

# **St Albans City and District Local Plan Examination**

## **Matter Statement 1 Legal / Procedural Requirements (Sustainability Appraisal)**

**Responses on behalf of  
Bovis Homes - 977889**

December 2019

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**Client**

Bovis Homes  
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**Our reference**

BOVC 3000

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## **1.0 INTRODUCTION**

- 1.1 This Statement has been prepared by Turley, on behalf of Bovis Homes, pursuant to Matter 1 (Legal/Procedural Requirements) of the St Albans City and District Council (SACDC) Local Plan Examination. Bovis Homes is an established national housebuilding company with a legal promotional interest in land in St Albans District. Bovis Homes is a national employer and has nationwide experience of bringing land forward for mixed-use residential development.
- 1.2 Bovis Homes is actively promoting land at Gaddesden Lane, Redbourn, for residential development (formerly promoted by Mr Richard Blair). Representations in response to the St Albans City and District Council Regulation 19 Consultation and the SACDC Call for Sites Consultation, January 2018, have been submitted in relation to the above site (SHLAA Ref: GB-R-444a).
- 1.3 Bovis Homes maintains its objection to a number of policies within the emerging St Albans City and District Local Plan, as set out in the Regulation 19 representations. Namely; that the SACDC Local Plan is not positively prepared, is not justified, is not effective, or consistent with national policy. As such, the submitted Local Plan cannot be considered sound in its current form and requires major modification.
- 1.4 The primary concern relating to Matter 1 is that the St Albans Local Plan Publication Sustainability Appraisal Report (SAR) published September 2018, and its previous iterations have not adequately tested all reasonable alternatives and have thereby not demonstrated that the preferred strategy taken forward into the submission Local Plan is the most appropriate strategy for the scale of growth required.
- 1.5 The Sustainability Appraisal (SA) is not sufficiently robust and comprehensive to have properly evaluated all reasonable alternatives, based on current growth requirements. St Albans City and District Council (SACDC) has largely pre-determined the preferred strategy based on an earlier failed strategy for a lower level of growth, derived from the 2016 SLP, instead testing all reasonable alternatives. As such, SACDC has tested only a very limited number of alternative options for the overall Development Strategy and the spatial distribution of the site allocations.
- 1.6 A key addendum to the main 2018 SA Report was published in March 2019, however to date we are unaware that SACDC have ever published this document for consultation. The failure to do so brings into question the robustness of the entire SA process and reinforces the in principle critique of the 2018 SAR raised above. The remainder of this Statement responds directly to the questions raised by the Inspector.
- 1.7 Bovis Homes and its professional advisors also request to participate in the relevant Matter 1 Hearings to articulate the above concerns.

## 2.0 RESPONSE TO THE SUSTAINABILITY APPRAISAL

***Whether the Council has complied with the relevant procedural and legal requirements?***

***Q2: Are the likely environmental, social and economic effects of the Plan adequately and accurately assessed in the Sustainability Appraisal (SA)?***

- 2.1 It is a primary requirement that a Sustainability Appraisal (SA) is undertaken in-line with the procedures prescribed by the Environmental Assessment of Plans and Programmes Regulations 2004, which was transposed into national law by EU Directive 2001/42/EC on Strategic Environmental Assessment (SEA).
- 2.2 In-line with the 2004 Regulations, a Sustainability Appraisal Report must be published for consultation alongside the Draft Plan that essentially *'identifies, describes and evaluates'* the likely significant effects of implementing *'the plan, and reasonable alternatives'*.
- 2.3 Paragraph 32 of the National Planning Policy Framework (February 2019) states that Sustainability Appraisals *'should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains)'*. The sustainability objectives for St Albans are set out at Section 3 of the 2018 SACDC Sustainability Appraisal Report (SAR). Table 3.1 of the 2018 St Albans SAR identifies 20 SA Objectives, which are as listed follows:

### St Albans SA Objectives

1. To protect, maintain and enhance biodiversity and geodiversity at all levels, including the maintenance and enhancement of Biodiversity Action Plan habitats and species in line with local targets.
2. To protect, maintain and enhance water resources (including water quality and quantity) while taking into account the impacts of climate change.
3. Ensure that new developments avoid areas which are at risk from flooding and natural flood storage areas.
4. Minimise development of land with high quality soils and minimise the degradation/loss of soils due to new developments.
5. Reduce the impacts of climate change, with a particular focus on reducing the consumption of fossil fuels and levels of CO2.
6. Ensure that developments are capable of withstanding the effects of climate change (adaptation to climate change).
7. Achieve good air quality, especially in urban areas.
8. Maximise the use of previously developed land and buildings, and the efficient use of land.

