

Duty to Cooperate Addendum - May 2025

- 1.1 This paper provides additional context for the consideration of the Duty to Cooperate, based on discussion at several different points during the Examination Stage 1 Hearings.
- 1.2 This includes in particular the points raised by Paul Shadarevian KC as per the transcript below (from 1:48:50 from Local Plan Hearing Session - Tuesday 29th April AM):

Before we move on, can I just make a point about the Duty to Co-operate and evidencing the exercise and discharge of that duty over time. It is of course fairly obvious, I would say, that where there are serious disputes on a cross boundary basis on strategic matters; it could be in relation to the provision of housing and meeting housing needs, it could be other matters; where those matters are in dispute, and where there are tensions; clearly that correspondence, and notes of meetings, will record much more detail, and a lot more activity, in relation to how those matters might be resolved, compared to a situation where actually those issues don't arise. There is nothing much more to record in those circumstances. You quite rightly raise the issue, well, how do you square the fact that no adjoining authority is asking this authority to meet its need when they go to publication at Regulation 18 not meeting their own needs. It doesn't make any sense. Where is that recorded? I have sympathy with that, but in such a case it is important in my view to maintain a sense of proportion and a nuanced approach to examining the extent to which the Duty has been discharged, by reference to the extent to which documents produced by this authority are able to evidence the reasons why that need is not being met. And it may not be anything to do with its capacity to meet that need, but other reasons why that need is not being met, which cannot be recorded through the Duty to Co-operate process, let alone resolved through that process. So, I just make that point as a means of maintaining a sense of proportion at looking at the way these exercises have been recorded by St Albans in that context.

- 1.3 As set out in the LPCD 06.01 Duty To Cooperate Statement of Compliance:

Draft Local Plan 2041 – key DtC Activities - Chronology

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3.3 SADC has undertaken a comprehensive series of activities in order to meet the DtC.

3.4 There are regular ongoing meetings that address Local Plan matters and potential strategic cross-boundary matters that have taken place since the withdrawal of the previous draft Plan in 2020. These include quarterly officer meetings at a South West Herts and Hertfordshire geography. There are numerous regular and one-off meetings involving SADC, DBC, HCC, Hertfordshire Futures, National Highways and Homes England regarding HGC.

2022

3.10 Invitations were sent in July 2022 to key DtC bodies asking them to attend a Local Plan DtC Workshop in September 2022 (invitation letter at Appendix A; attached to the invitation was a DtC Scoping report July 2022 at Appendix B; post-workshop meeting notes are at Appendix C).

3.11 As discussed at the September 2022 workshop, SADC sent a DtC letter asking if neighbouring / nearby authorities could help SADC meet our development needs in November 2022 (at Appendix D).

3.12 A post-Workshop updated draft DtC Matrix is at Appendix E.

2023

3.13 At Regulation 18 stage in September 2023 another round of DtC Councillor meetings were held with all adjoining / nearby Councils (meeting notes example at Appendix F).

3.14 As discussed at the 2023 DtC meetings, SADC then sent a DtC letter asking if neighbouring / nearby authorities could help SADC meet our development needs in November 2023 (example at Appendix G).

3.15 A round of officer DtC meetings were also held with DtC bodies including Natural England, the Environment Agency, Historic England and National Highways to discuss their Regulation 18 responses and to agree next steps and actions for SADC to address the matters raised.

2024

3.16 At Regulation 19 stage in October 2024 another round of DtC Councillor meetings were held with all adjoining / nearby Councils. This included discussion regarding whether or not the authorities could help SADC meet our development needs in November 2023 (example at Appendix H).

3.17 A round of officer DtC meetings were also held with DtC bodies including Natural England, the Environment Agency, Historic England and National Highways to discuss their Regulation 19 responses and to agree next steps and actions for SADC to address the matters raised.

3.18 An updated DtC Matrix was sent out to key DtC bodies alongside the Regulation 19 (Appendix I).

3.19 The DtC Matrix and an overarching SoCG were published with the Regulation 19, setting out in the public domain where discussions over the DtC Matrix and key cross-boundary matters had reached at that point in time.

3.20 A process of finalising the DtC Matrix and bilateral SoCGs was undertaken in October/November 2024. There was no in principle objections to the key substance from any DtC body and, as per their Regulation 19 representations, all consider that SADC has met the DtC.

3.21 As of 29 November 2024, several bilateral SoCGs have been signed and returned as fully complete (two examples at appendix J). Several SoCGs are still undergoing a process of finalising details and going through relevant clearance / signing channels in the different organisations, some of which take a considerable period of time.

