

Examination of the St. Albans City & District Council Local Plan
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14 April, 2020

Mr. Chris Briggs,
Spatial Planning Manager,
St Albans City & District Council.

By email only

Dear Mr Briggs,

EXAMINATION OF THE ST ALBANS CITY AND DISTRICT LOCAL PLAN

Introduction

1. The Stage 1 hearing sessions were held between 21 and 23 January 2020. Over those three days we heard discussion on legal compliance, the Duty to Cooperate, the spatial strategy and matters relating to the Green Belt.
2. We wrote to the Council on the 27 January 2020 to raise our serious concerns in terms of legal compliance and soundness and to cancel the subsequent hearing sessions arranged for February 2020. This letter sets out our concerns in detail. We are conscious that this is a difficult time for everyone due to Covid 19 and in particular Councils. We also appreciate that it is not a good time to receive unfavourable news. However, Mr Briggs has indicated to the Programme Officer that the Council wish to receive our letter as soon as possible.
3. Whilst we will not reach final conclusions on these points until you have had the opportunity to respond to this letter in summary our main concerns are:
 - Failure to engage constructively and actively with neighbouring authorities on the strategic matters of (a) the Radlett Strategic Rail Freight Interchange proposal and (b) their ability to accommodate St Alban's housing needs outside of the Green Belt;
 - Plan preparation not in accordance with the Council's Statement of Community Involvement;
 - Inadequate evidence to support the Council's contention that exceptional circumstances exist to alter the boundaries of the Green Belt;
 - Failure of the Sustainability Appraisal to consider some seemingly credible and obvious reasonable alternatives to the policies and proposals of the plan;
 - Failure of the plan to meet objectively-assessed needs; and
 - Absence of key pieces of supporting evidence for the plan.

Legal Compliance

Duty to Cooperate (DtC)

4. Section 33A of the Planning and Compulsory Purchase Act 2004 (The Act) indicates that the DtC applies to the preparation of local plans, so far as relating to a strategic matter. A strategic matter is defined in Section 33A(4) as: (a) sustainable development or use of land that would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and (b) sustainable development or use of land in a two-tier area if the development or use is a county matter (i) or has or would have a significant impact on a county matter (ii).
5. The DtC requires the Council to engage constructively, actively and on an on-going basis in relation to the preparation of local plan documents so far as relating to a strategic matter (in order to maximise the effectiveness of plan preparation).
6. Paragraph 25 of the National Planning Policy Framework (the Framework) states that strategic policy-making bodies should collaborate with one another, and engage with their local communities and relevant bodies, to identify the relevant strategic matters which they need to address in their plans. Paragraph 26 is clear that effective and on-going joint working between strategic policy making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.
7. Whilst Section 19 of the Act requires the Council to identify its strategic policies, the Courts have held that issues such as what would amount to strategic planning matters are all matters of judgement that are highly sensitive to the facts and circumstances of the case.
8. A large site in the district (the Radlett site) has planning permission for a Strategic Rail Freight Interchange (SRFI), but is proposed for housing in the Plan as the Park Street Garden Village (PSGV) Broad Location. The SRFI is not identified as a strategic matter by the Council. It is argued that this is because it is not a proposal included in the Plan. The proposed alternative development of PSGV has the effect of precluding the SRFI. On this basis, the Council considers that it did not need to cooperate in relation to this matter, since once the SRFI ceased to be a strategic site promoted under the Plan, it was no longer required to engage in the DtC discussions.
9. However, national policy and guidance is clear that unmet needs, and how they could be met elsewhere, are a key issue to be considered through the DtC. The Guidance (paragraph 022 Reference ID: 61-022-20190315) advises that strategic policy making authorities should explore all available options for addressing strategic matters within their own

planning area, unless they can demonstrate to do so would contradict policies set out in the Framework. If they are unable to do so they should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination.

