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Redbourn Parish Council (supported by Leverstock Green Village Association) – (RPC)

St Albans City and District Local Plan Examination

Matter 1 – Legal/ Procedural Requirements (Introduction)

Main Issue – whether the Council has complied with the relevant procedural and legal requirements.



Plan preparation

1. **Is the Plan compliant with:**
 - (a) **the Local Development Scheme?**
 - (b) **the Statement of Community Involvement?**
 - (c) **the 2004 Act and the 2012 Regulations?**

1.1 SACDC should respond to this question.

Sustainability Appraisal

2. **Are the likely environmental, social and economic effects of the Plan adequately and accurately assessed in the Sustainability Appraisal (SA)?**
 - 2.1. Redbourn Parish Council considers that the likely environmental, social and economic effects of the Plan have not been adequately and accurately assessed in the Sustainability Appraisal as can be demonstrated by reviewing the approach to the East Hemel Hempstead (North) Broad Location by way of example.
 - 2.2. The Assessment of the Effects of Policy S6 i) East Hemel Hempstead (North) Broad Location in Appendix F of the SA Report 2018 (**CD010**, Pages F23 to F29) is considered to be vague and subjective. The scale of Effects is largely unquantified in terms of distance to receptors or the scale or significance of impact. For example:
 - *SA Objective 'Biodiversity'* - the Effect is described as "Greenfield nature of this site means that there will be some loss of habitats." There is no explanation of which habitats would be lost or their significance.
 - *SA Objective 'Historic Environment'* - the Effect is described as "The site is not subject to any significant heritage or archaeological constraint." However, the Effect description that continues contradicts this statement "*The site contains three Grade II listed buildings associated with Wood End Farm and development would impact on the setting of these buildings. A Scheduled Monument (SM), The Aubreys (fort/camp), is located to the northeast of the site. Development of the site would also have the potential to impact upon the setting of Grohambury Grade II Registered Park and Garden and its associated heritage assets.*"
 - 2.3. The subjectivity of the SA is also apparent when the Assessment of the East Hemel Hempstead (North) Broad Location undertaken in the SA Report 2018 (CD010) is compared with the Assessment of the same site in the SA Report 2016 (December 2015) which was prepared for the Pre-Submission Publication of the Strategic Local Plan in January 2016. The site was previously allocated in the 2016 Strategic Local Plan in Policy 13a for a minimum of 1,500 dwellings, compared with a minimum of 1,650 dwellings in Policy S6 i) of the submitted Local Plan. In the 2016 SA significant adverse impacts were predicted for two of the SA objectives - 'Soils' and 'Landscape/ Townscape' - as a result of the loss of the best and most versatile agricultural land and the erosion of the gap between Hemel Hempstead and Redbourn.



- 2.4. The 2018 SA predicts very similar effects to the 2016 SA despite the 2016 assessment been based upon a lower dwelling allocation and smaller development area. Marginally worsened effects are only predicted for three of the SA objectives: 'Good Quality Housing', 'Sustainable Prosperity and Growth' and 'Fairer Access to Jobs & Services'.
- 2.5. Significantly, the assessments for the 'Landscape/ Townscape' objective also differ between 2016 and 2018, with the assessment of the Effect on Landscape improving, from being 'very unsustainable' (in 2016) to both 'unsustainable' and 'sustainable' (in 2018). The prediction of sustainability, the SA notes, is due to the settlement providing and enhancing new open space. It is not clear why the 2018 SA revises the prediction of 'very unsustainable' to 'unsustainable', particularly given the fact that both SAs assess the same site area and that the 2018 actually assesses more dwellings than proposed for allocation in the 2016 Plan.
- 2.6. Furthermore, the Parish Council considers that the 2018 SA does not adequately consider heritage matters. Given that the proposed growth area increases the scale of growth around heritage assets at Woodend Farm, it is not unreasonable to expect this to be reflected in the SA. However, the 2018 SA shows no change from the 2016 SA.
- 2.7. Consequently, Redbourn Parish Council considers that the 2018 Sustainability Appraisal has not properly considered the impact of increasing the scale and quantum of growth of the proposed allocation at East Hemel Hempstead (North).

