It is important to note that the Council has not received any DTC objections to its Site Allocations DPD (see Tables 5 and 6 of Examination Document SUB6). This demonstrates that appropriate and ongoing liaison has taken place with relevant bodies and also reflects the fact that many of the key DTC issues, such as the overall housing and employment strategy for the Borough, have already been discussed and resolved through the Core Strategy.
- 1.7 The only objection raised to the Pre-Submission plan by formal DTC bodies was from the Environment Agency. However, this was not a DTC objection *per se*, but rather expressed concerns regarding the overall capacity of waste water infrastructure (see Matter 2, questions 9 and 19). Furthermore, neither did the EA raise concerns over any individual allocations.

(b) Nature and Scope of Co-Operation

1.8 The DTC Report summarises the nature and scope of DTC activities. The Inspector's particular attention is drawn to the following:

- Table 1 – Overview of Key Duty to Co-operate Issues for Site Allocations DPD
- Table 2 - Site Allocations DPD Consultation Notifications
- Table 3 - Summary of Nature of Liaison with Duty to Co-operate Bodies
- Table 5 - Summary of Representations Received to Pre-Submission Site Allocations (2014) from DTC Bodies
- Table 6 - Summary of Representations Received to Focused Changes to Pre-Submission Site Allocations (2015) from DTC Bodies

(c) Co-ordination of DTC Work

1.9 In addition to DTC activities instigated by the Borough Council itself, there are a number of informal and formal working arrangements, particularly within Hertfordshire, which have helped and/or continue to help facilitate DTC discussions.

1.10 These groups are summarised in paragraph 4.24 of the DTC Statement Addendum (Examination Document SUB6) and include:

- Hertfordshire Infrastructure Planning Partnership
- Hertfordshire Planning Group (HPG) - Main
- Hertfordshire Planning Group (HPG) – Development Plans
- Hertfordshire Planning Group (HPG) – Landscape
- Hertfordshire Economic Development Officers' Group (HEDOG)
- Community Infrastructure Levy (CIL) reference Group (replaced with the Infrastructure Advisory Group in 2015)
- Building Futures Group
- Hertfordshire Information Liaison Group
- Transport Liaison Groups i.e. STIBlet meetings

1.11 There has also historically been a high level of joint working on technical studies with other authorities in south west Hertfordshire; namely Three River, Watford, Hertsmere, and to a lesser degree Welwyn Hatfield and St Albans. Studies relevant to the Site Allocations process are summarised in Table 7 of Examination Document SUB6).

1.12 The Chilterns Conservation Board Planning Forum provides a useful co-ordinating function for discussing general matters pertaining to the Chilterns Area of Outstanding Natural Beauty.

1.13 Being a two-tier authority, the Council also liaises closely with Hertfordshire County Council (HCC), particularly in their capacity as local education authority and local highway authority. HCC have submitted representations of support on all relevant matters within the Site Allocations DPD.

