

ST ALBANS CITY AND DISTRICT COUNCIL LOCAL PLAN EXAMINATION

Stage 1 Matters, Issues and Questions

Hearing Statement on Matter 2

On behalf of

Helioslough Ltd

Representor ID: 1182085

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Matter 2: The Duty to Co-operate

1. This document addresses Matter 2 Questions 1, 7, 12, 13, 14 and 24.
2. To avoid duplication in its answers and in its responses to various hearing matters, Helioslough has also provided a “Core Note” (“CN”) as a generic appendix to all its hearing statements which provides the essential framework within which the specific answers are given and to which reference is given where appropriate below by [CN/paragraph number].
3. These answers proceed from the Core Note – and it is assumed that the Core Note has been read first.
4. Attached to the Core Note is a paginated “Core Bundle” (“A”) of material common to all the Stage 1 matters to which reference is made in the individual hearing statements by [A/page number].
5. The “Site” is the former airfield at Radlett; the “SRFI” is the Strategic Rail Freight Interchange approved by the Secretary of State (“the SoS”) in 2014 (“the 2014 Decision”). OAHN is “objectively assessed housing need”. The “PSGV” is the Park Street Garden Village.

Question 1: General - What are the genuinely strategic matters?

Q12: Transport Infrastructure - What are the strategic matters and particular issues?

6. SRFIs: The provision of nationally significant SRFIs to meet the nation's need for a network of such facilities and here to meet the needs of London and the South East and especially the north west sector is a strategic matter. The SRFI is designed for, and to have significant effects across, the region/sub-region. It is, by definition, not specifically to meet the needs of the immediate area. It will impact the transport of goods, HGV movements, air quality and CO2 on a strategic level across a wide area: s.33A(4)(a). They are called *strategic* RFIs for that reason. The NPS and NPPF proceed on the assumption they are strategic.

Q7: Overall housing provision - In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Plan?

7. No. This answer relates specifically to the cross-boundary site at Gaddesden Lane which has not been treated as a strategic site just because 0.9ha of it is in Dacorum. It is a suitable housing site apparently defeated only because of a failure to co-operate on it. See [CN/34bii and app 3 paras 7 - 9].

Cross-boundary housing sites. In addition to overall housing provision, cross boundary sites can fall within s.33A(4) – whether or not they do so will require a judgment to be reached.

Q13: Transport Infrastructure – Who has the Council engaged with? When did this engagement begin, has it been active and ongoing, and what form has it taken?

Q14: Transport Infrastructure - In overall terms, has the Council engaged constructively? What has been the outcome of co-operation and how has this addressed the issue?

8. On the SRFI: Incredibly, given the 2014 Decision, the refusal at Colnbrook, the NPS and the findings of a lack of any alternative site for an SRFI in the north west sector to serve London and the South East, SADC has not engaged with anyone (never mind constructively) in respect of the provision of an SRFI either at the Site or elsewhere. It has ignored NPPF26; NPPF104e (FN 42). It ignored Network Rail's representations on the need for the SRFI in its reg 19 objections. [CN/Appx 2].
9. Far from engaging to assist securing nationally significant SRFIs to meet a compelling need, as the chronology at CN/Appx 1 shows, it has sought to frustrate and prevent the development of an SRFI here at every opportunity. After PA1 was refused on just one ground, SADC repeated all its reasons for refusal on PA2; it actively sought to persuade HCC not to sign the necessary s.106 obligation to allow the permission to be granted, it sought the reopening of the inquiry and challenged the refusal of the SoS to do so and it challenged the grant. Having lost at every stage, it now seeks to allocate the site for housing to prevent the SRFI being delivered.

10. On the Abbey Line: SADC included this in S6(xi) without any engagement with Network Rail as to feasibility or deliverability. It ploughed on despite Network Rail's reservations. It is not known if NR has been involved in any attempt to work up the proposals for the Examination [CN/Appx 5].

Q24: Other strategic matters - Has the funding for any essential infrastructure been secured? If not, why not and what are the implications for the delivery of the Plan?

11. The SRFI will be privately funded and is deliverable. Network Rail has consistently supported the proposals for creation of a SRFI here [see e.g. A/422]. They have been consulted and involved with progressing plans for the SRFI throughout.
12. The funding and deliverability of the Abbey Line improvements necessary for the housing allocation are addressed at CN/40. Policy S6 (xi) requires the delivery of an extensive scheme of works to extend the capabilities of the Abbey line. A new Park and Rail facility is expected to be delivered. A more frequent service for the Abbey railway line from date of first occupation is also expected, with a new passing loop on the Abbey railway line "*either on site or delivered elsewhere*". Such provision appears to be unrealistic, uncoded, unfunded and undeliverable at least in the timeline for delivery in this plan period. Network Rail are clear – there is no commitment to these extensive works. It appears that there has been no feasibility study (at least one led by NR) and thus no ability to consider affordability, value for money and how it would be funded. A level crossing would have to be closed and replaced - no proposals as to how that could be secured have been set out or how replacement crossings would be funded. Any such project would require the engagement and support of NR. There has been none of the necessary input to get to this stage.
13. Even if the extensive works mentioned in Policy S6 (xi) would be agreed upon by Network Rail, they will take a number of years to complete. As the works are meant to align with first occupation of the new dwellings delivered in the Park Street Garden Village, the rail improvements may lead to a delay in delivery of the site's residential offering, in turn affecting SADC's housing land supply.
14. In their Regulation 19 representation supporting the Park Street Garden Village allocation, HCC submitted that a major transport infrastructure study to assess potential of an Abbey Line Extension will be needed in order to demonstrate how this can be achieved. This study was not carried out during the time that the Regulation 19 representations were submitted to St Albans and is not publicly available at the time of this submission. Therefore, it has not been demonstrated that the Abbey Line works are feasible within the delivery timeframe of the Park Street Garden Village, and there are no explanations in the Local Plan on how these works will be secured and funded. As such, the deliverability of Policy S6 (xi) has not been satisfactorily studied or demonstrated.