10. It seems to us that it is illogical to argue that the DtC applies only to proposals in the Plan, since by their very nature, approaches to unmet needs will not be included in the Plan (as there is no provision to address them there). In our view, the SRFI is a strategic matter for the purposes of the DtC, as are allocations for housing development to meet identified housing need. Thus, the use of the land at the Radlett site, whether as a SRFI or a housing allocation, is a strategic matter which the Council should have been engaging and cooperating with neighbouring authorities about.
11. It is not evident from the Council's Duty to Cooperate Compliance Statement (CD028) or Matter 2 hearing statement (neither of which mention the SRFI) how the Council has engaged with other LPAs or interested parties on this matter. There is nothing before us to demonstrate that other nearby authorities have been approached in terms of the possibilities of accommodating either the SRFI, or the housing now proposed on the site (in order to safeguard the SRFI permission). Indeed, The Council's note at ED31 indicates that following the site's identification for PSGV the DtC discussions focussed on that housing scheme, rather than the loss of the SRFI.
12. Both the site promoter and Network Rail raise objections to the Plan under the DtC. Whilst the Council referred to verbal conversations with senior members of staff at MHCLG who were aware of the approach to the SRFI in the Plan, a lack of objections from MHCLG is not an indication that the DtC has been met.
13. Overall, there is no evidence of effective joint working or cooperation on this important strategic cross boundary matter regarding a nationally significance infrastructure scheme. We cannot be content that the Council has explored all available options to address this strategic matter within its own planning area or engaged with others in an attempt to secure its provision elsewhere or that it has reached the conclusion not to provide for it in the Plan in the full knowledge of neighbouring authorities' views on this.
14. For these reasons, we are not satisfied that the Council has provided evidence to demonstrate on-going, active and constructive engagement regarding the SRFI. Whilst the Council's decision not to pursue the allocation of the SRFI in the Plan does not in itself indicate a failure to comply with the DtC, the Council has not engaged or cooperated with other bodies (including other LPAs) with regard to this issue. This includes in relation to the reasons why it no longer considers it necessary to include the SRFI as an allocation in the Plan, or why housing is now proposed there. Thus, the effectiveness of the Council's plan preparation has not been maximised in this regard.

15. The Council's approach to the Green Belt is also of concern to us in relation to the DtC. The Plan proposes substantial Green Belt boundary alterations to enable land to come forward for development. Paragraph 137 of the Framework requires that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic planning authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. It has not been demonstrated that the Council's approach to the Green Belt has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through a statement of common ground (SoCG), in accordance with paragraph 137(c) of the Framework.
16. Paragraph 1.4 of ED25C refers to on-going dialogue with neighbouring authorities throughout 2013-2016 and 2017-2019 to see if they could accommodate any of the Council's housing need. The Council refers to the June 2018 Planning Policy Committee (PPC) report which finds the DtC discussions with adjoining and nearby authorities currently show no reasonable prospect of the district's housing need being met elsewhere at this point in time. ED25C also refers to the DtC Compliance Statement (CD028) as evidence of this.
17. However, the meetings with nearby authorities referred to in CD028 took place for the most part between May and August 2018 and the notes of these indicate that the Council intended to meet all its housing needs within its boundary. Whilst we appreciate that neighbouring authorities are likely to have their own Green Belt constraints and housing pressures, there is no mention of the question being asked as to whether any of the neighbouring authorities could take any of St Albans' need (that would otherwise require the release of Green Belt land). This is another example of a lack of on-going, active and constructive engagement in relation to an important strategic matter.
18. Paragraph 27 of the Framework indicates that in order to demonstrate effective and on-going joint working, strategic policy making authorities should prepare and maintain one or more SoCGs, documenting the cross boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in the Guidance and be made publicly available throughout the plan-making process to provide transparency.
19. The Guidance indicates that a SoCG is a written record of the progress made by strategic policy making authorities during the process of planning for strategic cross boundary matters. It documents where effective cooperation is and is not happening throughout the plan making process and is a way of demonstrating at examination that plans are deliverable over the plan period. The Guidance is clear that a SoCG also forms part of the evidence required to demonstrate that the Council has complied with the DtC. The Council has provided a SoCG relating to the emerging Joint Structure Plan (JSP) but not in relation to this Plan. There are no SoCGs with any of the neighbouring or nearby LPAs or any of the DtC

bodies.

20. Although a joint Dacorum Borough Council and St Albans City and District Council Duty to Cooperate Updated Position Statement (January 2020) (ED32) has been provided, this is not a SoCG. It summarises the progress made to date to resolve the strategic planning matters between the Council and Dacorum. It states that since December 2019 discussions between the two Councils have continued at pace and both agree that they consider sufficient progress has been made on the principles of the strategic planning matters pertinent to the DtC. However, the DtC concerns cooperation prior to the submission of the Plan (which was in March 2019). The Updated Position Statement sets out a package of arrangements that will be put in place, the principles for which will be expanded upon and precise details given in a SoCG, a draft of which is anticipated in May 2020.
21. As such, contrary to the advice in the Guidance, there are no SoCGs before us to demonstrate that the Council has complied with the DtC. Consequently, we are not convinced that the Council has met the terms of the Guidance and cannot be assured that it has fulfilled its DtC duty in maximising the effectiveness of plan preparation by engaging constructively, actively and on an on-going basis with other bodies that are subject to the DtC.
22. A failure to meet the DtC cannot be remedied during the examination since it applies to plan preparation which ends when the Plan is submitted for examination. Section 20(7A) of the Act requires that the examiners must recommend non-adoption of the Plan if they consider that the Council has not complied with the DtC. As previously indicated and set out in more detail below, whilst our concerns are substantial, we will not make an absolute final decision as to whether or not the DtC has been met until the Council has had the chance to respond to this letter.

