1.0 **Purpose Of Report**

1.1 For the Committee to consider the context of the Draft Strategic Local Plan (SLP) and to recommend it to Cabinet to submit to the Secretary of State for Examination In Public.

2.0 **Recommendations**

2.1 That the Committee recommends to Cabinet that the Council should now proceed to formal Submission of the Publication Draft SLP (PDSLSP) under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

2.2 That the Committee recommends to Cabinet the list of minor suggested changes to the PDSLSP that the Planning Inspector may wish to consider as part of Examination In Public (as included in the related report on the agenda that considers representations made on the PDSLSP). Further that any additional updates and refinements be delegated to the Head of Planning and Building Control (HPBC) in consultation with the Portfolio Holder (PH).

3.0 **Background Information**

3.1 The Committee’s work programme and agreed Local Development Scheme (LDS) envisages that at this meeting the submission of the PDSLSP will be recommended to Cabinet. The agreed timetable is that the SLP (and associated documentation) should progress to formal Submission under Regulation 22 of the (Town and Country Planning (Local Planning) (England) Regulations 2012).
3.2 The Submission stage should be considered in the context of other reports on the agenda, including those addressing the Regulation 19 responses, Counsel Advice etc. It should also be considered in the context of the committee’s detailed considerations since October 2013. This has included the key evidence base studies (Independent Green Belt Review, Independent Strategic Housing Market Assessment (SHMA) and SHMA Update, Development Site and Strategy Options Evaluation (DSSOE) etc.), the results of the October-November 2014 consultation and the January-February 2016 publication.

4.0 Analysis and Findings

4.1 It is considered helpful for the committee at this stage to consider a contextualised summary of the overall approach taken in the SLP. The text at paragraphs 4.2-4.10 below formed part of the iterative process of discussions with Counsel referred to in the “Responses to Publication Draft Strategic Local Plan” report elsewhere on the Agenda.

4.2 As set out in the June 2016 PPC Agenda, new Office for National Statistics (ONS) subnational population projections, with a base date of 2014, were published on 26 May 2016. These show a minor increase in projected population for the District at 2031 from 168,200 to 168,900.

4.3 As also noted in a report on this Agenda and at previous PPC meetings since February 2016, the South West Herts Strategic Housing Market Assessment was published February 2016. As addressed by a report on the June 2016 PPC Agenda, the study and its conclusions are not supported by this Council. In brief, the approach to Housing Market Area definition; ignoring the impact of London; ignoring differences in house prices etc; is not supported. For awareness, it shows an ‘Objectively Assessed Need’ figure for housing for St Albans from 2013-2036 of 677 (705 including ‘market signals’) dwellings per annum.

4.4 At several meetings in 2015, the committee considered the “Independent assessment of Housing Needs and SHMA update: the implications of the 2012 based Subnational Population and Household Projections”. This report contained updated evidence since the previous “Independent assessment of Housing Needs and SHMA” 2013. The 2015 report considers this range in the light of the 2012 ONS projections. The report acknowledges that the ONS 2012 population projection scenario produces household assessments at the middle to top end of the original range (approximately 600 dwellings per annum as a projection of the growth ‘needed’ - see original Table 8).

4.5 The most directly related part of the Planning Practice Guidance that addresses such population / household evidence says:
The Government’s official population and household projections are generally updated every two years to take account of the latest demographic trends. The most recent published Household Projections update the 2011-based interim projections to be consistent with the Office for National Statistics population projections. Further analysis of household formation rates as revealed by the 2011 Census will continue during 2015.

Wherever possible, local needs assessments should be informed by the latest available information. The National Planning Policy Framework is clear that Local Plans should be kept up-to-date. A meaningful change in the housing situation should be considered in this context, but this does not automatically mean that housing assessments are rendered outdated every time new projections are issued.

4.6 This new information needs to be considered by the Committee in reaching conclusions on whether or not there should be consequent changes to the SLP. The ONS population change is not large in numerical/quantitative terms and not “highly significant” in terms of SLP paragraph 6.37 (addressed below) Noting also that it is within the population range considered by Housing Vision in their 2013 and 2015 work, officers recommend that no change is needed.