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FORMER AIRFIELD, RADLETT – SRFI OR HOUSING ALLOCATION

CORE NOTE “CN”

(Generic appendix to all hearing statements of Helioslough Limited)

1. This document sets out Helioslough’s core case in objecting to St Albans City and District Council’s (“SADC”) proposed housing allocation of land at the Former Aerodrome, Radlett (“the Site”) for Park Street Garden Village (“PSGV”) and the failure to allocate the land for the strategic rail freight interchange (“SRFI”) granted permission by the Secretary of State (“the SoS”) in 2014 (“the 2014 Decision”). It provides the framework within which all the Stage 1 Matters are addressed in the accompanying individual hearing statements. Accompanying the Core Note is a paginated bundle of material common to all the Stage 1 matters (references to which are given as “[A/page number]”). This bundle has been kept as small as possible and only key extracts provided - the full documents are available on request¹. Agreement will be sought with SADC as to the factual accuracy of the attached chronology and materials.
2. In short summary, Helioslough’s case is that the proposed allocation of the Site² in the Local Plan (“the Plan”) for PSGV is unlawful and unsound and must therefore fail for each of the following reasons:
 - a. there is a compelling need for a nationally significant SRFI to serve London and the South East in the north west sector which need can only be met at the Site. NPPF104c/e [A/36] and NPPF20b [A/32] directly apply and there is no factual, legal or planning justification for not complying with them;
 - b. given the findings of the SoS in the 2014 Decision, the delivery of an SRFI here necessarily constitutes a strategic priority under s.19(1B) of the Planning and Compulsory Purchase Act 2004 [A/4] and SADC must therefore have policies to address it (s.19(1C)) but has (inexplicably) failed to do so;
 - c. it is unsound, unlawful and unreasonable for SADC to have as a major element of its Plan a housing allocation (S6(xi)) which has the effect of (and/or is for the purpose of) defeating delivery of approved nationally significant infrastructure for which there is a compelling need and which can only be located here;
 - d. SADC sets up a false choice between meeting its objectively assessed housing need (“OAHN”) and meeting the national need for an SRFI here. It is required to meet both, a proper planning approach would be to do so and there is no

¹ A hard copy of Helioslough’s extremely extensive historic bundle on Radlett will be available at the hearings should any more detailed information be required.

² Helioslough makes no objection or comment on any other large scale allocations or the process or Sustainability Appraisal in respect of those large scale allocations.

reason why it cannot do so – but SADC has made a choice to only meet *its* OAHN and not the compelling national need for an SRFI here;

- e. its approach to, and reasons for rejecting other housing sites to deliver the OAHN, are misconceived in principle, unjustified on the merits and internally inconsistent and illogical;
 - f. in making the choice between an SRFI and housing on the Site, SADC has misdirected itself in law and on policy; has made unsound planning judgements and undertaken the comparison of advantages and disadvantages in a misconceived way in particular ignoring the wide-ranging benefits of delivery of an SRFI here and the disadvantages of failing to deliver it;
 - g. the Sustainability Appraisal is flawed in respect of the Site (and other omitted housing sites especially North East Redbourn – “NER”) because it failed from the outset to address the central issues – namely:
 - i. the disadvantages of housing at the Site given that housing here prevents delivery of the nationally significant SRFI to serve London and the South East; and
 - ii. the advantages of housing on omitted sites by meeting the OAHN and allowing delivery of the SRFI thus avoiding the “false choice” referred to above; and
 - h. in any event, the PSGV allocation here is unsound and undeliverable.
3. SADC appears to have accepted the force of many of these points in its Re-Evaluations (the first time the SRFI was considered in the process) but has ploughed on regardless.
4. Further, whilst the above points are individually amply sufficient to require the removal of the allocation, it appears to Helioslough that the PSGV allocation is an attempt to defeat the SRFI and avoid the consequences of the 2014 Decision and thus unlawful on that basis also. SADC cannot use its plan making powers for the purpose of defeating the 2014 Decision of the SoS.
5. The permission for the SRFI has been implemented³ and, absent the proposed allocation, there is no significant impediment to delivery. A site plan is at [A/1].
6. S6(xi) and all references to PSGV should be deleted. There are ample appropriate sites to allow the full OAHN to be met via an early review of the plan or main modifications⁴.

³ This is not understood to be controversial and so is not considered further here. If SADC disputes implementation, Helioslough has a complete pack of material which demonstrates compliance with all conditions precedent and the s106 and the carrying out of relevant works which can be provided.

⁴ Even if this is not possible, or there is a shortfall, there is ample time for any shortfall to be rectified in an early review of the Plan given that PSGV was not anticipated to start delivery of housing until at least 2026.

There is no need for the Plan to be withdrawn. A strategic policy to support and facilitate the delivery of the SRFI here should be included.

Statutory requirements

7. So far as relevant, s.19 [A/2] requires:
 - a. the development plan to identify strategic priorities for the development of land in the area (s.19(1B)) and have policies to address those priorities;
 - b. the LPA to have regard to national policies (s.19(2)(a)) in formulating their plan and their strategic priorities; and
 - c. a sustainability appraisal to be prepared (s.19(5)).
8. Reference is also made below to the duty to co-operate (s.33A) [A/4]. It is submitted that both: (1) the provision of an SRFI to meet the needs of London and the south east; and (2) cross boundary housing sites are strategic matters under s.33A(4). Even if this is not correct, the obligations of collaboration under the NPPF are triggered.

Policy

9. The NPS on National Networks 2014 (“the NPS”) addresses SRFIs at para 2.42ff [A/21]. It confirms long standing policy [para 2.11⁵] that there is a “compelling need” for an expanded network of SRFIs (para 2.56⁶). The status quo is not acceptable (para 2.57 - 2.58⁷). The NPS notes the limited number of suitable locations for SRFIs and the particular difficulties in provision to serve London and the South East (para 2.58).
10. As to the NPPF:
 - a. NPPF104e [A/36] 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 (“NSIPs”). SADC correctly accepts that the SRFI at Radlett is to be treated as an NSIP [A/159 under Section 4]. In the light of the 2014 Decision [A/50 @ [53]], the SRFI “needs to be located” here.
 - b. NPPF104c requires planning policies to “*identify and protect, where there is robust evidence, sites and routes which could be critical*” in developing relevant infrastructure – in the light of the 2014 Decision there is such robust evidence here.
 - c. NPPF20(b) [A/32] requires that “*strategic policies*” should make sufficient provision for transport infrastructure in accordance with NPPF11 (objectively

⁵ going back to at least 2001.