Statement of Community Involvement (SCI)

23. Each LPA is required to prepare a SCI setting out their policy for involving persons with an interest in the development of the area when preparing and revising their local plans. Amongst other things, the SCI should explain how the authority intends to go about publicising the Plan and undertaking consultation on it.
24. Section 19(3) of the Act states that in preparing local development documents the authority must comply with their SCI. The Council's SCI Update 2017 (Doc SCI 001) states that its purpose is to set out, amongst other things, how and when the community and other stakeholders will be consulted on the preparation and revision of documents that will make up the Plan.
25. Section 2 of the SCI considers consultation on the Plan and discusses the different stages in its preparation. Tables 1 and 2 detail the consultation techniques that may be used at each stage of the DPD and SPD preparation process. Paragraph 2.14 explains that the stages may vary

between different types of planning document and be subject to review over time. Even so, Figure 2 refers to Issues and Options/Preferred Options, and paragraph 2.17 refers to a Preferred Options stage.

26. Moreover, paragraph 2.22 of the SCI states that consultation will initially seek the views of specific and general consultation bodies to identify Issues and Options as part of on-going engagement after Regulation 18, and that wider consultation with these bodies, local communities and businesses and other interested parties and individuals will take place as 'preferred options' are identified. Table 1 includes a specific row for a Preferred Options consultation stage, that is separate and distinct from the Issues and Options stage, with a consultation period of a minimum of 6 weeks.
27. We consider that the wording of the SCI sets up a reasonable expectation that the Council would undertake a Preferred Options consultation on the Plan prior to its submission. However, this did not happen. The Plan progressed from Issues and Options in January/February 2018 to the Publication Draft Plan in September/October 2018 (with no Preferred Options stage). This being so, notwithstanding the flexibility allowed by paragraph 2.17 of the SCI, the Plan has not been prepared in compliance with the SCI and there has been a breach of Section 19(3) of the Act.
28. That said, a key issue in relation to this matter is whether any affected party has suffered any prejudice as a result of the breach, and if so whether any such prejudice can be remedied during the examination. If the examination were to continue, an assessment would need to be made as to whether the expectation which arose from the SCI of consultation on Preferred Options (and the omission of that stage) has prejudiced the interests of any parties. Consideration as to whether this could be resolved during the examination would also be necessary. Given our findings in relation to the DtC, we have not come to a view on this matter but raise it in the context of the Council's future plan making activities.

Soundness

29. In addition to the legal compliance matters identified above, we also have a number concerns in relation to the soundness of the Plan. Whilst we have not reached final conclusions on these issues and they may be matters which could potentially be resolved through the examination if it were able to continue, we believe it is helpful to highlight these points to you at this stage if only to assist your plan making in the future

Green Belt

30. Paragraph 136 of the Framework sets out that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The Council's approach to the Green Belt is set out in Policy S3 and clarified in the response to our Initial Question 16 and in the subsequently produced Green Belt Topic Paper (ED25C). Further information has been

provided in the Council's hearing statement and via the hearings.

31. The Green Belt Review Purposes Assessment (November 2013) was prepared jointly for the Council with Dacorum and Welwyn Hatfield Councils by SKM (GB004). This Stage 1 of the review identified large parcels of land across the three authorities. Those areas contributing least to the Green Belt were determined and a number of strategic sub areas in St Albans were identified for further investigation. These were taken forward to Stage 2 where SKM undertook a review and detailed assessment of those strategic sub areas in the Green Belt Review Sites and Boundaries Study (February 2014) (GB001).

Scale of unmet need

32. Whilst the Council indicated at the hearings that the 2013 Green Belt Review was not done with any level of development need or target in mind, it was prepared around the time that the Council was working on the previous SLP. At that time housing requirements were 8,720 (or 436 per annum) and so much lower than the current objectively assessed need (OAN) of 14,608 homes over the plan period. However, the Green Belt Review was not re-visited in the context of the much higher scale of unmet need which could only be met by Green Belt release that was subsequently identified in the Plan.

Strategic and smaller sites

33. GB004 identifies a number of strategic sub-areas along with some small scale sub-areas which are recommended to be considered for further assessment. The 8 strategic sub-areas are then considered in GB001 which identifies sites for potential Green Belt release. However, the small scale sub-areas identified in GB004 as making no or little contribution to the Green Belt purposes were not considered further and were deemed to fall outside the scope of the subsequent GB001 study.
34. In 2018, the Council undertook its strategic site selection work to review the sites identified by SKM and to seek further potential sites to make up the shortfall. In determining the extent of this shortfall the Council estimated that the total capacity of the 8 SKM sites, combined with the identified non-Green Belt capacity in the district falls well short of the 14,608 homes required (ED25C paragraph 1.19).
35. Strategic scale sites were defined as those capable of accommodating residential development of a minimum of circa 500 dwellings or 14 hectares (ha) of developable land. Using this threshold, 70 sites were evaluated using a Red Amber Green (RAG) system over three stages. After Stage 3, the 8 strategic sub-areas identified in GB001 were the only sites to score green (low impact) and were taken forward (the ninth site is the employment site at East Hemel Hempstead). Additionally, four amber (medium impact) sites were identified at South East Hemel Hempstead, North Hemel Hempstead, PSGV and North East Redbourn.