3. Does the SA test the Plan against all reasonable alternatives?

- 3.1 Redbourn Parish Council considers that all reasonable alternatives have not been fully considered and assessed.
- 3.2 Reference is made on Page 29 of the Sustainability Appraisal Report (September 2018, **CD009**) to work on alternatives that informed the Core Strategy and earlier versions of the Local Plan having been previously considered and thus informing the SA for the new Local Plan. The consideration of alternatives as part of the SA process can be summarised as follows:
 - The SA Working Note, June 2014 that considered housing requirement/ target options, strategic sub-area options and development strategy options to inform the Draft Strategic Local Plan which was subject to consultation in October 2014;
 - The SA Working Note, January 2018 that provided a commentary, and not an assessment, of five ways in which new homes could be provided in the District as set out in the Local Plan Issues and Options (Regulation 18) consultation in January 2018; and
 - The SA Working Note, May 2018 that assessed the Local Plan alternatives of a higher annual housing figure and 12 potential broad locations.



- 3.3 The Parish Council considers it is entirely inappropriate that the only consideration of strategic sub-area options and development strategy options was undertaken in June 2014 as part of the preparation of the Strategic Local Plan. The Strategic Local Plan was not progressed after it was found to have failed the Duty to Co-operate at Examination in 2016.
- 3.4 The Parish Council notes also that a higher annual housing figure was assessed in May 2018 along with 12 potential broad locations, but this was a narrowly defined consideration of alternatives with no identification or assessment of development strategy options or other broad locations. In addition, no details were provided of the assumptions made for each broad location in terms of the scale or mix of development proposed.
- 3.5 The Parish Council considers that the identification of all reasonable alternatives and the testing of them should have been considered afresh and with an 'open mind' as part of the preparation of this Submitted Local Plan. This is because the planning context, including national planning policy and the evidence base, has changed significantly since the options were identified and tested.
- 3.6 In the last two paragraphs (un-numbered) of Section 4.5 of the SA Report (**CD009**) it is acknowledged that the options or reasonable alternatives have changed:

"Due to the change in planning context and the 'passage of time' some of the options considered at the earlier stages during the development of the SLP and Local Plan can no longer be considered as reasonable alternatives."

"Conversely, the change in context that resulted from the publication of the NPPF has meant that some of the options that were previously rejected have now been reconsidered as being reasonable alternatives to deliver the strategy. This is the case for some Broad Locations which have been brought back into consideration given the significantly higher level of growth that is now proposed when compared to the Core Strategy that was consulted on in December 2010. In addition, the further technical work that has been undertaken has meant that the relative performance of Broad Locations may have changed over time and this may have influenced the selection of one option over another when considering which broad location to include in the Plan."

- 3.7 Despite the statement above in the SA Report (**CD009**) in relation to changes to the reasonable alternatives, no other information or reasons are provided in the SA Report as to which alternatives were considered no longer reasonable and which were considered reasonable that previously were not.

4. Have any concerns been raised about the SA?

- 4.1 Please see Redbourn Parish Council's response to Questions 2 and 3 above.

5. Have the Council complied with the requirements of section 19(5) of the 2004 Act with regards to SA?



5.1 Please see Redbourn Parish Council's response to Questions 2 and 3 above.

6. There is a Submission addendum to the SA Report dated March 2019. Has this been consulted on? If not, should it have been?

6.1 It does not appear that the SA Report Addendum (March 2019, CD012) has been subject to consultation. The Addendum should have been subject to consultation as it includes a completely new assessment of the Strategic Rail Freight Interchange at the Park Street Garden Village site and updates to the assessments of the Broad Locations.

Habitats Regulations Assessment

7. Have the Council complied with the requirement of the Conservation of Habitats and Species Regulations 2017 with regards to Habitats Regulations Assessment (HRA)?

7.1 Redbourn Parish Council considers that in order to comply with the Conservation of Habitats and Species Regulations 2017 St Albans & City District Council (SACDC) should have undertaken a new Habitats Regulations Assessment (HRA) Screening instead of relying upon the HRA Screening which was undertaken in 2008.

7.2 Paragraph 1.1. of the HRA Screening update (March 2019, **CD013**) states that "*the new Local Plan is a continuation of the same on-going strategic planning process to replace St Albans District Local Plan Review 1994 as that for the Strategic Local Plan (formerly Core Strategy) and Detailed Local Plan, which were not adopted, rather than being a new planning process. The HRA Screening for the SLP and DLP is therefore considered to remain a valid ('live') element of the strategic planning process.*"

7.3 It is considered entirely inappropriate to consider that the preparation process for the submitted Local Plan 2020-2036 is the same process as for the Strategic Local Plan and that is acceptable to rely on the HRA Screening for the Issues and Options stage of the Strategic Local Plan.

