

# **ST ALBANS CITY & DISTRICT LOCAL PLAN EXAMINATION**

## **HEARING STATEMENT**

### **MATTER 1: LEGAL / PROCEDURAL REQUIREMENTS**

### **LAND NORTH OF SANDRIDGE**

### **ON BEHALF OF LONGBOURN ESTATES**

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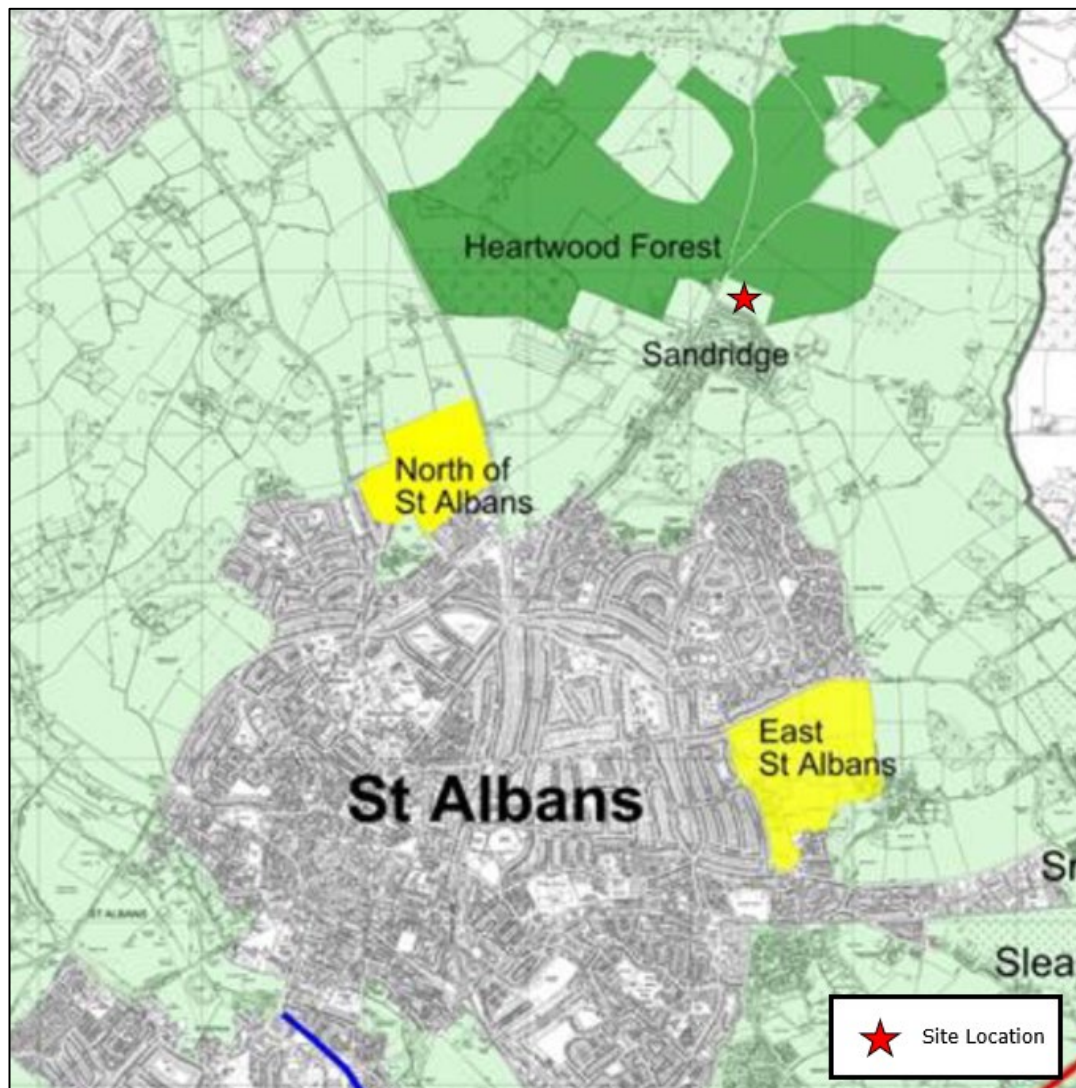
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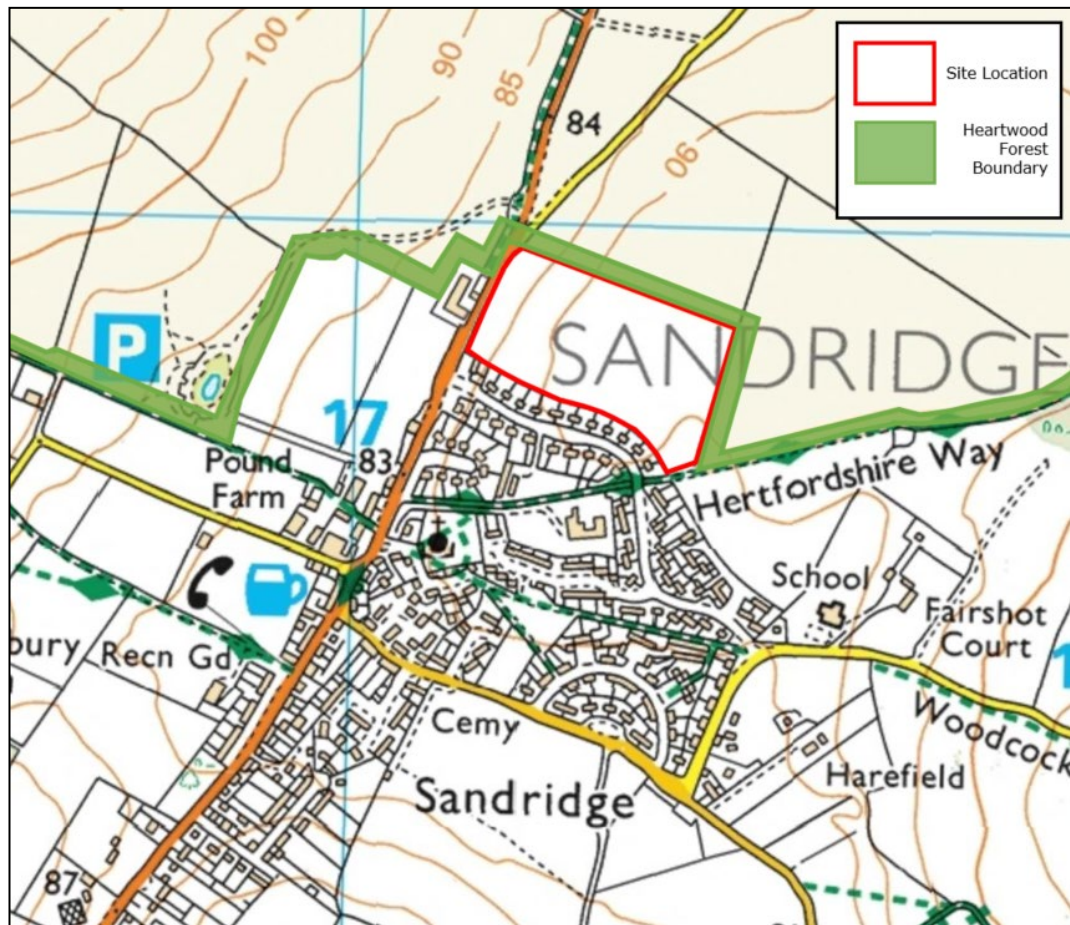
## 1. INTRODUCTION