36. The Council indicates that all of the 8 green sites, and 3 of the 4 amber sites were required to meet local housing need. The advantages of the three selected amber sites at South East Hemel Hempstead, North Hemel Hempstead, and PSGV were considered by the PPC to be greater than that for the non-selected site at North East Redbourn.
37. This approach raises a number of concerns. As part of the fundamental approach stemming from 2013/14, smaller sites (less than 500 dwellings or 14ha) have been excluded from the Green Belt Review and site selection process. This includes the smaller scale areas of land identified in GB004 as contributing least to Green Belt purposes. Paragraph 8.1.5 of GB004 is clear that the small-scale sub areas identified in that study may not be exhaustive. It also recognises that it is possible that additional potential small-scale boundary changes that would also not compromise the overall function of the Green Belt might be identified through a more detailed survey. Thus, the capacity from such smaller sites could be much higher than that estimated by the Council.
38. Additionally, a number of sites were submitted to the process which are not small, but do not meet the agreed threshold. These are identified in Table 2 to Appendix 1 of the May 2018 PPC report. Although they are between 10.5 and 14ha and/or a capacity of 375 to 500 dwellings they were considered to fall sufficiently below the overall scale and dwelling capacity not to be assessed. These are nonetheless large sites which could potentially deliver a good number of homes.
39. The withdrawn SLP identified the potential for small scale Green Belt greenfield sites to be looked at in more detailed in the then envisaged subsequent detailed Local Plan. Thus, at that time there was an anticipation that such sites would be included in the Council's overall housing strategy, alongside the larger strategic sites/ Broad Locations. However, in developing the Plan now being examined, it seems that that any consideration of the potential of such smaller sites has been overlooked.
40. In light of the large number of homes that would need to be accommodated, the Council decided that only strategic scale Green Belt sites would be taken forward in the Plan. The advantages of strategic scale sites over smaller ones was an explicit evaluative choice made by the Council. It was based on a judgement that the strategic scale sites offer infrastructure and community benefits in way that small sites do not and in light of points raised in the public consultation responses to the Plan.
41. In looking at Green Belt releases we have concerns about the narrow focus that has been placed on only strategic sites. This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other non-strategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.

42. Whilst the Council indicates in the May 2018 PPC report that small sites in the Green Belt are not needed (and so have not been assessed) this position appears at odds with the context of the identified shortfall situation. Moreover, the decision to discount all smaller sites in the Green Belt was made in 2013/14 and not in light of the higher levels of need for housing that are now being faced by the district. In terms of the contribution they make to Green Belt purposes, it has not been demonstrated whether a range of smaller sites would be preferable to the shortfall sites selected.
43. Additionally, we see no reason why the identification of some smaller sites would unacceptably spread the adverse impacts of development on Green Belt purposes. Whilst this would extend the impact of development over a wider geographic area, the extent of the resultant impacts would be likely to be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites, such as to the east of Hemel Hempstead as proposed).
44. We accept that large scale urban extensions would provide significant amounts of new infrastructure which both the new and already established communities would benefit from. On the other hand, a range of sites including smaller sites could also provide benefits. For example, they could be delivered more quickly without requiring additional infrastructure, provide choice and flexibility in the housing market and secure affordable housing more immediately.
45. Overall, although previously recognised as a source of housing to be identified at some stage, smaller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification.

Previously developed land (PDL)

46. Paragraph 138 of the Framework states that where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously developed and/or is well served by public transport.
47. GB004 does not consider PDL or apply any specific focus on PDL. At paragraph 5.2.20 it indicates that the fifth national purpose of the Green Belt to assist urban regeneration has been screened out. This explains that assisting urban regeneration, by encouraging the recycling of derelict and other urban land is considered to be more complex to assess than the other four purposes because the relationship between the Green Belt and recycling or urban land is influenced by a range of external factors.
48. Furthermore, as a result of the site selection process outlined above, any PDL site or site in a sustainable location well served by public transport in the Green Belt below the size threshold has been discounted for

consideration. This is so regardless of its impact on Green Belt purposes. This approach fails to give first consideration to PDL land and/or that which is well served by public transport in the Green Belt, and the required process of prioritisation is not evident.