2. Has the Plan been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in the Regulations?

- 2.1 The Council can confirm that the Site Allocations DPD has been prepared in accordance with its Statement of Community Involvement (Examination Document SUB24) and met, and in some cases exceeded, other minimum requirements in the Regulations.
- 2.2 It is acknowledged that a small number of objections have been received with regard to how this consultation has been undertaken, although no specific details of any compliance issues have been given. As stated in the Council's response to these objections, a full summary of the consultation undertaken by the Council on both the Core Strategy and the current Site Allocations document are contained in the relevant Reports of Consultation and Reports of Representation. All of these documents are published on the Council's website and their content has been reported to Members at the appropriate time. All of these documents are included within the examination library.
- 2.3 In particular, the Inspector's attention is drawn to the Cabinet Report of 24 June 2014 (Examination Document SUB21) which sought Member's approval to consult on the Pre-Submission Site Allocations document. This set out the consultation arrangements and also noted that it was proposed to go beyond the requirements set out in the SCI by including a series of manned exhibitions. These were held in three locations in Hemel Hempstead, and one venue in Berkhamsted, Tring and Bovingdon. Representatives from the West Hemel Action Group (WHAG) (who oppose LA3), Hand Off Tring Green Belt (HOTGB) (who oppose LA5) and the Dacorum Environmental Forum (DEF) were also invited to meet key Members and Officers to discuss their concerns about certain aspects of the plan in more detail, together with arrangements for commenting, in order to assist them and their members in responding.
- 2.4 The meeting with DEF took place on 6 August 2014 and with WHAG on 13 August 2014. HOTGB did not reply to the initial invitation, or subsequent emails. Officers from Dacorum and County Highways did however attend a specially convened meeting of Tring Town Council on 3 November 2014, which was very well attended by those wishing to make their views upon the plan – and especially the LA5 site - known. See Examination Document SUB12 for further information.
- 2.5 The Inspector should be aware that a new SCI was adopted by the Council in July 2016. In terms of requirements for consultations pertaining to planning policies, this new SCI updates references to Government planning regulations and has a greater emphasis upon the use of electronic forms of communication and social media. The broad requirements for consultation at different stages in the plan making process remain unchanged and continue to reflect national requirements. This new SCI post-dates any

consultation on the Site Allocations, but has been added to the Examination Library for completeness (Examination Document OT10).

3. Having regard to the scope of the adopted Core Strategy (CS) and the Council's intentions, as set out in the Local Development Scheme, are there any obvious omissions, in terms of policy guidance, from the submitted Plan?

- 3.1 Whilst every authority approaches policy coverage in a slightly different way, the scope of Dacorum's Site Allocations DPD reflects the intentions of both the Core Strategy (Examination Document CS4) and the adopted Local Development Scheme (Examination Document SUB7).
- 3.2 The Council does not consider there to be any omissions in terms of policy guidance from the submitted Plan. As the introduction to the submitted Site Allocations document states:
"The principal role of the Site Allocations DPD is to set the Council's detailed proposals and requirements for particular sites and areas. It:
- allocates sites for future development in the Borough;*
 - defines the boundaries of planning designations; and*
 - ensures appropriate infrastructure is identified and delivered alongside new development."* (paragraph 1.5)
- 3.3 The text goes on to clarify that:
"The site Allocations DPD excludes consideration of allocations and land designations within the area covered by the East Hemel Hempstead Area Action Plan (see below). However, where the AAP contains important sites, these are cross referred to within the supporting text to ensure a comprehensive picture of sites and designations is provided for the Borough. The extent of the Site Allocation area is shown in Map 1." (Paragraph 1.7)
- 3.4 Where objections to the coverage of the Site Allocations have been made, these primarily relate to the objector wishing to amend a policy approach already established within the adopted Core Strategy i.e. the approach to amending Green Belt boundaries. Such matters are not considered to be policy guidance omissions. Rather they are issues that will be reconsidered as part of the new Local Plan process (which will incorporate the required early partial review of the Core Strategy).
- 3.5 On adoption of the Site Allocations DPD, 'saved' policies from the Dacorum Borough Local Plan 1991-2011 (Examination Document OT6) will largely relate to criteria-based development management policies. As explained through the Focused Changes (change MC2), and within the Local Development Scheme (Examination Document SUB7), work on the Development Management DPD is now on hold and appropriate policies will instead be included within the new single Local Plan for the Borough (see response to question 3 of Matter 2 for an update on this review process).

4. Is the Plan based on a sound process of sustainability appraisal? Does it test reasonable alternatives? Does it represent the most appropriate strategy in the circumstances? Does the final report set out the reasons for rejecting earlier options?