- 1.1 This Matter Statement has been prepared by Pegasus Group on behalf of Longbourn Estates, the Freehold owner of Land North of Sandridge, as shown in Figure 1 and Figure 2 below.

**Figure 1: Land North of Sandridge in context with St Albans City & Heartwood Forest**



**Figure 2: Site in Context with Sandridge and Heartwood Forest**



**1.2** This Matter Statement is prepared pursuant to Matter 1 and the associated Issues and Questions raised by the St Albans City & District Council (SADC) Examination Inspectors.

**1.3** This Statement is also to be considered alongside submissions made in respect of the following Matters:

- Matter 2: Duty to Cooperate;
- Matter 3: The Spatial Strategy, Settlement Hierarchy and Development Strategy Policies S1 & S2);
- Matter 4: The Metropolitan Green Belt (Policy S3);
- Matter 5: Objectively Assessed Needs for Housing and Employment Land (Policies S4 & S5);
- Matter 6: The Broad Locations for Development (Policy S6) – General Matters (Policy S6) and Strategic Infrastructure (Policies L17 & L18); and
- Matter 8: The Supply and Delivery of Housing Land

- 1.4** Our Matter Statements should be read alongside our Representations to the SADC Regulation 18 (Issues & Options) consultation and 'Call for Sites' submission (February 2018) and our Representations to the Regulation 19 (Publication Plan) consultation (October 2018).

## **2. MATTER 1 – LEGAL / PROCEDURAL REQUIREMENTS**

Main issue: Whether the Council has complied with the relevant procedural and legal requirements?

### **Plan Preparation**

#### **2.1 Question 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?**

2.1.1 No Comment.

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**Sustainability Appraisal**

**2.2 Question 2: Are the likely environmental, social and economic effects of the Plan adequately and accurately assessed in the Sustainability Appraisal (SA)?**

- 2.2.1 No, the environmental, social and economic effects of the Plan are not adequately or accurately assessed in the Sustainability Appraisal (SA).
- 2.2.2 Please refer to our response to Question 3 for further details.
- 2.2.3 In particular, the SA does not assess the potential impact on economic and environmental objectives of the consented Strategic Rail Freight Interchange (SRFI) at Radlett, which was consented in part due to its national significance and locational requirements.
- 2.2.4 The implications of the SRFI not being implemented as a result of the proposed Park Street Garden Village (PSGV) is therefore also considered to be of national significance and which should be appropriately assessed in the SA.

**2.3 Question 3: Does the SA test the Plan against all reasonable alternatives?**

2.3.1 Please refer to our Regulation 19 representations<sup>1</sup> for further details.

2.3.2 Section 2.1 of the SA (CD009) confirms that:

**"The Local Plan is in effect a continuation of the same strategic planning process to replace the 1994 Local Plan, rather than being a completely 'new plan'."**

2.3.3 Much of the work used to inform the development of the previous Strategic Local Plan (SLP) and Detailed Local Plan (DLP) has therefore been used to inform the development of the new Plan (SA, Section 4.1, page 29).

2.3.4 The NPPF (paragraph 31) requires that:

**"The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals."** [our emphasis]

2.3.5 However, the former SLP failed the Duty to Cooperate and was subsequently withdrawn. Arguably therefore, much of the evidence base that the current Plan relies upon can now be considered to be out-of-date.

2.3.6 Indeed, we go further and suggest that the very basis for the SA is fundamentally flawed so as to preclude the assessment of reasonable alternatives as required by the NPPF and National Planning Practice Guidance (NPPG).

2.3.7 Firstly, the SA states at page 35 that:

**"Four illustrative development strategy options that might be proposed to fill the Plan requirement / target 'gap' were developed...The four options provide different approaches to the utilisation of the sites identified through the Green Belt review process to meet the District's housing needs."** [our emphasis]

2.3.8 Secondly, in respect of the preparation of the new Local Plan in January 2018, the SA continues on page 38 that:

**"Given the high-level form and content of the Issues & Options questionnaire, during this stage of the SA there was no new detailed assessment against the SA**

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<sup>1</sup> Pegasus Regulation 19 Representations (October 2018) – paragraphs 4.16 – 4.59



framework. Where relevant the assessments that were undertaken for the equivalent topics and policies during the development of the draft SLP were reiterated and cross-referenced in order to identify the potential effects that could result if certain approaches are taken forward against others. This included the options for distributing housing development, where the SA Work Note identified that the assessment carried out in 2014 remained relevant for the new Local Plan." [our emphasis]

2.3.9 Thirdly, the SA states at page 44 that:

**"In relation to the Broad Locations the assessment considered 12 potential locations. These locations were those identified as Broad Locations following the Council's three stage Site Selection Evaluation process. That process used a Red Amber Green (RAG) system to assess sites..."**

2.3.10 The first stage in this RAG process involved an assessment of sites against the Green Belt purposes defined in the Green Belt Review (GBR) (GB001, GB002, GB003 & GB006) and if sites passed this stage only then were sites carried forward for further consideration.