7.4 Furthermore, there is no assessment of the policies proposed in the submitted Local Plan.

8. Has the assessment taken account of the EU Court of Justice Judgement (12 April 2018) and the updated PPG? Have any concerns been raised about the HRA and are there any outstanding concerns from Natural England?

8.1. Redbourn Parish Council raised concerns with the HA Screening in its representations in October 2018 to the Publication Plan in relation to legal compliance and soundness. In summary, the Parish Council considered that it is inappropriate to rely on evidence and material prepared more than a decade ago and that all up-to-date and current evidence must be considered before a conclusion can be satisfactorily made.

8.2. At the time of responding to the consultation in October 2017 Natural England's response to the HRA Screening was awaited. Whilst it is noted that Natural England's response, as set out in Paragraph 4.1 of the Updated HRA Screening (March 2019,



CD013 is that they “agree with the conclusion of the Habitats Regulations Assessment (HRA) that there will be no likely significant effects on any European Site”, Redbourn Parish Council remains of the view that a new HRA Screening should have been prepared and that it should have considered the policies set out in Submitted Local Plan.

- 8.3. The Parish Council notes that St Albans & City District Council’s response (**ED8**) to the Inspectors’ questions (**ED2**) refers to the representation received on the HRA Screening report from Leverstock Village Green Association. However, no reference was made in **ED8** to the representation submitted by Redbourn Parish Council to the HRA Screening report. It is unclear why SACDC should have omitted Redbourn Parish Council’s representation from **ED8**.

9. Are the likely environmental, social and economic effects of the Plan adequately and accurately assessed in the HRA?

- 9.1. As explained in response to Question 7 above, the HRA Screening report has not assessed the submitted St Albans City & District Local Plan (Publication Draft 2018) but has instead relied upon the HRA Screening in 2008 of the Issues and Options prepared as part of the Strategic Local Plan. The Strategic Local Plan was not progressed after it was found to have failed the Duty to Co-operate at Examination in 2016.

10. There is a HRA screening update March 2019. Has this been consulted on?

- 10.1 It does not appear that the HRA Screening Update (March 2019, CD013) has been subject to consultation.

Other matters

11. Having regard to paragraphs 20-23 and 28 of the NPPF are there any policies in the strategic section of the Plan that should be in the non-strategic section?

- 11.1 SACDC should respond to this question.

12. Does the overarching strategy of the Plan secure the development and use of land which contributes to the mitigation of, and adaptation to, climate change consistent with S19(1A) of the Planning and Compulsory Purchase Act 2004? If so, which are the relevant policies?

- 12.1 SACDC should respond to this question.

13. How have issues of equality been addressed in the Plan?

- 13.1 SACDC should respond to this question.

14. Why is the Plan start date in the future?

- 14.1 SACDC should respond to this question.



15. Do the revisions to the National Planning Practice Guidance (PPG) introduced in June and July 2019 (after the submission of the Plan) have any implications for any policies in the Plan?

15.1 SACDC should respond to this question.

15.2 It is considered that there should be a specific consultation on this matter.

16. Are there any 'made' Neighbourhood Plans or any being prepared or in the pipeline? If so, how have these been taken into account and where is this evident?

16.1 The whole of the Redbourn parish area was designated a Neighbourhood Area in November 2013. The Pre-Submission (Regulation 14) Draft Neighbourhood Plan was subject to consultation between 2 January – 16 February 2018. All the comments received have been processed and the Neighbourhood Plan updated accordingly ready for submission to SACDC.

16.2 The entirety of the Broad Locations at North Hemel Hempstead and East Hemel Hempstead (North) as well as part of the Employment Broad Location at East Hemel Hempstead (Central) are in Redbourn Parish.

16.3 No consideration has been given by SACDC to the relationship between the emerging Local Plan and the emerging Redbourn Neighbourhood Plan.

17. In light of the Council's response to the Inspectors' letter of 2 July 2019, please can a running list of draft Main Modifications be provided and put on the Examination website?

17.1 SACDC should respond to this question.