

Further Consultation on Supporting Information on the Duty to Cooperate – SADCED74 and SADCED74 A, B, C, D and E

- 1.1 This supplemental Hearing Statement has been prepared by Urbanissta Ltd on behalf of Lands Improvement Holdings ('LIH') and Lawes Agricultural Trust ('LAT') in relation to the Land at North East Redbourn ('Site'). It supplements, updates and in some instances relies upon the material prepared and submitted at Regulation 18 and 19 stages of the draft Local Plan and builds upon the MIQ submissions (oral and written) made with respect to Matters 1 – 3 of the Examination ('LIH/LAT Submissions') before and during the Stage 1 hearing sessions which are collectively referred to in this statement as the "LIH/LAT Submissions"¹.
- 1.2 Specifically, this supplemental statement comments upon the further information regarding the Duty to Cooperate issue which has been submitted by St Albans City and District Council ('StADC') at the request of the Inspectors at the Stage 1 hearing sessions comprising documents reference numbers SADC/ED74 and SADC/ED741 to E.
- 1.3 Assistance has also been provided by Town Legal in preparing these representations.
- 1.4 LIH is a strategic development company that acquires land and is the promoter partner of the Site owners, LAT. The Site has been deemed surplus to LAT's operational requirements and is available to provide longer term funding to support LAT. Together LIH and LAT seek to secure the release of the Site from the Green Belt for a residential led development scheme. The Site is an omission site.
- 1.5 The LIH/LAT Submissions indicate that St Albans City and District Council ('StADC') have, contrary to the statutory duty in section 33A of the Planning and Compulsory Purchase Act 2004, not engaged constructively, actively, and on an ongoing basis throughout the Regulation 18 and 19 stages of the Local Plan's preparation on matters of unmet housing need (and otherwise).
- 1.6 The LIH/LAT MIQ submissions² also highlighted that very scant details had been provided by StADC on activities and/or effective and on-going collaboration with neighbouring authorities.
- 1.7 During the Examination Stage 1 Hearings, the Inspectors' highlighted the period of September 2023 to November 2024, as being a particular gap in the duty to co-operate evidence base in which further evidence of ongoing and collaborative working needed to be provided by StADC.
- 1.8 In response, StADC has prepared additional documentation in the form of SADCED74 with supporting Appendices referenced SADCED74 A, B, C, D and E.
 - SADCED74 SADC Local Plan DtC Addendum - May 2025 – Final.
 - SADCED74A Appendix 1 - All Regulation 18 responses from other local planning authorities.
 - SADCED74B Appendix 2a - HPG Dev Plans Agenda 05.04.24.
 - SADCED74C Appendix 2b - April 24 HPG Dev Plans Meeting Notes.
 - SADCED74D Appendix 3a - JSP SPOG Agenda 031123.
 - SADCED74E Appendix 3b - JSP NA 031123.
- 1.9 SADCED74 SADC Local Plan DtC Addendum - May 2025 – Final and SADCED74A Appendix 1
In reviewing SADCED74 paragraph 1.3 and 1.4 reiterate extracts set out in the LPCD 06.01 Duty to Cooperate Statement of Compliance (LPCD 06.01).
- 1.10 Paragraph 1.5 of SADCED74 details that Regulation 18 Representations made on the draft Local Plan are provided at Appendix 1 (SADCED74A). In reviewing these statements in SADCED74A, we summarise the key aspects of the submissions from each neighbouring authority as they relate to matters associated with unmet housing need.