- 1.4 As directed by the Inspectors in the Stage 1 Hearings, the focus of this paper is on the 'Key Period' between September 2023 and November 2024 and the issue of potential unmet housing need.

Key Period September 2023-November 2024

1. SADC Local Plan Regulation 18 Responses from other LPAs

- 1.5 The Reg 18 responses of all 7 LPAs who responded at Reg 18 stage are attached at Appendix 1. As can be seen, none of the Councils raised any crystallised unmet housing needs at this stage. In particular, neither Three Rivers District Council nor Hertsmere Borough Council raised any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) at this stage. Also with respect to Three Rivers, their Regulation 18 response addressed the severe pressures on it to meet its need in common with neighbouring authorities, but did not seek to overcome that by seeking to ask other authorities, including SADC, to help meet any need. Indeed, it goes on to ask whether SADC might review the extent to which it itself relied upon the release of its Green Belt to meet its own need.

Officer Meetings

- 1.6 As touched on in the Stage 1 Hearings (and as briefly outlined at 3.5 in LPCD 06.01 as outlined above), in addition to the matters outlined in LPCD 06.01 at 3.12-3.21 above, there were also a significant number of meetings where there was officer discussion of progress on respective Local Plans. These discussions of issues included potential unmet housing needs from other LPAs, as well as matters such as SADC's intended 'over-provision' of employment land as agreed by and supported by the other SW Herts Councils. 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.

2. Hertfordshire Planning Group (HPG) - Development Plans Sub-Group

- 1.7 All 10 Hertfordshire Districts and Boroughs and Hertfordshire County Council are members of the group. Meetings are held approximately quarterly. The position of all LPAs with regard to their Local Plans is an Agenda item for all of these meetings (the

'Round Table' updates). An example Agenda and an example set of Meeting Notes are attached at appendix 2. As can be seen in the example Agenda and example Meeting Notes (and as was the case in all the other meetings listed below), none of the Councils raised any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) in these meetings.

- 1 – 22 September 2023
- 2 – 13 December 2023
- 3 – 4 February 2024
- 4 - 24 May 2024
- 5 - 19 July 2024
- 6 - 20 Sep 2024
- 7 - 8 November 2024

3. South West Hertfordshire (SWH) Joint Strategic Plan (JSP) Spatial Planning Officer Group (SPOG) Meetings

- 1.8 All 5 South West Hertfordshire Districts and Boroughs and Hertfordshire County Council are members of the group. The position of all LPAs with regard to their Local Plans is an Agenda item for all of these meetings (the 'Local Plan Update'). Meetings are held approximately every 3-4 weeks. As can be seen in the example Agenda and example Meeting Notes at appendix 3 (and as was the case in all the other meetings listed below), none of the Councils raised any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) in these meetings.

- 1 – 1 September 2023
- 2 – 22 September 2023
- 3 – 13 October 2023
- 4 – 3 November 2023
- 5 – 24 November 2023
- 6 – 15 December 2023
- 7 – 12 January 2024
- 8 – 26 January 2024
- 9 – 16 February 2024
- 10 – 8 March 2024
- 11 – 22 March 2024
- 12 – 19 April 2024
- 13 – 10 May 2024
- 14 – 14 June 2024
- 15 – 12 July 2024
- 16 – 9 August 2024
- 17 – 23 August 2024
- 18 – 27 September 2024
- 19 – 25 October 2024
- 20 – 15 November 2024

4. South West Herts (SWH) DtC meetings

- 1.9 All 5 South West Hertfordshire Districts and Boroughs and the SW Herts JSP team are members of the group. Meetings are held approximately quarterly. These meetings do not have a set Agenda or Meeting Notes but do provide a further platform for raising DtC issues in an informal 'Chatham House' format. None of the Councils raised any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) in these meetings.

1 – 20 October 2023

2 – 19 January 2024

3 – 26 April 2024

4 – 18 October 2024

5. SADC Regulation 19 Responses from LPAs

- 1.10 The Reg 19 responses of all 6 LPAs who responded at Local Plan Regulation 19 stage have already been included in LPCD 20.03 Reg 19 Responses by Submission. As can be seen, none of the Councils raised any crystallised unmet housing needs (ie an identified shortfall which they were asking SADC to help meet) at this stage.

Conclusion

- 1.11 The Council has engaged constructively, actively and on an ongoing basis to maximise the effectiveness of the Plan, including in relation to potential unmet housing needs in the Key Period September 2023-November 2024, through direct engagement with all the relevant adjoining and nearby Councils.
- 1.12 Officers from the key South West Herts LPAs, Dacorum, Hertsmere, Three Rivers and Watford have seen this paper and have agreed that it is an accurate and fair reflection of events.