Methodology for the assessment of sites

49. We also have concerns regarding the strategic site selection process. At Stage 1 a high number of sites were immediately discounted from further assessment on the basis of their Green Belt Review evaluation (and were rated red). The 4 identified amber sites all had only 1 or zero effects on the Green Belt Purposes (as identified for the relevant parcels in the 2013 Green Belt Review). However, representors refer to a number of sites that were rejected at Stage 1 despite also having zero or only 1 significant impact on Green Belt purposes (in the same way as the amber and green rated sites).
50. The 8 strategic sub-areas shortlisted in the 2013 study and carried forward were already the subject of a detailed Green Belt assessment. The amber rated sites were assessed by officers and this is evident from the additional text in the Site Evaluation Forms at Appendix 3 of the May 2018 PPC report. However, unless they had been considered as small sub-scale areas in the 2013 Green Belt Review, the red rated sites are subject only to an additional brief standardised paragraph of text. Whilst the Council confirms that these are the assessments upon which it relies, no reason is given as to why they were not subject to a detailed assessment in the same way as the green and amber sites. Without these, it is difficult to see why the amber sites were found to perform better.
51. Another anomaly is that in re-assessing the 4 amber sites, the impact they would have on the Green Belt seems to have decreased compared to the situation in 2013. This is the case for PSGV where the 2013 assessment of parcel GB30 found 3 significant effects to the Green Belt purposes, but the re-assessment (on the basis of a limited area south of the A414) finds it to have only one significant effect.
52. Thus, the significant effects of the smaller parcel of land on Green Belt purposes have reduced in comparison to that of the wider parcel. However, such an assessment of smaller parts of other discounted strategic parcels has not been undertaken. As a result, the impact of smaller sites as opposed to the larger parcels has not been consistently reviewed across the board to allow informed decisions on Green Belt release to be made.
53. Additionally, there are issues with the site evaluation forms. For example, although Stage 1 of the PSGV site evaluation form acknowledges the existing significant permission of the SRFI, this makes no changes to the site's amber rating. Additionally, under Stage 2 (suitability) it is found to be green with no overriding constraints to development (despite the permitted SRFI). Furthermore, under Stage 3 (availability), notwithstanding the planning permission for the SRFI, it is recorded that

there are no overriding constraints to development for housing in terms of land ownership, restrictive covenants etc (and a green score is given). This does not seem a fair or credible assessment of the site and calls into question its overall amber rating. It also casts some doubts as to the reliability of the overall assessment process.

Compensatory improvements

54. Paragraph 138 of the Framework sets out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land. The Council refers to Policy S6 and the requirements set out under each of the Broad Locations. It also anticipates that further compensatory improvements will emerge through the forthcoming masterplans for the Broad Locations and refers to the provisions of Plan Policy L29.
55. However, we have concerns as to whether such compensatory improvements have been identified in relation to all the Broad Locations, and if they would in fact be on land remaining in the Green Belt or on land within the Broad Locations themselves. There is also a lack of clear evidence to demonstrate that the developer or the Council owns or controls the land that would be needed in each instance.
56. Additionally, the Council confirmed at the hearings that the costs of the required improvements has not been specifically factored into the viability work for each of the Broad Locations. In the absence of the identification of particular schemes of improvement or any estimation of their likely costs, it is difficult for us to be satisfied that that the headroom in the viability of the Broad Locations would be sufficient to cover the required improvements as suggested by the Council. In light of all these factors, it is not clear to us how this important requirement of the Framework would be met.

Conclusion on the Green Belt

57. Paragraph 137 of the Framework states that before concluding that exceptional circumstances exist to justify changes to the Green Belt boundaries, the Council should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. For the reasons set out above, we cannot be satisfied that this has been demonstrated. Nor can we agree with the statement in Policy S2 that the exceptional circumstances required for Green Belt release for development only exist in the Broad Locations.
58. The Council indicates at paragraph 1.3 of ED25C that the Plan process built on the earlier draft SLP work, in an updated context. However, the Green Belt Review was not re-visited in this updated context. If the examination were able to continue, a new Green Belt Review would need to be undertaken in accordance with the advice in the Framework and the Guidance and to address the concerns we have identified in this part of our letter.