(a) Sound Process of Sustainability Appraisal

- 4.1 As explained in the response in to the Inspector's pre-hearing questions (Document PC3a, dated 4 April 2016 and PC3c, dated 10 May 2016), the Council is satisfied that the Plan is based on a sound process of Sustainability Appraisal (SA), (incorporating Strategic Environmental Assessment (SEA)), that this SA appropriately and proportionately assessed the sustainability of all reasonable alternatives and that the process is fully compliant with the requirements of the PPG (Examination Document REG18) and PAS guidance (Examination Document OT8).
- 4.2 It is important to see the SA/SEA for the Site Allocations DPD as an iterative process, and one that is intrinsically linked with that of the adopted Core Strategy.
- 4.3 The SA/SEA process was initiated through the preparation and consultation on an SEA and SA Scoping Report (Examination Document CS39) in February 2006 and has played an important role in all subsequent planning stages. Whilst this sustainability appraisal process has been undertaken by specialist consultants (C4S, part of TRL Limited) to ensure it remains independent, there has been close liaison with the Council throughout, to ensure the process is robust and comprehensive.
- 4.4 The various stages of the SA/SEA for the Site Allocations DPD itself were summarised in the 'Strategic Environmental Assessment Regulations Requirements Checklist,' attached as Appendix A to document PC3a. The full process is summarised in the SA Report Addendum (Examination Document SA22). This is reproduced here as Appendix 1.
- 4.5 It is noted that very few representations have been received from organisations, developers or individuals to the SA/SEA process as it pertains to the Site Allocations DPD. Those that have been received (from Natural England, HCC Ecology and Boyer Planning) are summarised in the Report of Representations (Table 5 in Examination Document SUB12) and a response provided by the Council's sustainability consultants in the subsequent Site Allocations Pre-Submission Focused Changes Sustainability Appraisal - Addendum (Appendix 1 of Examination Document SUB13 document).
- 4.6 None of the representations received raised any fundamental concerns regarding the SA/SEA process undertaken or the overall conclusions reached. Rather they comprised statements of fact; raised detailed issues; or set out areas where the representor considered the SA Framework could be extended.

(b) Reasonable Alternatives and rejection of earlier options

- 4.7 The Council is aware that the National Planning Policy Framework (NPPF) (Examination Document REG10) requires a Council's plan to be "*the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.*" (paragraph 182). It is also aware of, and has taken account of, relevant legal decisions when assessing the robustness of its approach to the consideration of reasonable alternatives: paying particular regard to the 'Plan Making Case Law Update: Main Issues 3: Sustainability Appraisals' (November 2014) published by the Planning Advisory Service (Examination Document OT8).
- 4.8 The SA/SEA process for the Core Strategy provided assessments of all the reasonable alternatives that were considered for the overall scale and location of development. On adoption in September 2013 the Core Strategy (Examination Document CS4) was accompanied by an SA Adoption Statement (Examination Document CS3) which provided information, inter alia, on the reasons why the adopted Core Strategy was chosen in light of these alternatives.
- 4.9 It should be noted that in his report (Examination Document CS6) the Core Strategy examination Inspector was satisfied that the Sustainability Appraisal process satisfied all legal requirements (paragraph 77). Moreover, he raised no concerns over the thoroughness, approach and conclusions of the Sustainability Appraisal in dealing with reasonable alternatives.
- 4.10 With regards to the Site Allocations process itself, reasonable alternatives were appraised at each stage of document preparation, as explained in detail in the response provided within document PC3a. This assessment was successively undertaken in parallel with the Council's Schedules of Site Appraisals published in 2006, 2008 and 2014 (Examination Documents SA19, SA13 and SA20 respectively). These assessed a range of possible allocations and incorporated sites put forward directly by landowners together with those identified through the Council's own technical work (i.e. the SHLAA).
- 4.11 The Council would stress that there is a strong overlap between the assessment of alternative sites and options between the Core Strategy and Site Allocations process, particularly in relation to Green Belt site options (i.e. potential Local Allocations). This process of assessing alternative site options is summarised in the 'Assessment of Potential Local Allocations and Strategic Sites – Final Assessment' (Examination Document HG5) and was intrinsically linked to the wider SA process, as illustrated in Figure 1 of the document. This is reproduced here as Appendix 1. The reasons for taking forward certain sites and not others are set out in the conclusions of this report.
- 4.12 In terms of the formal SA/SEA process, the Pre-Submission Sustainability Appraisal Report (Examination Document SUB20), supplemented by the Site Allocations Pre-Submission Focused Changes Sustainability Appraisal -