2.3.11 The SA ultimately concludes on page 44 that:

**"At the end of Stage 3 the evaluation forms concluded that 8 of the 12 sites had an overall evaluation of "Green". These are the same 8 sites that were concluded in the Green Belt Review as making the least contribution towards Green Belt purposes."** [our emphasis]

2.3.12 The SA is therefore firstly explicit in highlighting that it has not considered any other sites / reasonable alternatives that were not first identified by the GBR and the site evaluation methodology is also circular and designed to effectively prevent 'new' sites from being considered. The consideration of reasonable alternatives is therefore a 'closed process'.

2.3.13 However, the key point here is that the SA analysis is in fact predicated on the assumption that the GBR is itself robust and represents the only reasonable alternative approach to identifying suitable and deliverable development sites, having regard to the provisions of the NPPF and the requirement to promote sustainable patterns of development (NPPF, paragraph 138).

2.3.14 The GBR highlighted 8 potential areas that could be released from the Green Belt without causing undue harm. St Albans City & District Council (SADC) has interpreted the GBR as meaning that the development of almost any other site

in the Green Belt would therefore be inappropriate and has carried forward this assumption throughout the entire Local Plan-making process. However, the GBR was a high-level assessment that split the District into large parcels and did not allow the detailed assessment and comparison of potential development sites at a more granular level. This is especially the important as 'exceptional circumstances' required to justify the release of land from the Green Belt will only exist at the site-specific level, not at the strategic level as indicated by SADC, where the benefits associated with any development clearly outweigh the potential harm and having regard to paragraph 138 of the NPPF.

- 2.3.15 The GBR was a joint study across the administrative areas of St Albans, Dacorum and Welwyn & Hatfield and SADC would have been well aware when preparing the Plan and SA of the Welwyn & Hatfield Borough Council (WHBC) Inspector's comments in December 2017 outlining their concerns in respect of the GBR:

**"In my concluding remarks to the Hearing sessions into Strategic Matters, I pointed out that I did not consider the development strategy put forward in the plan to be sound, in part because there was insufficient justification for the failure to identify sufficient developable sites within the Green Belt. That is largely because the phase 1 Green Belt Review was at such a strategic level as to render its findings on the extent of the potential harm to the purposes of the Green Belt, caused by development within the large parcels considered as a whole, debatable when applied to smaller individual potential development sites adjacent to the urban areas. It goes without saying that a finer grained approach would better reveal the variations in how land performs against the purposes of the Green Belt. Such an approach is also more likely to reveal opportunities as well as localised constraints, both of which might reasonably be considered further."**

- 2.3.16 WHBC subsequently recognised the failings of the GBR and commissioned further Green Belt evidence in support of their Plan. However, the WHBC Local Plan examination commenced in May 2017 and is not anticipated to be concluded until May 2020 at the earliest, 3 years from the start of the EIP process. Such an outcome can only be considered highly undesirable for all parties involved and which has in no small part resulted due to the fundamental failings of the GBR and the application of this study in justifying the proposed spatial and development strategy in WHBC.
- 2.3.17 Despite the GBR being the same document as examined in WHBC, SADC have wilfully ignored the WHBC Inspector's findings on this key evidence base