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9. To use natural resources, both finite and renewable, as efficiently as possible, and re-use finite resources or recycled alternatives wherever possible.

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  10. To identify, maintain and enhance the historic environment, heritage assets and their settings and cultural assets.

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  11. To conserve and enhance landscape and townscape character and encourage local distinctiveness.

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  12. To encourage healthier lifestyles and reduce adverse health impacts of new developments.

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  13. To deliver more sustainable patterns of location of development.

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  14. Promote equity & address social exclusion by closing the gap between the poorest communities and the rest.

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  15. Ensure that everyone has access to good quality housing that meets their needs.

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  16. Enhance community identity and participation.

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  17. Reduce both crime and fear of crime.

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  18. Achieve sustainable levels of prosperity and economic growth.

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  19. Achieve a more equitable sharing of the benefits of prosperity across all sectors of society and fairer access to services, focusing on deprived areas in the region.

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  20. Revitalise town centres to promote a return to sustainable urban living.

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- 2.4 The St Albans SA is required to identify and evaluate the 'likely significant effects' of the Draft Plan on the baseline, drawing upon the sustainability objectives outlined above as a methodological framework.
- 2.5 The consideration and appraisal of alternative options is an integral part of the plan-making and SA processes. Therefore it is vital that every effort should be made to predict likely effects as accurately as possible. However, the methodology used by the Council's consultants (TRL) to undertake the St Albans SA is flawed, relying heavily on qualitative analysis to assess how the preferred site options (the Broad Locations) perform against the above Sustainability Objectives.
- 2.6 The availability of site-specific data varies across the preferred site options, therefore making it essentially impossible to discuss the merits of each site against the Sustainability Objectives by reference to 'qualitative analysis' alone. As such, work should have been undertaken to develop a robust methodology best suited to the purposes of options appraisal, whilst also reflecting the SA framework as closely as possible. By way of comparative example, within the recently adopted 2018 East Hertfordshire District Plan the methodology for that Sustainability Appraisal employed GIS data-sets to measure 'quantitative analysis' to show how each site option related to various constraint and opportunity features.
- 2.7 The methodology and assessment of the Broad Locations in St Albans is presented at Appendix E of the 2018 St Albans SAR. For each SA objective the methodology however provides little in the way of appropriate explanation of the site appraisal criteria used to measure performance.

- 2.8 For example, under the SA objective relating to the reduction of greenhouse gas emissions, the methodology does not attempt to set out the various thresholds used (distance to local services, train stations and local bus stops) to assess whether the development will result in additional vehicle trips. Rather the assessment which is presented at Appendix E relies on an over-simplified 'qualitative' approach, making very generalised statements that sites are 'located relatively close to local shops and bus services', but with limited evidence to justify such findings.
- 2.9 The methodology employed in the 2018 St Albans SAR used to assess the performance of each Broad Location against the Sustainability Objectives is considered to be far too subjective. There will be uncertainties when predicting effects as part of the SA process, i.e. a limited understanding of the baseline environment. However, this is why the methodology underpinning the SA should have drawn on both a qualitative and quantitative analysis in order to make every effort to predict likely effects as accurately as possible.
- 2.10 For the reasons set out above, we do not consider that the likely environmental, social and economic effects of the Plan have therefore been adequately and accurately assessed in the 2018 St Albans SAR. In particular, we are concerned that that SA fails to evaluate the 'likely significant effects' of the Draft Plan on those Sustainability Objectives which seek to reduce the consumption of fossil fuels and levels of CO2 and promote the most sustainable patterns of new development.