Addendum (Examination Document SUB13) explain the process of options assessment the plan has been through. This process is summarised in diagrammatic form in Appendix 1 of the Addendum Report, a diagram reproduced here as Appendix 2.

- 4.13 At the request of the Inspector further information regarding the consideration of alternatives, with particular regard to Gypsies and Travellers sites, has been provided within the Sustainability Appraisal Report - Addendum (May 2016) (Examination Document SA22). The summary from this report with regard to reasonable alternatives is as follows:

“During the development of the Site Allocations DPD alternative sites have been considered at a number of stages and subject to SA. At each stage some sites have been discounted from being considered as being ‘reasonable alternatives’, based on their location and other constraints. The adoption of the Core Strategy in 2013 provided a new planning context for the Borough that meant that some sites that had previously been considered as ‘reasonable alternatives’ could no longer be considered as such. However it did not result in the opposite effect, i.e. of making some sites that were previously rejected now being considered as reasonable.

From all of the sites that have been put forward and appraised since 2006, all those that are now considered as being ‘reasonable alternatives’ are included in the Site Allocations DPD that has been submitted for Examination. There are therefore no ‘reasonable alternative’ sites that have been excluded from the DPD. The reasons for rejecting sites at a particular stage all remain valid.”

(c) The Most Appropriate Strategy

- 4.14 As the Inspector is aware, the role of the Site Allocations DPD is to deliver the strategic policies and targets set by the Core Strategy (Examination Document CS4), which was adopted in September 2013. This principle has been established through a number of legal cases referred to in document PC3c. It is therefore the role of the Core Strategy to set the overarching planning and development strategy for Dacorum. However, in the context of policies established within the Core Strategy, the Council considers that the Site Allocations provides the most appropriate strategy.
- 4.15 It is the role of the new Local Plan (incorporating the early partial review of the Core Strategy), rather than the Site Allocations DPD, to consider whether this strategy remains the most appropriate for the Borough in the longer term, or should be reviewed.

5. What were the main findings of the Habitat Regulations Assessment (HRA) that was carried out in relation to this Plan?

- 5.1 A Habitats Regulation Assessment (HRA) Screening Report was prepared by consultants Halcrow in relation to the Core Strategy Issues and Options in April 2008 (Examination Document CS33). This report concluded that the principal impacts of the proposed level of growth on the Chilterns Beechwoods Special Area of Conservation (SAC) were:
- (a) Increased tourist pressure resulting in increased disturbance and noise affecting wildlife and trampling impacts affecting sapling regeneration from increased visitors; and
 - (b) Increased transport emissions and air pollution from increased private transport and mineral extraction works affecting species and plant communities sensitive to air quality, such as beech trees and epiphytes.
- 5.2 It went on to conclude that the *“Impacts from the Issues and Options overall (including Site Allocations), however, are not seen as being significantly adverse effects and it is therefore not considered necessary to undertake a full Appropriate Assessment on the Dacorum Core Strategy Issues and Options.”* It did highlight however that *“Any future plans that are likely to cause an increase in key impacts (i.e. recreation, air pollution) or other impacts that might adversely affect the conservation of the SAC (for example, significant impacts within 5km of the SAC) may need to be examined as either an addendum to this screening report or as part of a full Appropriate Assessment.”*
- 5.3 The conclusions of this Screening Report were revisited through an update report published in 2011 to accompany the Pre-Submission Core Strategy (Examination Document CS21). It was concluded that there had been no material change in circumstances that would have a negative impact on the Chiltern Beechwoods Special Area of Conservation (SAC) and that the conclusions of the 2008 Screening Report remained valid. This conclusion was informed by the fact that many of the potential development sites near to the SAC had not been taken forward to the Pre-Submission document and that overall, the housing numbers for the borough had fallen when compared to the targets contained in the Regional Spatial Strategy prior to its quashing.
- 5.4 The Council considered whether there was a need to carry out a new HRA Screening, or update to the 2011 report for the Site Allocations DPD for the Pre-Submission stage. It was advised by their sustainability consultants (TRL), in consultation with Halcrow, that there was no need to do so, as there had been no change to the broad quantum and location of development from that previously assessed. This approach was supported by Natural England. Further explanation is provided in paragraph 3.3 of the Sustainability Appraisal Submission Statement (January 2016) (Examination Document CS21), which states the following:

3.3 Implications for Habitats Regulations Assessment (HRA)

A Habitats Regulations Assessment (HRA) was undertaken for the Dacorum Core Strategy and this concluded that there would be no significant effects, as a result of either air pollution or recreation disturbance, on Chiltern Beechwoods SAC from either individual developments or cumulative effects from the implementation of the Core Strategy. Natural England agreed with the conclusions of the HRA and the avoidance and mitigation proposed.

The SA report for the Site Allocations Pre-Submission (September 2014) identified that whilst the Site Allocations DPD provides a greater level of detail to the location of development to that which was included in the Core Strategy, it does not put forward any sites that are of a scale and/or location that would alter the findings of the HRA of the Core Strategy. Based on their review of the Pre-Submission Site Allocations DPD Natural England were satisfied with this conclusion.

The changes proposed in the Focused Changes to the Site Allocations (July 2015) were screened to determine whether there were any that were of a nature that could alter the findings of the Core Strategy HRA. This additional screening process concluded that none of the Focused Changes were of a scale and/or location that would alter the findings of the previous HRA.

The additional minor changes now being proposed to the Site Allocations (see Appendix B) have been screened to determine whether there are any that are of a nature that could alter the findings of the Core Strategy HRA.

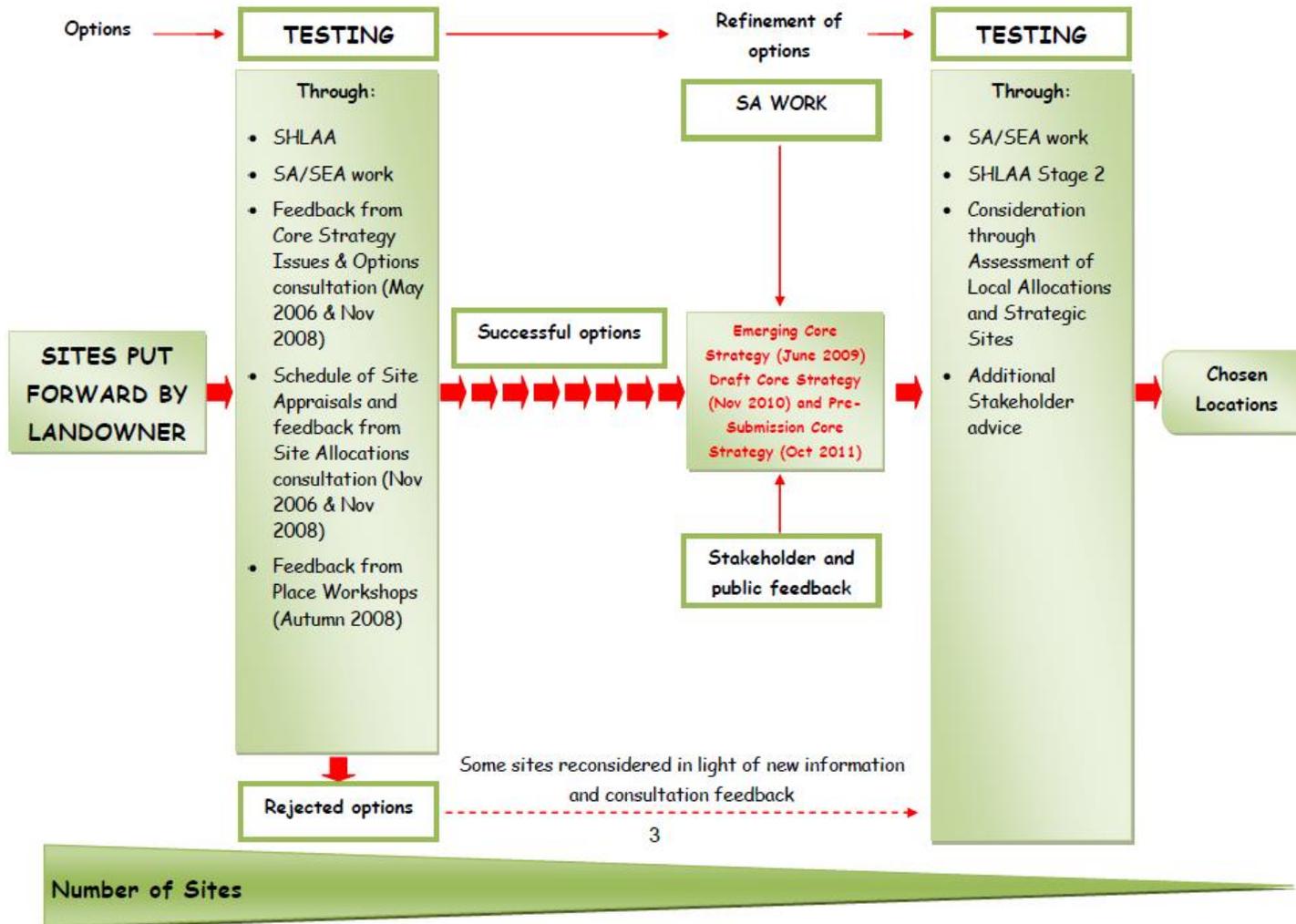
As for the Focused Changes, the result of this additional screening process is that it is considered that none of the minor changes are of a nature (in terms of scale and/or location) that will alter the findings of the previous HRA. Therefore the conclusions of the Core Strategy HRA Report continue to remain unchanged.