Sustainability Appraisal

59. The Sustainability Appraisal (SA) of the Plan was carried out by TRL and the resulting report and appendices and Non-Technical Summary were published in September 2018 for consultation alongside the Plan. A subsequent SA Addendum was published in March 2019. This was prepared to report on the sustainability appraisal activities undertaken from the time of the representations on the Publication Plan in September/October 2018, up to the Submission of the Plan in March 2019.
60. The SA addendum report covers four main areas; analysis and responses to the representations made during the consultation on the Publication Plan and its accompanying SA; assessment of proposed Minor Modifications to the Plan; assessment of the proposed SRFI; and updates to the information in the SA Report (September 2018). These reports follow on from earlier SA work carried out to inform the previous SLP.
61. The 2018 SA is based on a previous strategy arrived at in 2014. Following an assessment of 4 different development strategy options, this found option 1a mixed location/scale development to be the most favourable. This was principally because the Council considered this option would provide the greatest social and economic benefits. Option 1b mixed location/scale development with smaller, but more sites, was another option considered and scored. The commentary in relation to this option indicates that "This would necessitate more work on detailed Green Belt Boundaries to see what might be appropriate as smaller scale alternatives in some of the selected locations".
62. As set out above, this additional Green Belt Review work has not been undertaken. Yet in table 5 (paragraph 73, Appendix E, Volume 2 of the 2018 SA), option 1a scores higher than option 1b in relation to the SA objectives; sustainable location, equality social, sustainable prosperity and revitalise town. It is difficult to see how these scores were reached objectively without the knowledge of where the smaller sites might be under option 1b. For example, they may have been on the edge of St Albans or Harpenden which to our minds could have scored at least the same if not higher in some or all of these categories than option 1a.
63. The SA generally makes optimistic assumptions about the benefits of option 1a and correspondingly negative assumptions about option 1b, without the evidence to support them. Consequently, these assessments lack the necessary degree of rigour and objectivity and are therefore unreliable.
64. This approach led to only the consideration of sites of more than 14ha and or 500 homes. This decision was underpinned to a large degree by the findings of the Green Belt Review and the strategic site selection work which we have expressed our concerns about above. Moreover, this threshold and strategy was conceived in the context of a different set of circumstances, such as a much lower housing requirement and at a time

when there was also no planning permission for the SRFI.

65. The assessment of development strategy options established in 2014 has not been properly reassessed to consider if the Plan's strategy is still an appropriate one, taking into account the material changes in circumstances between 2014 and 2018. Indeed, the Council's Regulation 18 consultation SA Working Note (January 2018) states in paragraph 4.3.3.3 "At this new Regulation 18 stage in the development of the Local Plan there has been no new assessment of sites or wider Broad Locations. This work will be undertaken during the SA that is undertaken as part of the development of the Publication Local Plan". However, this did not appear to happen in a transparent and objective manner, if at all.
66. In May 2018 a significant number of sites were submitted to the Council for consideration following a call for sites. These ranged in size enormously. However, only 12 were evaluated in detail and 11 of those were included in the Plan, the rest were disregarded. As recognised by the Council, the small sites that have been discounted from the strategic site selection process are not in all cases much smaller than 14ha. Some are of a considerable size and only just below the threshold. This is of particular concern given that the Plan contains two Broad Locations that are expected to accommodate less than 500 homes (S6 (ix) West of London Colney – 440 dwellings, and S6 (x) West of Chiswell Green – 365 dwellings).
67. As considered above, even when assessing the sites of 14ha and or 500 homes or more, those that scored red were given this score based on the 2013 Green Belt Review and the decision was taken not to revisit whether that was still appropriate. Importantly, some of the sites assessed through the RAG system were extremely large, in some cases hundreds of hectares in size. No consideration was given to whether parts of those sites would score better in Green Belt terms and therefore make them competitors for other sites scoring green or amber.
68. Leading on from this, there appears to have been no analysis of reasonable alternative sites that could accommodate less than 500 homes that may have scored better both in terms of the Green Belt purposes and/or sustainability objectives. This is despite references in the Framework for the need to plan for a variety of sites. For example, paragraph 68 indicates that, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Whilst there is a list of 'small' sites in appendix 5 of the Plan, they do not amount to the 10% referred to in paragraph 68a of the Framework. There is also little information about whether these include, for example, replacement dwellings.
69. Although the Council contends that sites of less than 500 homes and or 14ha will come forward as windfall sites, given that the majority of the undeveloped or unallocated land in the district is in the Green Belt, any such proposals would need to demonstrate "very special circumstances".

However, the Courts¹ have found that ““exceptional circumstances” is a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which requires “very special circumstances””. Therefore, it is unlikely that sites, other than those allocated in the Plan or small infill or redevelopment sites in existing towns and villages, would come forward for residential development. Importantly paragraph 136 of the Framework advises that the time for altering Green Belt boundaries is through the preparation or updating of plans.