- document and in fact seek to underpin their entire spatial and development strategy and SA consideration of reasonable alternatives on only those sites identified through the flawed GBR process. This can only be anticipated to have similar consequences for the forthcoming SADC Examination as in WHBC, with resultant delays and inevitable consequences for the delivery trajectory of proposed development sites which will rely on formal allocation before being capable of being granted planning permission (due to their Green Belt location).
- 2.3.18 Given the well documented failings of the GBR there can be no sound evidence base to support the SA assessment of reasonable alternatives based only on those sites identified through the GBR process.
- 2.3.19 Secondly, the SA arbitrarily excluded from its assessment all sites of less than 500 dwellings or 14 hectares in size. The SA states on page 44 that:
- “sites capable of accommodating residential development of a minimum of circa 500 dwellings or 14 hectares of developable land were considered.”**
- 2.3.20 However, as highlighted above, these sites were subsequently discounted due to the circular assessment process of analysis against the GBR and moreover, there is also no sound evidence base or decision-making process to support the position that only sites of 500 dwellings or more should be identified for assessment through the SA process.
- 2.3.21 It is of course curious then that Policy S6ix) ‘West of London Colney’ and Policy S6x) ‘West of Chiswell Green’ should now propose allocations for 440 homes and 365 homes respectively.
- 2.3.22 SADC have not assessed sites of less than 500 dwellings submitted through the 2018 ‘Call for Sites’ process and for many sites, including Land North of Sandridge, the Strategic Housing Land Availability Assessment (SHLAA) has either not been revisited since the 2009 update or provide an accurate depiction of site suitability and sustainability, despite new material having been submitted to both the former SLP/DLP and current Local Plan process.
- 2.3.23 The assessment of reasonable alternatives is a ‘soundness’ test for the Local Plan and SADC has both relied on the flawed GBR and provided no evidence justifying the exclusion of a spatial development option of allocating sites of below 500 dwellings and consideration of the positive contribution such sites can

deliver both in terms of local infrastructure improvements, supporting the vitality and viability of local services and faster delivery timescales.

- 2.3.24 Finally, the justification for proposing some sites and discounting others is entirely inconsistent as the GBR does not in fact support the PSGV, yet this is included in the Plan as a proposed Broad Location. The PSGV location within parcel GB30 scores significantly in 3 of the purposes of the Green Belt and yet it was assessed as "Amber", whilst parcel GB43A between Wheathampstead and Hatfield (location of Land North of Sandridge) only scored significantly in 1 of the national purposes of the Green Belt as defined by the NPPF and yet it was not assessed as the site fell below the arbitrary threshold of >500 dwellings or 14 hectares.
- 2.3.25 As such, it is considered that there are reasonable alternatives to the PSGV and other Broad Locations which have not been considered in the SA, which should have reasonably been assessed, particularly in light of the PSGV being the location for a SRFI; a decision made in the national interest by the Secretary of State.
- 2.3.26 The NPPG requires<sup>2</sup> that sustainability appraisal needs to consider and compare all reasonable alternatives as the Plan evolves, including the preferred approach, and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the plan were not to be adopted and that the SA should provide conclusions on the reasons the rejected options are not being taken forward and the reasons for selecting the preferred approach in light of the alternatives.
- 2.3.27 Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in the plan. They need to be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made.
- 2.3.28 SADC's spatial and development strategy relies only on the proposed Broad Locations which have long lead-in times to delivery and as such should be supplemented by a range and choice of sites of all scales (as highlighted within

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<sup>2</sup> NPPG Paragraph: 018 Reference ID: 11-018-20140306

our other Matter Statements) and this option should have been assessed in the SA.

- 2.3.29 Accordingly, we consider that the SA and GBR beneath this to be fundamentally flawed; is inconsistent in its application by SADC in considering sites; is not consistent with national planning policy; and does not assess all reasonable alternatives. As such, there can be no sound evidence base to support the proposed spatial and development strategy.

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## 2.4 Question 4: Have any concerns been raised about the SA?