⁶ see also paras 2.1 [A/17], 2.2, 2.8, 2.10, 2.58 as correctly interpreted in Colnbrook at IR12.89 [A/91] and DL24 [A/84]

⁷ As accepted by the SoS in the Colnbrook DL @ [25] [A/84]

assessed needs not just for housing): [A/30]. The 2014 Decision makes clear that that includes an SRFI here.

- d. The NPPF2019 framework is a significant strengthening of the approach to SRFIs in NPPF2012 (see para 162 and just “take account of the need” and para 182 just “seeks to meet”) under which the publication draft LP was prepared.
- e. NPPF25/26 [A/33] requires SADC to work with other strategic planning authorities and infrastructure providers to determine where additional infrastructure is necessary. There has been no work by SADC to determine where, if not at the Site, an SRFI can be provided. The 2014 Decision provides the answer to where additional infrastructure is necessary – namely at the Site. The question posed by NPPF25/26 has been conclusively answered.

SRFIs

- 11. SRFIs are (now⁸) *nationally significant* infrastructure and are required to meet the national need for an enhanced network. They have **extremely exacting locational requirements** – very large⁹, unfragmented, flat sites close to the strategic rail freight and road networks and the conurbations they serve (NPS para 2.45 [A/21]). These requirements are far more onerous than for any site to meet housing needs. As a result, it has proved “**extremely problematic**” (Radlett DL @ para 31 [A/46]) to find sites for them especially in the south east as confirmed in the NPS2.58.

The SRFI at Radlett

- 12. The proposal for the SRFI is shown in the masterplan at [A/2]. It includes the construction of an intermodal terminal and rail and road served distribution units (331,665m² in Use Class B8 including ancillary B1/B2 floorspace) within the central area labelled 1; with associated road and rail and other infrastructure facilities and works within Areas 1 and 2 (including earth mounds and a Park Street/Frogmore relief road) in a landscape setting and further landscaping and other works within Areas 3 to 8 inclusive to provide public accessible open land and community forest.
- 13. The Country Park (“CP”) proposed as part of the SRFI includes the parcels of land numbered from 3 to 8 in **A/2**. The main road access to the SRFI (or any housing development) would be from the A414 to the north on land owned by the Gorhambury Estate. Whilst HCC owns a small part of the site frontage in proximity of the Midland Main Line bridge that land could not be used for access purposes due to its proximity with the junction of the A414 with the B5378.

⁸ They were not at the time of the application leading to the 2014 Decision – but see now s.26 of the 2008 Act and art 4B of SI2010/101 as accepted by SADC at [A/159 last para].

⁹ 60ha

The background to and reasons for the 2014 Permission

14. After an extremely detailed, highly contentious and protracted process over many years (see Appendix 1¹⁰) in which SADC played a full part and which the question of alternative sites to meet the need was a central issue, the SoS made the 2014 Decision.
15. He attached “very considerable weight”: DL53 [A/50] to the need for SRFIs to serve London and the south east, concluded that the appropriate area of search was the north west sector [DL34] and that there were no more appropriate locations for an SRFI to meet the need within that sector. He thus found that there were very special circumstances justifying the grant. A High Court challenge to the 2014 Decision by SADC failed.
16. At every stage of the process SADC fought extremely rigorously using every opportunity available to it to defeat the SRFI: see Appendix for the headline points.
17. Throughout that process SADC relied extensively on an alternative site for an SRFI at Colnbrook. The Inspector found that it could not rationally be concluded that Colnbrook met the needs for an SRFI in a less harmful way than Radlett [A/74: para 13.103] and, following a High Court judgment concerning the approach to that issue, the SoS agreed: DL39 [A/48]. An appeal in respect of an SRFI at Colnbrook has since been refused: [A/80]. On the Colnbrook appeal, the SoS assumed Radlett would proceed [Colnbrook DL26].
18. There have been no other relevant proposals, applications, allocations or permissions for SRFIs to serve the north west sector and, save for progress at the Site, no progress in meeting the “compelling need” elsewhere since 2001. As to the rest of London, a renewal application at Howbury was refused in 2019 [A/105].
19. Through this local plan process, SADC has (correctly) not suggested that: (1) the compelling need no longer exists; (2) there is any suitable alternative location for an SRFI in the north west sector; or (3) that the need can be met in some other way perhaps through joint working with other authorities (NPPF footnote 42). SADC purports to “fully acknowledge” the need and the lack of alternatives. There has been no collaborative work with infrastructure providers to secure the necessary SRFI elsewhere.

¹⁰ Appendix 1 sets out the Chronology of applications, appeals and statutory challenges from 2006 – 2017. This has been an exceptionally prolonged planning dispute during which SADC has had ample and repeated opportunities over many years to oppose the SRFI and to set out why an SRFI should not be provided here.