4.7 This officer recommendation also needs to be seen in the context of the evidence base for population and household projections and its relationship to the overall approach of the SLP to development land provision / Green Belt protection that has developed over time. The publication draft SLP directly addresses this point at 6.37:

The Council’s Local Housing Requirement / Target is set at 436 dwellings per annum on the basis of the best evidence available on the need for new housing development in the District and a Plan that sets out to meet reasonable long term estimations of need in full. Housing needs research suggests that, using a demographic projection of future household growth and taking account of longer term estimates of migration (ten year projection period), an annual average provision of 436 new dwellings would meet full need. The locations and type of development to deliver this 436 per annum housing requirement / target, but no more, meets the test of ‘exceptional circumstances’ and the required balance of economic, environmental and social considerations in a District wholly bounded by the Green Belt. This estimate of need has been used to directly inform a Plan housing requirement/target. It is acknowledged that other calculations of need currently exist and new calculations of need will be made over time. Unless there is a highly significant change in future long-term estimation of need, the 436 target/requirement is considered not to be affected by current or future alternative projections. Any such change would be dealt with through a review of the Local Plan.
4.8 The paragraph above was updated text from the consultation draft SLP from 2014, taking on board (amongst other things): the new SHMA update 2015; the approval/end of legal challenge to the approval by the Secretary of State for a Strategic Rail Freight Interchange in the Green Belt in the district; and clarification from the Courts (Hunston, Gallagher) about the proper approach to consideration of the balance of development provision, Green Belt constraint and ‘exceptional circumstances’. The 2014 consultation paragraph 6.37 said:

The Council’s Local Housing Requirement / Target is set at 436 dwellings per annum on the basis of the best evidence available on the need for new housing development in the District and a Plan that sets out to meet reasonable long term estimations of need in full. Housing needs research suggests that, using a demographic projection of future household growth and taking account of longer term estimates of migration (ten year projection period), an annual average provision of 436 new dwellings would meet full need. This estimate of need has been used directly as the Plan housing requirement/target. It is acknowledged that other calculations of need currently exist and new calculations of need will be made over time. Unless there is a highly significant change in future long term estimations of need, the 436 target/requirement is considered not to be affected by current or future alternative projections.

4.9 These latest population and household projections highlight the practical effect of the challenges to the approach to sustainable development taken in the SLP. In simple terms, the SLP uses the totality of the evidence base to form an overall approach to balancing competing aspirations for provision of housing and employment land on the one hand and Green Belt protection on the other.

4.10 Challenge to this approach has been raised by some nearby LPAs and developer/landowner interests pressing for more Green Belt release, with primarily residents and stakeholder groups/parish councils pushing for less. The areas of land involved are approximately:

Green Belt (GB) land in the district = 13,140 Hectares (out of 16,118 Ha total)

4,000 dwellings on the 4 Broad Locations (assumes 40 DPH net on 60% of gross area and all of gross area taken out of GB) = 167 Hectares = 1.27% of GB

East Hemel Hempstead Employment Area = 55 Hectares = 0.41% of GB

Strategic Railfreight site - main built area = 65 Hectares (out of total 140 Hectare application site) = 0.49% of GB

Approximately 287 Hectares of development on Green Belt green field land by 2031, 2.17% of current Green Belt total.
4.11 Counsel also advised that it would be helpful to revisit the November 2015 PPC Report, where the committee recommended to Cabinet and Council to proceed to Publication of the draft SLP. The text below is reproduced directly from that report, as it summarises the totality of the legal and policy framework within which the SLP sits (the original report numbering has been used below).

“4.4 As agreed at the September 2015 PPC meeting, officers have been progressing work on the Plan on the basis that “the approach of the 2014 consultation draft SLP is continued”. Having done this, officers have now further considered all the relevant evidence and information relating to the draft SLP. After that consideration, on the evidence discussed in detail at PPC since October 2013, officers recommend that the draft SLP at Appendix 1 be ‘published’.