70. Whilst smaller sites may come forward in Neighbourhood Plans (NP), the Plan does not apportion any development to NPs and any changes to Green Belt boundaries have to be established through strategic policies, as set out in paragraph 136 of the Framework.
71. As set out above, PSGV has planning permission for a SRFI. Despite this, the SRFI is deemed by the Council not to be a reasonable alternative for housing. We have serious concerns that the Council had clearly made up its mind on this matter of great importance before carrying out the SA or the SA addendum work. Twice the SA addendum states that “the view of the Council is that the SRFI is not a ‘reasonable alternative’ for that site and therefore it was not assessed in the SA. However, for purposes of completeness the principle of developing an SRFI on the same site as that allocated for PSGV has now been assessed as part of this SA report addendum”.
72. The Council argues that the SRFI is not a reasonable alternative since the Government’s approach has a primary focus on housing. However, that is not what the Framework says. When read as a whole it identifies a number of priorities for sustainable development including both housing and large scale transport facilities (amongst other things).
73. The SA tables take no account of displacing the SRFI. If they did, North East Redbourn would be likely to attract a positive score as it would allow the SRFI to be provided, and the PSGV housing site would be reasonably expected to receive a negative score as it would lead to the non-provision of the SRFI. Moreover, the SA addendum fails to properly consider the SRFI and appropriately weight its environmental advantages. It underscores the positive effect that it would have on greenhouse gas emissions and fails to acknowledge the benefits to the local economy of the additional jobs that would arise.
74. Another serious flaw in the SA process is that the PSGV site scores are changed in relation to some objectives in the SA addendum when it is tested against the SRFI. The objectives in relation to ‘use of brownfield land’ and ‘historic environment’ change from a question mark in the 2018 SA to a cross in the SA addendum. However, the Council has not gone

¹ Compton Parish Council, Julian Cranwell and Ockham Parish Council v Guildford Borough Council, Secretary of State for Housing Communities and Local Government, Wisley Property Investments Ltd, Blackwell Park Ltd, Martin Grant Homes Ltd and Gatesby Estates Plc [2019] EWHC 3242 (Admin)

back and looked at the effect of the re-scoring in relation to the ruling out of the North East Redbourn site in the 2018 SA (a site which was considered more favourably in terms of the Green Belt Review).

Conclusion on the SA and SA addendum

75. On the basis of our concerns set out above, we consider that there are a number of obvious and seemingly credible reasonable alternatives that have not been considered. This being so, we are not convinced that either the SA or the SA addendum has considered and compared reasonable alternatives as the Plan has evolved, including the preferred approach, and assessed these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Plan were not to be adopted.
76. Therefore, the SA has not demonstrated that the spatial distribution of development is the most appropriate strategy given the reasonable alternatives available. The discrepancies in the scoring of the sites as highlighted also undermines the robustness of the assessment and calls into question the objectiveness of that process. Moreover, the Council does not appear to have approached the SA or the SA addendum with an open mind and in our view should have consulted on the SA Addendum.
77. Thus, with criterion b of paragraph 35 of the Framework in mind, we cannot find that the Plan is justified since it fails to be an appropriate strategy taking into account the reasonable alternatives and based on proportionate evidence. If the examination were able to continue we would need to explore the extent to which these concerns could be satisfactorily addressed through the examination.

Meeting the area's objectively assessed needs

78. Paragraph 11 of the Framework indicates that plans and decisions should apply a presumption in favour of sustainable development. For plan making this means that plans should positively seek opportunities to meet the development needs of their area and be sufficiently flexible to adapt to rapid change (a). Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas.
79. Paragraph 20 of the Framework advises that strategic policies should set out an overall strategy for the pattern, scale and quality of development and make sufficient for infrastructure for transport (b). Paragraph 104 (e) states that planning policies should provide for any large scale transport facilities that need to be located in the area (footnote 42 clarifies that examples of these include interchanges for rail freight). In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements. Additionally, paragraph 104 (c) requires planning policies to identify and protect, where there is robust evidence, sites and routes which could be critical in developing relevant infrastructure.

80. The National Policy Statement for National Networks (December 2014) (NPS) stresses the importance of SRFIs. It confirms that there is a compelling need for an expanded network of SRFIs. Paragraph 258 notes the limited number of suitable locations for SRFIs and the particular difficulties in provision to serve London and the south east.
81. As considered above, the Framework provides that planning policies should provide for any SRFIs that need to be located in the area taking into account the NPS for nationally significant infrastructure projects. SRFIs have extremely exacting locational requirements including the need for very large, unfragmented and flat sites close to the strategic rail freight and road networks and the conurbations they serve (NPS paragraph 2.45).
82. A planning application was submitted for a SRFI in Slough but refused and dismissed on appeal (a Secretary of State decision) and another in the Dartford area was also unsuccessful. Network Rail supports the creation of the SRFI in St Albans and it is clear that it has proved extremely problematic to find sites for one, especially in the south east, as recognised by the NPS. Indeed, it seems that the Radlett site in St Albans is the only realistic option and there is robust and compelling evidence to demonstrate that the SRFI needs to be located there.
83. As considered previously, in 2014 the Council was working on the basis of lower housing figures and the Broad Locations were found to be sufficient to meet the need for housing alongside the need for the SRFI, which was included in the Regulation 18 Plan as a commitment. However, in the re-evaluation of the strategy that followed, the Council did not consider whether it could continue to meet the needs of both the SRFI and the increased housing numbers or look at options as to how this could be achieved. Instead, the Council adopted an either/or position in relation to the SRFI and housing.
84. We have fundamental concerns about this approach and consider that the Council should have looked to accommodate both the SRFI and the required housing in the first instance. The requirement for the SRFI, an important piece of national infrastructure, is long established and specific to the Radlett site. Whilst the provision of housing is also an important requirement and a focus and priority recognised in the Framework, it is not fixed in location in the same way as the SRFI. In this instance there are compelling reasons to look to provide both, and we are not convinced that the two requirements should be regarded as competing.
85. Another shortcoming of the Plan's strategy is its reliance on PSGV to meet its housing requirement, given the possibility that the SRFI could proceed on the site on the basis of the existing planning permission. The site promoters indicate that development has commenced. Whilst it seems that this is disputed by the Council, notwithstanding a disagreement over the requested fee, a lawful development certificate has been submitted to deal with this matter.