¹ *LIH/LAT Submissions:*

- *Regulation 19 - St Albans Technical Submission - Final Draft - 7th November 2024 and associated material listed in paragraph 2.1 & 2.4 p8;*
- *Regulation 18 - St Albans Technical Submission - Final Submission - 25th Sept 23 and Identified Sites Deliverability Assessment (September 2023) and associated material listed paragraph 1.6 p8.*
- *Town Legal Letter to StADC 18th June 2024*
- *Appendix 3 - Green Belt Appraisal & Landscape Analysis 07 November 2024*
- *MIQ's Submissions Matters 1, 2 and 3 – 14th April 2025.*

² *MIQ's Submission Matters 1 paragraph 1.8 MIQ 1 (Issue 1 Duty to Cooperate) - 14th April 2025.*

- Central Bedfordshire Council (CBC) (SADCED74A)
- 1.11 CBC suggest that StADC confirm in the plan that it is able to meet their needs in full and '*are not seeking assistance from neighbouring Authorities*' – it is unclear in SADCED74 whether such a request was actioned by the Authority in response to CBC.
- Dacorum Borough Council (DBC) (SADCED74A)
- 1.12 DBC indicate in respect of Paragraphs 3.7-3.12 (Chapter 3) that "*changes in circumstance may justify a different housing target at the next stage of the Local Plan*". It is unclear in SADCED74 how such matters were considered (following the publication of the draft NPPF in July 2024) between the Authorities and in moving towards the Regulation 19 draft of the Plan.
- 1.13 DBC clearly anticipated the potential for revisions to the housing requirement, which in turn would have to have been assessed by DBC (at the requisite time) on matters of unmet housing need.
- 1.14 It is also unclear how StADC responded to the following aspects raised by DBC, all of which relate to matters of unmet housing need – directly or indirectly:
- In respect of Table 3.2 DBC indicate that the stepped trajectory requires full explanation respect of meeting housing needs.
- 1.15 DBC wished to review with StADC how it might assist in meeting some of DBC needs in the following areas:
- Policy HOU2 - on matters of affordable housing needs.
 - Policy HOU3 - on matters of specialist housing needs.
 - Policy HOU5 - on matters of self and custom build needs.
 - Policy HOU6 - on matters of traveller needs.
- 1.16 SADCED74 does not demonstrate how such matters were considered between the parties on a constructive, active and ongoing basis.
- Hertsmere Borough Council (HBC) (SADCED74A)
- 1.17 HBC highlight for strategic policy SP3 the need for the viability testing of proposed allocations and their associated infrastructure requirements and deliverability credentials. Amongst other technical issues. SADCED74 does not show how such matters were considered between the parties.
- Luton Borough Council (LBC) (SADCED74A)
- 1.18 Highlighted the role Luton Airport plays in transport terms for StADC. It is unclear how any matters relating to any (potential) expansion at Luton Airport was considered between the parties in anticipation of the DCO being determined. It is acknowledged that the Luton Airport DCO was issued on the 3rd April 2025³, however the DCO was submitted for examination 27th March 2023 and was therefore a matter for consideration between the parties (and the Local Plan) during 2023 and 2024. The linked between the potential airport expansion and unmet housing needs is not evidenced in SADCED74.
- Three Rivers District Council (TRDC) (SADCED74A)
- 1.19 TRDC states:
- "Whilst the Spatial Strategy seeks to meet the unconstrained needs in full, this also needs to be seen in the context of potential cumulative unmet needs arising in some of the other SWH authorities including Three Rivers. Indeed, Three Rivers is facing its own severe challenges in achieving its identified need in full through its draft Local Plan....."*
- and continues
- "We agree with your acknowledgement that there may, however, be significant changes in the Government's evidence / approach between this consultation draft Plan and its next iteration as a proposed final draft Plan in 2024..... We will of course welcome discussing this matter further with you as part of our regular engagement under the Duty to Co-operate (DtC) process..."*
- 1.20 No details are provided in SADCED74 as to how such matters were further considered between the Authorities following TRDC's Regulation 18 submissions and the publication of the draft NPPF in July 2024 or, how any further discussion on how the "*cumulative unmet needs arising in some of the other SWH authorities*" was considered or reconciled prior to the submission of the Regulation 19 Plan by StADC in November 2024.