- 2.4.1 It is evident that significant concerns have been raised about the SA as summarised in the Council's own assessment in CD012 Appendix A.
- 2.4.2 There is a common consensus in the representations that the SA/SEA does not consider other/all specific sites that have been put forward and that it fails to provide assessment for those sites, explaining why they have been rejected, as required by the regulations.
- 2.4.3 Moreover, it is clear that SADC felt the objections to the PSGV on the site of the SRFI were sufficient enough to warrant further consideration in the Addendum to the SA (CD012), wherein it is interesting to note SADC's own assessment at Table 4-1 concludes that the location of the SRFI scores more significant positive effects as a SRFI than it does as a Garden Village.

**2.5      Question 5: Have the Council complied with the requirements of section 19(5) of the 2004 Act with regards to SA?**

2.5.1      No comment.

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

2.6.1 The SA Addendum (March 2019) (CD012) has not been consulted on.

2.6.2 The NPPG states<sup>3</sup>:

**“The sustainability appraisal report will not necessarily have to be amended if the plan is modified following responses to consultations. Modifications to the sustainability appraisal should be considered only where appropriate and proportionate to the level of change being made to the plan. A change is likely to be significant if it substantially alters the plan and/ or is likely to give rise to significant effects.”**

**Further assessment may be required if the changes have not previously been assessed and are likely to give rise to significant effects. A further round of consultation on the sustainability appraisal may also be required in such circumstances but this should only be undertaken where necessary. Changes to the plan that are not significant will not require further sustainability appraisal work.”** (our emphasis)

2.6.3 The guidance is clear<sup>4</sup> that evidence underpinning Local Plans should not be collected retrospectively in an attempt to justify pre-determined strategies and conclusions. However, as highlighted in our response to Question 4 above, it is evident that significant concerns were raised about the SA and in particular to questioning why the SA had not considered the extant planning permission for a SRFI at Radlett, now being proposed for the PSGV.

2.6.4 Given the SRFI was consented by the Secretary of State in the national interest, it is questioned why the SA Addendum was not published for consultation and indeed it is considered that such actions by SADC has arguably prejudiced the Local Plan-making process.

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<sup>3</sup> NPPG: 021 Reference ID: 11-021-20140306

<sup>4</sup> Planning Inspectorate: Procedural Guide for Local Plan Examinations (June 2019)



**Habitats Regulations Assessment**

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

2.7.1 No comment.

**2.8      Question 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?**

2.8.1      No comment.

**2.9      Question 9: Are the likely environmental, social and economic effects of the Plan adequately and accurately assessed in the HRA?**

2.9.1      No comment.

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

2.10.1    No.

**Other Matters**

**2.11 Question 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?**

2.11.1 No comment.

**2.12      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?**

2.12.1    No comment.

**2.13      Question 13: How have issues of equality been addressed in the Plan?**

2.13.1    No comment.

## 2.14 Question 14: Why is the Plan start date be in the future?

2.14.1 As highlighted within our Regulation 19 Representations<sup>5</sup>, the proposed Plan period (2020-2036) is considered to be unsound and that the Plan period should start from 2018 as supported by the provisions of the NPPF and NPPG where it states<sup>6</sup>:

**“Strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process. This number should be kept under review and revised where appropriate.”**

2.14.2 The proposed Plan period, commencing in 2020 is evidently not consistent with national guidance and in effect seeks to remove two years of identified housing needs from the point at which needs are set.

2.14.3 In order to be consistent with the NPPF/NPPG, the Plan should commence from 2018 and the implication being that SADC’s housing needs increase accordingly and additional sites will need to be allocated. Please refer to our Matter 5 and Matter 8 Statements for further details.

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<sup>5</sup> Pegasus Regulation 19 Representations (October 2018) – paragraphs 5.10 – 5.12

<sup>6</sup> NPPG Paragraph: 008 Reference ID: 2a-008-20190220



**2.15      Question 15: Do the revisions to the National Planning Practice Guidance (NPPG) introduced in June and July 2019 (after the submission of the Plan) have any implications for any policies in the Plan?**

2.15.1    This a matter for the Council to explain.

**2.16      Question 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?**

2.16.1    No comment.

**2.17      Question 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?**

2.17.1    No comment.

(MATTER 1 STATEMENT WORD COUNT = 2,611 WORDS)