4.5 In coming to the conclusion at 4.4 above, officers have given due consideration to the totality of the legal and policy framework within which the draft SLP sits. As addressed by PPC in considerable depth, the issue of the ‘exceptional circumstances’ required to necessitate altering Green Belt boundaries is central to the draft SLP. PPC has considered the policy and legal context of ‘exceptional circumstances’ in detail most recently at its meeting in June 2015. As set out in that report, the Calverton case most directly addresses the matter of ‘exceptional circumstances’. That report also refers directly to the legal and national policy contexts in which those court decisions were taken. As always it is important that judgments are read as a whole and in context. That is also the same for reading of the NPPF. However it is possible to summarise the process officers have used to come to their conclusions by using paragraph 51 of Calverton as shorthand. It sets out:

In a case such as the present, it seems to me that, having undertaken the first-stage of the Hunston approach (sc. assessing objectively assessed need), the planning judgments involved in the ascertainment of exceptional circumstances in the context of both national policy and the positive obligation located in section 39(2) should, at least ideally, identify and then grapple with the following matters: (i) the acuteness/intensity of the objectively assessed need (matters of degree may be important); (ii) the inherent constraints on supply/availability of land prima facie suitable for sustainable development; (iii) (on the facts of this case) the consequent difficulties in achieving sustainable development without impinging on the Green Belt; (iv) the nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and (v) the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.

4.6 PPC in practice, in its deliberations since its inception in October 2013, has considered these issues in detail. The main key pieces of the evidence base are set out at 3.3 above. In simplified terms in relation to paragraph 51 above:
Preamble and (i) – are addressed in the SHMA and SHMA update
(ii) – Can be found in the land supply data, at Appendix 2 of the draft SLP
(iii) - The District is wholly bounded by the Green Belt and Duty to Cooperate
discussions with adjoining and nearby authorities currently show no
reasonable prospect of the District’s housing need being met elsewhere. The
NPPF / sustainable development approach is covered in the Development
Strategy and Sites Options Evaluation (DSSOE) and the recent engagement
with landowners on development needs and delivery issues.
(iv) – This is addressed in the independent SKM Green Belt Review
(v) – Is addressed by a combination of the Green Belt Review, land supply
information and the development approach in the draft SLP.

A broadly similar approach exists in relation to the economic development
land at East Hemel Hempstead in the draft SLP. However the understanding
of ‘need’ relates also to the stock and supply of economic development land in
the district and sub-region and the priorities of the Hertfordshire Local
Economic Partnership.

4.7 As set out in the case law, the issue of ‘exceptional circumstances’
must be addressed with reference to the individual Broad Locations and the
Spatial Strategy of the SLP as a whole. In summary, the SKM Review sets
out the key impacts in direct relation to the Green Belt. The DSSOE evaluates
a range of likely economic, environmental and social impacts/benefits. The
landowner / developer engagement process has given further detail that
assists in considering other impacts in relation to the deliverability of the
overall aspirations set out in the draft SLP.

4.8 Paragraph 125 in Gallagher contains helpful context:

125. From these authorities, a number of propositions are clear and
uncontroversial.

i) Planning guidance is a material consideration for planning plan-making and
decision-taking. However, it does not have statutory force: the only statutory
obligation is to have regard to relevant policies.

ii) The test for redefining a Green Belt boundary has not been changed by the
NPPF (nor did Mr Dove suggest otherwise).