- 5.5 This conclusion has been supported by Natural England – who confirmed the following as part of their feedback on the Sustainability Report that accompanied the Pre-Submission Site Allocations DPD (see Table 5 of Examination Document SUB12 and Appendix 1 of Examination Document SUB13):

The Sustainability Appraisal identifies that the HRA of the Core Strategy found no significant effects on Chiltern Beechwoods SAC from individual developments as a result of either air pollution or recreation disturbance. The assessment was updated to ensure there are no cumulative significant impacts on the SAC due to development proposed around Hemel Hempstead and the wider region. We understand that Natural England agreed with the conclusions of the HRA and the avoidance and mitigation proposed. The current SA report identifies that whilst the Site Allocations DPD provides a greater level of detail to the location of development to that which was included in the Core Strategy, it does not put forward any sites that are of a scale and/or location that will alter the findings of the previous HRA (of the Core Strategy). Based on our review of the current Site Allocations we are satisfied with this conclusion.

- 5.6 As stated in paragraph 6.2.1 of the HRA Update Report (Examination Document CS21), *“Individual project-level HRAs may be required for some new developments, in consultation with Natural England.”* The Council has advised the developers of Local Allocations LA3, at West Hemel of this advice and that they liaise with Natural England accordingly.
- 5.7 A new HRA Screening Report, and if necessary a full HRA, will be prepared for the new Local Plan.

Figure 1: Process for Assessing Key Development Locations



Dacorum Site Allocations DPD – consideration of Site Alternatives