86. Bringing these matters together, we consider that the Plan does not meet the development needs of the area and fails to make sufficient provision for infrastructure for transport in conflict with paragraphs 11 and 20 (b) of the Framework. Contrary to paragraph 104 (e) of the Framework, the policies in the Plan fail to provide for a large scale transport facility that needs to be located in the area (the SRFI) and have not taken into account what is a nationally important infrastructure project or had regard to the requirements of the NPS.
87. As set out at paragraph 35 of the Framework, plans must be positively prepared (criterion a). In omitting to provide for the SRFI (and in doing so to look elsewhere to meet its housing needs, either within the district or in neighbouring areas), the Plan does not provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities. Furthermore, it has not been demonstrated that the plan is deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, or that it aligns with national policy. This is at odds with paragraph 35 of the Framework which requires plans to be effective (criterion c) and consistent with national policy (criterion d).

Evidence Base

88. The Framework indicates at paragraph 31 that the preparation and review of all policies should be underpinned by relevant and up to date evidence. This should be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals. There are number of key documents missing from the evidence base.
89. There is no Heritage Impact Assessment as required by Historic England in relation to the Broad Locations. Work is still on-going with the 2019 AMR. Furthermore, it became apparent at the hearing session where we touched on the Council's reliance on windfalls as part of its housing strategy that they Council do not have the requisite historic windfall data available to support their reliance on them for future supply.
90. The Broad Locations are not supported by a Transport Impact Assessment even though it was evident from our site visits that most of them would be likely to require significant road improvements as many are currently accessed via relatively narrow roads. Hertfordshire County Council (HCC) recognises that the level of growth proposed within the Plan will require significant transport improvements at both a local and strategic level to enable to the transport network to function. This being so, HCC is concerned that there is no definitive identification of what strategic infrastructure is required to deliver the development at the proposed Broad Locations and and how that development would contribute towards any required mitigation. We share these concerns.
91. Although we understand that the Council has commissioned an updated Strategic Housing Market Assessment this has not yet been published. As

a result there is no up to date understanding of how many homes are needed and of what type, including the different sizes and types of affordable housing that may be required. Additionally, the Council rely on the brownfield register for its 10% smaller sites, but this is also not published. This list is not exhaustive, but it gives a flavour of the extent of missing documents that are critical to the examination of the Plan.

Overall Conclusions

92. In accordance with paragraph 35 of the Framework, we have assessed whether the Plan has been prepared in accordance with the legal and procedural requirements and whether it is sound. We have not been persuaded that the DtC has been satisfactorily discharged by the Council and if this is the case the failure cannot be rectified during the examination. We have also found legal compliance issues in relation to the SCI. Additionally, whilst we cannot reach a final conclusion on these matters at this stage in the examination, we have substantial soundness concerns with elements of the Plan as described above.

Next Steps

93. As set out in our letter of the 27 January 2020 and above, we will not reach an absolute or final position until you have had chance to consider and respond to this letter. However, in light of our serious concerns regarding the DtC, we consider it a very strong likelihood that there will be no other option other than that the Plan is withdrawn from examination or we write a final report recommending its non-adoption because of a failure to meet the DtC.
94. We have sought to be pragmatic in our approach to the examination but this cannot extend to ignoring a legal compliance failure with the Plan which cannot be rectified during the examination. We also appreciate how disappointed you will be with our findings but confirm that we have only come to this view following a great deal of thought and after hearing relevant evidence from both the Council and representors.
95. The Council will need some time to consider the contents of this letter and to decide on a response and we entirely understand that this may take longer than might otherwise be the case because of the current very difficult circumstances with regard to Covid 19. We are also happy to provide any necessary clarification to the Council via the Programme Officer. Responses from other parties to this letter are not invited and we do not envisage accepting them.

Louise Crosby and Elaine Worthington
Examining Inspectors