Necessary starting point for local plan preparation

20. Whilst the findings of the SoS on the 2014 Decision may not be *strictly* legally binding on SADC in formulating its local plan (*R(Evans) v. Attorney General*) [2015] UKSC 21 @ para 66 [A/118] and *R(Stonegate) v Horsham DC* [2016] EWHC 2512; [2017] Env LR 8 @ para 66 [A/131] this case has all the relevant features which indicate that SADC is unlikely to be able to point to any rational basis for departing from them:
- a. they were reached after full examination in formal inquiry including significant testing in cross-examination *by SADC*;
 - b. those conclusions were subsequently strengthened by the conclusions of the SoS at Colnbrook;
 - c. they were reached by the SoS at the apex of the planning system in the light of all the evidence and his policy on SRFIs. The same policy (s.19(2)) and factual matters (NPPF104e/c and NPPF20b) are necessarily material to the formulation of the local plan – indeed the position has been strengthened by changes in the NPPF and the NPS; and
 - d. there is no suggestion that anything material has changed since re: SRFIs.
21. There is thus no possible (or claimed) lawful or rational basis (*Mayor of London v Enfield* [2008] Env LR 33) @ paras 1 and 29 [A/136] for SADC to proceed in its local plan preparation other than on the basis that:
- a. this nationally significant infrastructure “needs to be located” here (NPPF104e);
 - b. there is “robust evidence” as accepted by the SoS that this site needs to be protected for an SRFI (NPPF104c);
 - c. an SRFI here is necessarily a “strategic priority” (s.19(1B)) and strategic policies are necessary to make sufficient provision for it here (NPPF20b); and/or
 - d. the “compelling need” (NPS 2.56) can only be met here;
 - e. “additional infrastructure” [NPPF/26] is “necessary” here; and therefore
 - f. there is a compelling need for a nationally significant SRFI to be located at the Site. Network Rail’s representations to this Examination confirm that position: [A/422].
22. Had that necessary starting point been adopted, it is inconceivable that SADC could rationally have chosen to allocate the Site for PSGV. In the light of it, there is no sound or rational basis for the PSGV allocation.

SRFI Deliverable

23. The Radlett permission has been implemented. Helioslough has exclusive options over the northern access land. It has made major progress with Network Rail to secure detailed sign off through its GRIP process. Once this allocation is deleted there is no reason to suppose that it will not secure the other land required from Tarmac and HCC.
24. As to HCC as landowner, HCC is awaiting the outcome of this Local Plan land allocation process before deciding whether to sell its land holding for the SRFI. Absent a housing allocation it has been repeatedly advised by its own Queen's Counsel that it would have no legal choice but to sell for the SRFI. For the latest public Advice see [A/197]¹¹.

The unlawful and unsound approach of SADC

25. The evolution of the local plan and its approach to this Site is considered in **Appendix 2**. It shows that save for the belated "Re-Evaluations" [A/152; and A/175]– which are considered below - through the whole process from 2017, SADC was (inexplicably) silent on SRFIs (despite the 2014 Decision, NPPF20/25/26/104; NPS2.56).
26. In assessing sites to meet the OAHN and in formulating the indicative publication draft, there was no explicit consideration whatsoever of the implications for the SRFI, the NPS; NPPF104; 20, 25-26 or the sustainability implications of not delivering the SRFI.
27. Very belatedly, SADC sought to fill that hole in the justification for its proposed allocation of the Site through the Re-Evaluations. They appear to proceed on the basis that SADC had a choice to make between competing priorities – housing and SRFI – it could only have one not both [A/167 top three paras].
28. That approach is unsound – legally, factually and in policy terms. The Plan can and should meet the OAHN and the need for the SRFI not just one or the other. SADC has thus set up a **false choice**.
29. It is only because of setting up that false choice that SADC could have had any possible rational basis for departing from the 2014 Decision.
30. The adoption of that false choice means that the Plan in respect of the Site is unsound. Either the allocation for housing will be delivered in which case the compelling need for a nationally significant SRFI here will not be met; or the SRFI is built out and the Plan will not deliver the housing necessary for its OAHN. The only way to square this circle is to allocate this land for the SRFI and to undertake an early review of the plan or make main modifications to include other sites for housing.

¹¹ Just one of a suite of advices it has received on this issue.

31. S6(ix) is thus:

a. **unsound** under NPPF35 because (using the words from that paragraph appropriately adjusted) it is:

- i. not positively prepared in that it fails to meet the objectively assessed need either for the SRFI or the housing and is not based on any alternative assessment as to where the need for an SRFI can be met;
- ii. unjustified because: (1) it is not an appropriate strategy - any appropriate strategy would necessarily plan to deliver both OAHN and the SRFI; (2) there are no reasonable alternative means to meet the need for an SRFI and there are other reasonable alternative means to deliver the housing; and (3) the Plan is not based on a proportionate evidence base – the evidence base and in particular the conclusions of the SoS in the 2014 Decision all point in the opposite direction to a housing, rather than an SRFI, allocation here. Housing need can be met in a variety of ways - it is (relatively) footloose, the SRFI is not. The facts give rise to an inescapable conclusion that this site must be allocated for an SRFI; and/or
- iii. inconsistent with national policy: see NPPF104; 20; 25-26; and 59-72; NPS 2.56 – 2.58. There is no requirement for the OAHN to be met here – but there is a requirement for the need for an SRFI to be met here. The strategic and site-specific policies are inconsistent with national policy;

b. **unlawful** because:

- i. it does not identify provision of an SRFI as a strategic priority (s.19(1B)) or contain the required strategic policies (s.19(1C) and NPPF20b). In identifying the strategic priorities, SADC was required to, but did not, have regard to the NPPF and NPS in relation to SRFIs (s.19(2(a))). Had SADC considered the relevant policies correctly in formulating its strategic priorities it would have had no rational option other than to identify provision of an SRFI here as a strategic priority, allocate the site for the SRFI, and/or refuse to allocate it for housing;
- ii. in preparing it, SADC has not taken into account the NPS and national policy on SRFIs contrary to s.19(2)(a) – the consideration of the SRFI in the “Re-Evaluations” was (as shown in appx 2) an after-thought when the housing allocation was a *fait accompli*. Even then, the belated “Re-evaluations” are a device to defeat the SRFI;
- iii. SADC cannot rationally consider a site to be available for housing which is required for the SRFI. So far as Helioslough is aware, there has never

been a case in which a development plan allocates a site for a “footloose” use X when that site has a permission for, and is the only possible site for, a nationally significant development (use Y) for which there is a compelling need. The reason there are no examples is obvious – use X can be met elsewhere and must give way to use Y; and

- iv. whilst Helioslough necessarily succeeds as a matter of law well before this point, on examination of the history from 2016 - 2018, it is clear that SADC housing allocation here is designed to frustrate (and has the direct effect of frustrating) the 2014 Decision and the delivery of the SRFI. By analogy with *R v. Warwickshire CC ex parte Powergen* [1998] 75 P&CR 89 [A/147], SADC cannot rationally use its plan making powers to frustrate the delivery of nationally significant infrastructure for which there is a compelling need and no alternative site.