a) In Hunston, Sir David Keene said (at [6]) that the NPPF “seems to envisage
some review in detail of Green Belt boundaries through the new Local Plan
process, but states that ‘the general extent of Green belts across the country
is already established”“. That appears to be a reference to paragraphs 83 and
84 of the NPPF. Paragraph 83 is quoted above (paragraph 109). Paragraph
84 provides: "When drawing up or reviewing Green Belt boundaries local
planning authorities should take account of the need to promote sustainable
patterns of development…". However, it is not arguable that the mere process
of preparing a new local plan could itself be regarded as an exceptional
circumstance justifying an alteration to a Green Belt boundary. National
guidance has always dealt with revisions of the Green Belt in the context of
reviews of local plans (e.g. paragraph 2.7 of PPG2: paragraph 83 above), and
has always required 7 "exceptional circumstances" to justify a revision. The NPPF makes no change to this.

b) For redefinition of a Green Belt, paragraph 2.7 of PPG2 required exceptional circumstances which "necessitated" a revision of the existing boundary. However, this is a single composite test; because, for these purposes, circumstances are not exceptional unless they do necessitate a revision of the boundary (COPAS at [23] per Simon Brown LJ). Therefore, although the words requiring necessity for a boundary revision have been omitted from paragraph 83 of the NPPF, the test remains the same. Mr Dove expressly accepted that interpretation. He was right to do so.

iii) Exceptional circumstances are required for any revision of the boundary, whether the proposal is to extend or diminish the Green Belt. That is the ratio of Carpets of Worth.

iv) Whilst each case is fact-sensitive and the question of whether circumstances are exceptional for these purposes requires an exercise of planning judgment, what is capable of amounting to exceptional circumstances is a matter of law, and a plan-maker may err in law if he fails to adopt a lawful approach to exceptional circumstances. Once a Green Belt has been established and approved, it requires more than general planning concepts to justify an alteration.”

4.9 At this time and on the basis of the evidence base, officers consider that the test for ‘exceptional circumstances’ requiring alteration to Green Belt boundaries as set out in the draft SLP at Appendix 1 has been made.”

4.12 It is important to bear in mind the previous considerations of the committee. These have ranged widely since its inception in October 2013. It includes in particular aspects such as the delivery of affordable housing. As a brief example, Harpenden has benefitted from almost zero general needs affordable housing in recent years, whereas the North West Harpenden Broad Location will provide 200 affordable homes.

4.13 At this time and on the basis of the evidence base, officers reconfirm their view that the test for ‘exceptional circumstances’ requiring alteration to Green Belt boundaries as set out in the draft SLP has been made. Officers further consider that the Publication Draft Strategic Local Plan should be submitted to the Secretary of State for Examination In Public.

5.0 Conclusions

5.1 The Publication Draft Strategic Local Plan be submitted to the Secretary of State.

6.0 Implications

6.1 This table provides a short statement of the impact of the recommendations in this report and / or a reference to the relevant paragraphs in the report.
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<th>Will this report affect any of the following?</th>
<th>Yes/No</th>
<th>Impact/Reference</th>
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<tr>
<td>Vision and Priorities</td>
<td>Yes</td>
<td>The whole report relates to planning for the future and the content of the SLP / DLP includes relevant issues</td>
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<td>Policy</td>
<td>Yes</td>
<td>As for Vision and Priorities above</td>
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<tr>
<td>Financial</td>
<td>No</td>
<td>There are no financial implications arising from this report</td>
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<tr>
<td>Impact on the community</td>
<td>Yes</td>
<td>As for Vision and Priorities above</td>
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<tr>
<td>Legal and Property</td>
<td>No</td>
<td>There are no legal and property implications arising from this report</td>
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<tr>
<td>HR/Workforce</td>
<td>No</td>
<td>There are no corporate HR/Workforce implications arising from this report</td>
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<tr>
<td>Risk Assessment</td>
<td>No</td>
<td>There are no special corporate risks associated with this report, other than in relation to process / timetabling matters related to progress on the SLP - a Council priority project (this is explained in the main parts of the report)</td>
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<tr>
<td>Environmental Sustainability</td>
<td>Yes</td>
<td>As for Vision and Priorities above</td>
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<tr>
<td>Health and Wellbeing</td>
<td>Yes</td>
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7.0 **Further Information/Appendices**

7.1 None

8.0 **Background Papers - Local Government (Access to Information) Act 1985**

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