³ Development Consent Order 3rd April 2025. <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020001/TR020001-003766-FINAL%20CLEARED%20VERSION%20OF%20DL%20-%20V.4%20PINS.pdf>

- 1.21 Watford Borough Council (WBC) (SADCED74A)
WBC expresses a desire to secure support from StADC with its employment needs. Again, no details are provided in SADCED74 to demonstrate how such matters were subsequently considered between the Authorities.
- 1.22 Welwyn Hatfield Borough Council (WHBC) (SADCED74A)
WHBC representations principally focus upon a particular site allocation.
- 1.23 Paragraph 1.5 of SADCED74 suggests that neither Hertsmere or Three Rivers in particular, indicated that further work was anticipated on matters of unmet need - either cumulatively or otherwise, however no details are provided in SADCED74 to show how outstanding matters with any of the 7 neighbouring authorities were subsequently progressed and concluded. It is evident at Regulation 18 stage that there were matters of substance that needed to be reconciled on matters of unmet need, not least following the publication of the draft NPPF in July 2024.
- 1.24 Paragraph 1.6 of SADCED74 suggests that *"At no point did any other LPA raise any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) in these meetings outlined below"*
- 1.25 The two main forums for such discussion are indicated at paragraph 1.7 of SADCED74 as Hertfordshire Planning Group (HPG) - Development Plans Sub-Group and South West Hertfordshire (SWH) Joint Strategic Plan (JSP) Spatial Planning Officer Group (SPOG) Meetings.
- 1.26 An example Agenda and meeting notes from Hertfordshire Planning Group (HPG) - Development Plans Sub-Group is provided at SADCED74 B and C.
- 1.27 An example Agenda and meeting notes from South West Hertfordshire (SWH) Joint Strategic Plan (JSP) Spatial Planning Officer Group (SPOG) Meetings is provided at SADCED74 D and E.
- 1.28 SADCED74 , B, C, D and E
Having reviewed Appendices (SADCED74 B, C, D and E) we find no reference in any document to unmet need. The HPG Agenda (SADCED74B) includes no reference to unmet need and the meeting notes (SADCED74C) make no reference to such matters having been discussed. The same point applies to the JSP Agenda (SADCED74D) and the notes (SADCED74E). We appreciate that the meeting provided the 'opportunity' for such discussions to take place, but the omission of the matter from the agenda and/or meeting notes in no way demonstrates that matters of unmet need were constructively and actively discussed on an ongoing basis as is required pursuant to the statutory duty.
- 1.29 Indeed, it is clear that the submissions made by the relevant authorities at Regulation 18 stage (and summarised above) show that there were ongoing issues relating to unmet needs that needed to be reconciled between a range of parties and StADC. The Duty to Cooperate Statement and SADCED74 do not remotely come close to evidencing how these matters were considered constructively, actively and on an ongoing basis in the lead up to, or publication of, the Regulation 19 Plan.
- 1.30 Given that SADCED74 A, B, C, D and E are intended to be provided as examples of the way unmet needs were considered constructively, actively and on an ongoing basis between the relevant Authorities, we find it puzzling that at no time in any of these sample documents provided was the matter of unmet housing need even mentioned. This complete absence of any such references significantly calls into question to degree to which, if at all, such matters were considered between the parties let alone whether they were considered constructively, actively, and on an ongoing basis as is required under the statutory duty to co-operate.
- 1.31 Surely, as 'evidence' of the duty to cooperate purportedly being discharged on the key matter of unmet need between Regulation 18 stage and submission of the draft Local Plan, these meeting notes and agendas should, at the very least, include reference (and preferably more than a passing reference) to the matter of unmet need to demonstrate that such matters had been constructively and actively considered by the relevant parties on an ongoing basis at the meetings. We are

therefore reliant simply on StADCs assertions which cannot be sufficient to discharge the duty to co-operate which case law has confirmed is "*not simply a duty to have a dialogue or discussion*"⁴.