Delivering housing and the SRFI – no inconsistency – both readily achievable

- 32. As confirmed by SADC in its Re-Evaluations [A/170: Alternative housing strategy], there is no reason why the OAHN and the need for an SRFI cannot both be met. There are sufficient sites (other than this Site) which could appropriately be released from the GB. Thus, the correct understanding here is that SADC has *decided* to (rather than been compelled to) make this an either/or choice.
- 33. Helioslough has no comment on the other strategic allocations – its concerns are only with the process leading to the proposed allocation of this Site.
- 34. The detail to support the following headlines is in **Appendix 3**:
 - a. the reasons for rejecting the site at North East Redbourn (“NER”) are misguided because:
 - i. the starting point is that there is an “either/or” choice between NER and this Site for housing and that therefore it is a beauty parade between them. That is the wrong starting point – this Site is not available for housing;
 - ii. they are based on a significant understatement of the policy position in favour of the SRFI and the harm caused by not delivering it at the Site and a significant overstatement of the problems with the delivery of housing at NER;
 - iii. they ignore the key advantage of NER - namely that housing there would help meet the OAHN *whilst also* enabling an SRFI and all its major advantages in the national interest at the Site;

- iv. whilst the first part of NER is smaller than Radlett, its allocation would leave around just 845 units to be met right at the end of the plan period (from 2032-33). There is scope for those units to be provided on the remainder of NER or other sites;
 - v. NER makes less contribution to the purposes of the Green Belt than the Site – if this was a beauty parade, NER should win; and
 - vi. the alleged benefits of housing at Radlett are significantly overstated and those at NER significantly understated,
- b. the reasons for rejecting other sites are misconceived. By way of example only:
- i. Smaller sites: SADC has rejected apparently all smaller scale additions to existing settlements irrespective as to the site-specific merits of such additions, the capacity of local infrastructure, the extent to which the sites serve Green Belt purposes and despite NPPF68. As demonstrated by its own Green Belt review, there is ample capacity for such releases through a Site Allocations document: see [Appx 3 para 1 – 3];
 - ii. Gaddesden Lane [Appx 3 para 7-9] has been assessed as making little or no contribution to most Green Belt purposes. There are no constraints to delivery of 339 units. It is an obviously suitable site for expansion of Redbourn utilising and contributing to local infrastructure. The site in total is of sufficient scale to be considered a strategic site (more than 14ha) but it straddles the boundary with Dacorum (with 13.2ha being in SADC's area). Without any explanation as to how the duty to co-operate has been pursued here for a classic cross-boundary issue, the site is rejected *just* on the basis that it is too small. It appears that there has been a clear failure to address the duty to co-operate in respect of this site;
 - iii. Windridge Farm [Appx 3 para 10 – 12]– the very large broad area of search was rejected in the GBR. This small part of it does not have similar impacts on the GB to the wider whole and, on SADC's logic, should have been tested against Radlett and NER;
 - iv. Carpenter's Nursery [App 3 para 13 – 14]- the site was considered as part of one of the larger Green Belt parcels rejected in the 2013 GBR, but it is located in proximity of the green-rated "Land North of St Albans" which extends further north in the Green Belt. HCC stated in the Call for Sites 2018 that there is the potential to accommodate up to 350 dwellings on site if 50% of the site is developed at 30 dwellings per hectare. This 50% could be concentrated on the western part of the site to retain the small gap between St Albans and Sandridge and

concentrate the urban expansion in proximity of the allocated “Land North of St Albans” site and the existing built-up area to the south.

- v. Land West of Redbourn: [Appx 3 para 15] the site was not considered to “*significantly contribute to any of the five Green Belt purposes*” in the 2013 GBR but was subsequently removed from the pool of sites identified for development without appropriate justification. The site is deliverable and developable and could accommodate up to 240 new homes at a density of 40 dwellings per hectare.
- c. In any event, Radlett is only projected (apparently highly optimistically - see below) to start to deliver housing in 2026. There is ample time for a plan review or a site allocation local plan to make further allocations if necessary.

Even if SADC had to make a choice, its choice is unsound

35. In the “Re-Evaluations”, SADC attempts (retrospectively) to justify the choice it has made between the SRFI and housing. That choice is unsound and unlawful for reasons already addressed and for the basic reason that **housing is footloose** (not tied to a specific location) whilst SRFIs have extremely exacting locational requirements which make finding sites to meet the compelling need extremely problematic and the SRFI to serve this sector of London and the South East can only go here.

The Sustainability Appraisal is unsound and unlawful

36. The Sustainability Appraisal (“the SA”) is flawed in respect of the Site (and the alternatives to it) for the following reasons:

- a. the SRFI was an “existing significant permission” at all the relevant stages of the Local Plan preparation but SADC expressly did not consider it a “reasonable alternative”. This is unreasonable as a matter of fact – by definition it is a reasonable alternative given that the SoS has given permission for it after an exceptionally prolonged process;
- b. SADC should have taken into consideration the SRFI since the very early stages of the SA. Instead, they tried to remedy the inexplicable omission of the SRFI from the SA 2018 by providing a belated comparison between the SRFI and the PSGV in the SA Report Addendum March 2019. The SA Report Addendum March 2019 tried, without success, to remedy the fundamental structural and procedural flaw of the SA Report September 2018;
- c. SADC stated that the presence of a granted planning permission disqualifies certain locations from being considered “reasonable alternatives” for future development (Chapter 4.5 SA Report September 2018) but, inconsistently with that, considered PSGV a “reasonable alternative” notwithstanding the SRFI planning permission for the same site;

- d. in addition, the SA should have highlighted the sustainability credentials of the SRFI at the outset and treated that as the baseline for comparison purposes – because all the advantages which justified the 2014 Decision would be lost if it was allocated for housing and this is necessarily highly material to any valid or rational comparative analysis.