***Q3: Does the SA test the Plan against all reasonable alternatives?***

- 2.11 For the reasons given above, it is patently clear that the SA was unable to adequately test all reasonable alternatives by reason of a fundamental flaw in the broad approach and methodology. In September 2016 the Inspector, David Hogger, recommended that the St Albans Draft Strategic Local Plan (SLP) should be withdrawn after he found that the Local Planning Authority had failed to meet the Duty to Cooperate. SACDC challenged the Inspector's decision but following the decision in July 2017 by the High Court to dismiss the judicial review the Council instead decided to prepare a new Local Plan.
- 2.12 Although the decision was taken by SACDC to prepare a new Local Plan, this now included a much higher, step change in the housing requirement than had been previously identified in the Draft SLP, by reason of the Council's use of the Standard Methodology. Notwithstanding the major differences in assessed requirement between the new Draft Plan and its SLP predecessor, the Council decided to continue with the same basic approach for distributing housing development. As set out at Section 4.4 of the 2018 St Albans SAR, the decision was therefore taken by SACDC not to identify or assess alternative spatial options, reflective of the higher housing requirement, but to rely only on the assessment undertaken in 2014, which underpinned the failed 2016 SLP.
- 2.13 From the beginning of the plan-making process the Council has therefore engaged a largely pre-determined Development Strategy. This has meant that other sustainable areas of the District around existing settlements, which have good access to public transport, have been automatically discounted without reasonable and objective consideration. In contrast, a 'stepped' approach to spatial strategy-making, informed by an up to date evidence base, would have enabled the Council to identify a preferred spatial strategy and a number of alternative spatial strategies, better suited to the higher scale of growth required.

- 2.14 However, the Council have not followed such an iterative approach and as a result, the SA process undertaken by SACDC has not been undertaken in a sufficiently comprehensive and robust manner, with the testing of reasonable alternatives (including a more dispersed pattern of new growth) conspicuously lacking.
- 2.15 As set out at page 44 of the 2018 St Albans SAR, sites that were not initially identified as capable of accommodating residential development of a minimum of circa 500 dwellings or 14 hectares of developable land were not assessed as part of the SA process.
- 2.16 As a result, SACDC have tested only very limited alternative options for the distribution of site allocations, skewed by the application of this un-evidenced 'policy on' approach to the minimum scale of development for assessment. Of the 12 site options that were tested, 11 of these options were selected for inclusion in the Publication Draft Local Plan.
- 2.17 This erroneous approach is clear evidence that SACDC have not attempted to sufficiently evaluate all reasonable alternatives as the use of such an arbitrary size criteria has completely prejudiced the outcomes of the SA. Consequently, with regards to the negative or minor negative effects identified in the 2018 St Albans SA against the SA objectives, SACDC cannot demonstrate that they have tested all reasonable alternatives to seek to avoid these effects. It follows that it cannot be reasonably concluded that these effects are unavoidable in the absence of the preferred strategy.

***Q4: Have any concerns been raised about the SA?***

- 2.18 A number of concerns have been raised in relation to the 2018 SAR particularly with regard to the testing of reasonable alternatives. These concerns are summarised in the 'Council's response to representations to the Pre-Submission Plan' published on the Council's website and broadly reflect the issues raised above.

***Q5: Have the Council complied with the requirements of section 19(5) of the 2004 Act with regards to SA?***

- 2.19 Section 19 (5) of the Act states that the local planning authority must also:
- (a) Carry out an appraisal of the sustainability of the proposals in each [development plan document];
  - (b) Prepare a report of the findings of the appraisal.
- 2.20 For reasons set out above in response to Question 3, we do not consider that the 2018 SAR has tested the Plan against all reasonable alternatives. Therefore our view is that the Council has also not complied with the requirements of section 19(5) of the 2004 Act with regards to its obligations when preparing the SA.

***Q6: There is a Submission addendum to the SA Report dated March 2019. Has this been consulted on? If not, should it have been?***

- 2.21 To the best of our knowledge the addendum to the SAR Report dated March 2019 has not been consulted upon.

2.22 Paragraph 020 Reference ID: 11-020-20140306 of the PPG states:

*“The sustainability appraisal report, including the non-technical summary, needs to be published alongside the draft plan for a minimum of 6 weeks”.*

2.23 As a key addendum to the main SA Report 2018, the Council should have published this document for consultation. The failure to do so brings into question the robustness of the entire SA process and reinforces the wider critique of the 2018 SAR raised above.