- 1.32 It is also noted that the StADC Annual Monitoring Report⁵ (SADC/ED71 and SADC/ED71A) has been published which indicates that the NPPF Standard Methodology (2024) the Five-year land supply figure is 1,992 dwellings per annum (1,660 dwellings per annum + 20% Buffer) at 1 April 2024, which indicates that StADC has a **0.89**-year housing land supply. The issue of unmet need in StADC is therefore of utmost significance, not least given the Local Plan being prepared under the NPPF (2023) standard method figure of 885 dwellings per annum and the affordable housing need in the district is identified to be some 802 dwellings per annum⁶
- 1.33 Authorities such as Dacorum⁷, Three Rivers⁸, Hertsmere⁹ and others have similarly substantial upticks in housing requirements under the new NPPF which was published in draft form in July 2024. It is therefore highly surprising that the example meeting agenda's and/or notes provided (SADCED74 , B, C, D and E) make no reference to the collective need to addressing significant increases in unmet need arising from the draft NPPF in the period following publication in July 2024 up to submission of the Local Plan by StADC in November 2024.
- 1.34 Indeed, no evidence whatsoever is provided in SADCED74 or the SADCED74A–E, that demonstrates how the relevant authorities intended to address matters of unmet need – either under the existing, emerging NPPF and/or transitional NPPF arrangements or alternatively through the JSP framework.
- 1.35 Instead, paragraph 1.9 of SADCED74 simply asserts that South West Herts (SWH) DtC meetings operated under a Chatham House rules format but that no issues of '*crystallised unmet housing need*' were raised. It is suggested that no evidence exists or can be provided because of the meeting format. It is questionable as to why some form of suitable notes could not have been produced by the respective parties documenting areas of discussion without breaching the specific meeting format, to evidence the level of agreement on matters of unmet housing need and/or for such Chatham House meeting notes to be provided for the Inspectors eyes only.
- Conclusions SADCED74 and SADCED74 A, B, C, D and E
- 1.36 The lack of any or any sufficient evidence to demonstrate the constructive, active and ongoing engagement on the matter of unmet housing need between September 2023 and November 2024 is notable and is not cured by the supplemental information produced in SADC/ED74 and SADC/ED74A-E. The draft NPPF 2024 and its implications for the neighbouring Local Authorities had substantive implications on matters of unmet need, which may have had 'unpalatable' land use outcomes for the recipient authorities in instances where significant increases in housing need had been identified which is doubtless why the matter was not grappled with. Indeed, it is clear from considering SADCED74 and SADCED74 A to E in addition to the Duty to Cooperate statement that there is no, or no adequate, evidence to demonstrate that engagement on matters of unmet need was considered constructively, actively and on an ongoing basis as required pursuant to the statutory duty.
- 1.37 As such, and for the reasons set out in this supplemental hearing statement and LIH/LAT Submissions we consider it is plain that StADC has failed to sufficiently evidence that it has engaged constructively, actively and on an ongoing basis on the key strategic matter of unmet need between September 2023 and November 2024 such that in our view it would not be reasonable to conclude that statutory duty to cooperate has been complied with.

11th June 2025

⁴ *Sevenoaks District Court v Secretary of State for Housing Communities and Local Government* [2020] EWHC 3054 (Admin) (13 November 2020) per Dove J at para 51 of the judgment.

⁵ Table 2 St Albans City and District Authority's Monitoring Report 2024 1 April 2023 to 31 March 2024. Base Date 31/03/2024

⁶ Chapter 5 LIH Submission St Albans Technical Submission - Final Draft - 7th November 2024, Local Housing Needs Assessment report (March 2024).

⁷ Dacorum previous SM - 1016, new SM1355 current delivery 630 dwellings/annum from lhn-outcome-of-the-new-method

⁸ Three Rivers - previous SM - 640, new SM 832 and current delivery 202 dwellings/annum from lhn-outcome-of-the-new method

⁹ Hertsmere - previous SM - 731, new SM 1,034 and current delivery 185 dwellings/annum from lhn-outcome-of-the-new-method