Allocation of Park Street Garden Village in any event not sound

37. Available and Deliverable: SADC assume [A/169/170] without any evidence or investigation that the PSGV's land is available and deliverable. It is not:

- a. the road access would have to be at the location shown at A/1. During the evolution of the SRFI proposals, HCC was entirely clear that moving that roundabout any further east (and thus avoiding the need to acquire the Gorhambury land) was not possible because of the railway bridge and the requisite visibility and merging distances. The PSGV is thus dependent on securing the Gorhambury land – but Helioslough has an exclusive option over it which it will not give up. PSGV cannot therefore be accessed;
- b. Helioslough has no intention of abandoning the SRFI. It will continue to seek to secure the land for the SRFI by all avenues open to it. There is no guarantee (and no evidence) that it will be available for housing.
- c. The SRFI permission has now been implemented.

38. Feasibility of HCC's Masterplan: The HCC's Regulation 19 representation [A/431] seeks to support the PSGV with a masterplanning exercise, but acknowledges that the site has major constraints for residential development and that the masterplan is a high-level exercise, is at a preliminary stage and lacks detail in key areas such as technical and environmental studies. Without that the deliverability and developability of the PSGV cannot be demonstrated. Instead of providing a clear framework for the PSGV, HCC's Regulation 19 representation is forced to admit the intrinsic weaknesses and limitations of the masterplan and, in turn, of the allocation. In particular, the Regulation 19 representation underlines the presence of the following "major site constraints" affecting the masterplan:

- visibility issues across the site from the railway line;
- the optimal location for access to the PSGV is in the same position as the proposed access to the SRFI, outside the ownership of HCC;
- HCC's land adjacent to the A414 has visibility issues;
- Noise levels from the A414 and M25 may influence the location and capacity of the site for any development;

- Maintaining tree belts and hedgerows necessary to contain any development on site
39. HCC's Regulation 19 representation concludes by noting that "*further technical and environmental studies would be required to verify and develop the masterplan to ensure the policy is deliverable and developable*" and, more importantly, that this work should be undertaken "*if the SRFI planning consent is not, for whatever reason, implemented*". As discussed, the SRFI planning consent has now been implemented, so further work on any masterplan for the PSGV would be academic.
40. Rail Improvements: The allocation is predicated on, and dependent on, the delivery of the improvements to the Abbey Line. These improvements are speculative and unsupported by NR. HCC admitted in its Regulation 19 representation that a "major transport infrastructure study" is required to assess the "potential" of the improvements. There does not appear to have been any detailed feasibility study carried out in conjunction with Network Rail. Absent those improvements the core alleged benefit of PSGV will not be delivered and SADC's justification for its allocation evaporates.
41. Road: There is no evidential basis to have any confidence that the PSGV allocation can be delivered without severe consequences for the highway network in the locality.
42. Schools: there is no suggestion that PSGV is the only possible site for any required secondary school. It does not therefore justify the allocation.
43. Real Interest? The lack of any properly worked up or thought through scheme is telling. The serious lack of any real progress on proposals for housing and the formulation of a meaningful master plan, the huge hurdles to delivery and the very long timeframe assumed for first delivery (2026) suggest that the proposed allocation has not been properly thought through. This is a speculative allocation for the purpose of frustrating the SRFI.

The Result

44. The PSGV allocation (S6 (xi)) and all references to it (e.g. at S1) must be deleted. An allocation for an SRFI should be included. Any Plan which does not do so will be unlawful.
45. Alternative housing allocations can be secured through an early review of the Local Plan, Main Modifications to the Local Plan or a new site allocations Local Plan. There is no requirement for the Plan to be withdrawn. The issues raised here need not disrupt progress on the rest of the Plan.

Appendix 1: Chronology including history of Applications/Appeals at Radlett and Colnbrook

27/07/06	First Application for SRFI at Radlett ("PA1")
02/11/06	SADC refuse PA1 on multiple grounds
06/11/07	Inquiry into appeal on PA1 (26 days)
01/08/08	SoS refuses appeal on sole ground of flaws in alternative site assessment [DL58]
09/04/09	Second Application for SRFI at Radlett ("PA2") – identical to PA1 with new ASA
21/07/09	SADC refuse PA2 on substantially same grounds as PA1 despite SoS Decision on PA1
08/10/09	PIM - Inspector advises that re-running arguments when no material change of circumstances risked costs
24/11/09	Inquiry into appeal on PA2 opens (15 days)
19/3/10	Inspector's Report recommending permission be granted – Colnbrook could not rationally be considered a better alternative [IR13.103]. Costs award against SADC.
07/10/10	SoS refuses permission on the basis that it had not been demonstrated that Colnbrook was not a suitable alternative location in the north west sector [DL25]
July 2011	High Court quashes the 2010 Decision.
19/10/11	SoS seeks, and receives, first set of further representations (R1) ¹²
29/11/11	SoS seeks, and receives, second set of further representations (R2)
29/03/12	SoS seeks, and receives, third set of further representations in response to NPPF12 (R3)
18/04/12	SoS seeks and receives fourth set of further representations (R4)
19/09/12	SoS considers re-opening Inquiry and receives representations from SADC supporting this (R5 and R6). SADC argue for conjoining reopened inquiry with Colnbrook on the basis that there is a choice between Radlett or Colnbrook for where the necessary SRFI will go
28/11/12	SADC resolves to undertake Green Belt Review

¹² The full rounds of correspondence are not provided but are available on request

14/12/12	SoS decides not to re-open Inquiry
21/12/12	SoS issues minded to grant letter (subject to s.106 agreement signed by HCC being received)
19/02/13	SoS seeks and receives seventh set of further representations (R7)
01/03/13	SADC seek to challenge by way of judicial review the refusal to re-open the Inquiry (refused permission by the High Court twice)
21/10/13	HCC report to committee considering entering into s.106 agreement and alternative uses of land
04/11/13ff	HCC receives Advice on entering in the necessary s.106 agreement. SADC makes representations to HCC re: entering into the s.106 agreement
Nov 13	Green Belt Review reports
9/12/13	HCC considers whether to enter s.106 and to sell land
Feb 2014	GBR Stage 2
14/07/14	SoS grants permission – “2014 Decision”
22/08/14	SADC challenge 2014 Decision
Sept 14	Local Plan draft for consultation
14/12/14	HCC considers alternatives to SRFI
13/5/15	High Court dismisses challenge to 2014 Decision, SADC seek permission to appeal and refused twice.
July 2015	Following completion of legal proceedings, Helioslough commences work on preparation of RMAs.
Oct 15	HCC/Segro meet on sale
10/11/15	Petition to HCC re: SRFI
14/12/15	HCC report – seeking to find alternatives uses for Site to avoid sale for SRFI
10/06/16	HCC receive Advice as to duty to sell
04/07/16	HCC report on expressions of interest for housing and duty to sell
17/07/16	SoS refuses Colnbrook appeal
2016	Publication draft LP
2016	Inspector finds failures under duty to co-operate

12/07/17	SADC fail to quash Inspector's conclusion on duty to co-operate
12/09/17	SADC PPC report on how to progress Local Plan and possible responses to higher OAHN
Sept 17	HCC submission to SHLAA Call for Sites raising PSGV
Oct 17	SADC PPC on potential approaches to OAHN
7/11/17	SADC approve Reg 18 Issues and Options and Call for sites

The chronology after this is well known to the Inspectors through the various reports to PPC and the various documents prepared by the Council in response to the Inspector's questions.

Documents to "prove" the above chronology are available on request but there should be no dispute on it and hence it has not been thought proportionate to provide them all at this stage.

Appendix 2: Evolution of the Local Plan

1. Until about 2017, the expected housing provision in this local plan was about 436 per annum.
2. In 2013 a high level Green Belt review had been carried out. The Green Belt in SADC's area was divided into strategic parcels to allow an assessment of the extent to which each contributed to openness and purposes of including land in the GB. Eight strategic sub-areas (within those strategic parcels) which contributed least to GB purposes were identified – the possible Broad Locations of Growth ("BLGs") - and 3 small scale sub – areas.
3. Neither the Site nor North East Redbourn ("NER") had been identified as possible BLGs. Of the other sites to which Helioslough make reference, Gaddesden Lane (SA/SS2) was identified as a small site contributing least to GB purposes.
4. In the consultation draft LP (2014) [A/400] and the Publication Draft 2016, SADC proposed 4 of the BLGs (but none of the small-scale sub-areas) to deliver about 4000 units in the period to 2031. In the light of the 2014 Decision and the failed challenge to it, both versions recognised the existence of the SRFI permission and its implications [see e.g. A/405]. There was no proposed housing allocation of the Site or NER.
5. At a preliminary hearing into the 2016 Version however the Inspector concluded that the duty to co-operate had not been complied with. SADC's challenge to that decision failed in June 2017.
6. Meanwhile those against the SRFI were focussing on persuading HCC not to sell the land to Helioslough [see Chronology]. By late 2016, it was clear that the only potentially available route to avoid HCC having to sell for an SRFI was via securing an alternative allocation here. Thus, expressions of interest for a garden village on the Site were sought and received by HCC in 2016 and the Site was put forward by HCC to SADC in a SHLAA update in September 2017 [A/229] *"if the site is not required for [an SRFI]"*.
7. By 2017, it was clear that the housing requirement would be much higher than previously thought – about 913 per annum.
8. A number of options to meet the increased requirement to 2036 were set out for the planning policy committee in September 2017¹³. It was assumed that all 8 of the formerly identified BLG would be allocated (para 4.11) and a range of other possible options was considered (extension to existing villages, garden suburbs, garden towns and a garden village). An indicative trajectory at that time assumed 250 dwellings per annum from 2026 from a "Garden Village", some contribution from small GB releases

¹³ Reports to the PPC are not included in the bundle because they will be well known to the Inspectors and SADC

and very small contributions from neighbourhood plans. Whilst SADC did not state as much at the time, it already had well in mind PSGV at the Site.

9. Throughout 2017, SADC's committees/reports were (inexplicably) silent on the need to provide an SRFI at the site. There was no consideration whatsoever of how to meet the housing and SRFI needs. Minutes of discussions with HCC at the time are (inexplicably) silent on the need to provide an SRFI at the site. Either SADC was inexplicably forgetting about the 2014 Decision re: the SRFI and the former policy formulation to address it, or they were deliberately creating a strategy to defeat the 2014 Decision by ignoring it. As demonstrated below, it was the latter.
10. By January 2018, SADC had decided that any major garden village release from the GB would have to deliver "unique" contributions to public services (e.g. public transport) and "unique" infrastructure and other benefits – criteria which were self-evidently formulated with the purpose of applying to and benefitting PSGV (the branch line and the country park).
11. An Issues and Options paper and call for sites was issued in January 2018. The Issues and Options paper was inexplicably silent on the need for an SRFI at the Site – ignoring the 2014 Decision, the previous draft policy formulation for the site; and the implications of not providing this nationally significant SRFI here.
12. In response to the call for sites in early 2018, HCC formally submitted its proposal for a housing allocation of the Site [A/242] which it had been promoting to defeat the SRFI (see below). Its proposed allocation was dependent on land over which it had no control and over which Helioslough has control. It was wrongly asserted that HCC could deliver.
13. In a letter dated 8th March 2018 [A/407], Helioslough explained the significance of the 2014 Permission in objecting to the HCC proposal. There has never been any response to that letter although (as shown below) it appears to have triggered an attempt by SADC to justify retrospectively housing on this site in preference to an SRFI through the Re-Evaluations.
14. In March 2018, the response to the Issues and Options consultation was reported and a site selection process was agreed. It used a RAG (red, amber, green) approach with the Stage 1 being based on contribution to GB purposes. Any site judged to have a "higher impact" on GB would be rejected. That term was not defined. Stage 2 was to consider overriding constraints on development and availability. Stage 3 was to consider all benefits and disbenefits in the round to form an overall judgment.
15. In May 2018, the results of the site ranking exercise were presented in a report to the 22nd May meeting of the PPC. The key points from the Report are as follows:

- a. at stage 1, NER and Radlett were the only two new locations which were considered. The judgments reached by SADC at this stage are disputed and are addressed under the site specific issues in e.g. appendix 3 and Helioslough's reg 19 representations. A number of small sites which in 2013 had been identified as making least contribution to GB purposes were not taken forward – all small sites being automatically treated as “red”;
- b. the analysis of the Site referred to the existing SRFI permission. It was concluded that 2500 units would have “broadly the same” impact on the GB (at Stage 1) as the SRFI. There was said to be no reason to change the amber for GB by reference to the SRFI permission;
- c. at stage 2, on “over-riding constraints to development”, the Site inexplicably scored a green – no constraints. There was no consideration of the implications of the loss of the nationally significant SRFI, the inability to meet the need elsewhere, NPPF104/20/25-6 or the NPS. In accordance with basic principle, the Site should inevitably have been under ruled out at that stage.
- d. There was no consideration of deliverability of the part of the Site not owned by HCC. There are insuperable obstacles to delivery of the necessary access because Helioslough has exclusive options over it and will not release those options.
- e. At stage 3, given that the criteria on benefits had been pre-set to favour the allocation of the Site it is no surprise that the Site scored well at this stage. The weighting, the judgements reached and overall balancing were flawed. The benefits of the SRFI were not taken into account and the impacts of not delivering the nationally significant SRFI were not taken into account.

16. It is thus clear that the decisions on the Site were made and it was included in the emerging Local Plan (and NER also rated amber, other GB options rejected and small GB sites excluded) before any consideration of the implications for and of the SRFI. As we shall see that consideration was an afterthought.

17. At the meeting:

- a. the March 2018 letter from Helioslough was tabled raising all these points but there was (surprisingly and inexplicably) no comment or discussion on it;
- b. Hogan Lovells (“HL”) on behalf of Helioslough had written in immediate response to the publication of the report for the 22nd May meeting of the PPC. The 21st May letter [A/410] explained the fundamental flaws underpinning the proposed allocation. Inexplicably it was not referred to the 22nd May committee;

- c. members resolved to move forward with the process outlined in the report including the indicative local plan which even at that very early stage showed the site being allocated as a garden village - it was a fait accompli;
 - d. at the meeting of 22nd May and for *the first time* and “following legal advice” (no doubt in response to Segro’s letter of March 2018) it was noted that the allocation of this site would require a fresh re-evaluation on the relative merits of housing and the SRFI (see HL letter of 30th May to Mr Briggs) and para 4.16 of the Report. The fundamental issue concerning the appropriateness of this site for housing was thus to be addressed for the first time in the local plan process – after the methodology and preferred approach had been confirmed and after the Site had been included as an allocation in the far advanced draft.
18. The “Draft Park Street Broad Location - re-Evaluation [sic] following the gathering of evidence on the relative merits of housing and the SRFI as well as alternative strategies which would deliver the identified housing elsewhere” (“the Draft Re-Evaluation”) was then produced [A/152]. The position there set out was expressly subject to revision – “significant potential for revision” especially given the likely emergence of a new NPPF. “The regulation 19 formal consultation stage itself is yet to come. This stage and consideration of representations made at this stage will be an important matter for the Council in deciding on progress towards submission”.
19. The June 2018 committees were to approve the publication draft Local Plan. At the 12/6/18 meeting, the HL letters were tabled and noted but (inexplicably) not the subject of any discussion. The Draft Re-Evaluation was included in the report but there was no discussion of it. The meeting adjourned to consider only the pro-formas returned by the landowners of the proposed sites. At the 18/6/18 meeting there was no discussion of the HL letters or the Draft Re-Evaluation. The Publication draft was silent on the SRFI. The Sustainability Appraisal Note for Council was silent on the SRFI and its analysis of factors was silent on the implications of not delivering the SRFI.
- 20. The essential point is this. In assessing the sites and in formulating the indicative publication draft, there was no explicit consideration whatsoever of the implications for the SRFI, the NPSNN or sustainability of not delivering the SRFI and no consideration of the disbenefits of allocating this site for housing by virtue of the loss of the SRFI. It was only at the last minute that an attempt was made to fill that hole in the justification for the allocation of the site. The Draft Re-Evaluation is fundamentally flawed at every point.**
21. On 18th June, SADC received HCC’s proforma on the site. It asserted confidence with site assembly. That is not understood – no approach to Helioslough has been made and their interests are vital to secure access to the proposed residential site. Delivery of the rail link and a new station was emphasised.

22. The publication draft and its SA were then worked up and published in September 2018. HL and RPS repeated the fundamental issues with the proposed allocation in further representations.
23. In March 2019, SADC received but made no comment on the updated re-evaluation on the SRFI versus housing [A/175]. In the summary of representations the issue raised was wrongly summarised as limited to the Plan not being positively prepared as it disregards the SRFI permission - the answer to which was only that:

“Site selection is firmly based on comprehensive GB work which identified the allocated Broad Locations. The main site owners has promoted the site as available and deliverable for housing. Considerations have taken into account the existing planning permission for a alternative use and other relevant factors”¹⁴

¹⁴ See schedule of responses to consultation on policy S6(xi).

Appendix 3: Flawed approach to Other Housing Sites – Meeting the OAHN not at the Site

1. SADC has failed to justify why the choice of allocating growth in the 8 BLGs has not been supplemented by the allocation of smaller sites within smaller sub-areas that were assessed as making the least contribution towards Green Belt purposes.
2. SADC should have recognised that existing communities and settlements can have significant development capacity in association with related infrastructure investment, and that the creation of “new communities” in large sites is not the only, or here, the appropriate, option.
3. An adequate review of smaller sites would have allowed SADC to pursue broad locations for development, allocated the remaining housing growth in smaller sites and avoid the allocation of housing at the Site.
4. More specifically, the housing allocated in the PSGV (**2,300 dwellings**) of which only approximately **1,700** is intended to be delivered in the plan period, could readily be split and redistributed in smaller sites which have been omitted on Green Belt grounds without an appropriate Green Belt review of each of them. The more obvious alternative options for housing allocation include the site at North East Redbourn (“**NER**”), the Land at Gaddesden Lane, Redbourn (“**Gaddesden Lane**”), the Land at Windridge Farm (“**Windridge Farm**”), the land to the rear of Bridge Cottage (“**Carpenters Nursery**”), and the Land West of Redbourn (“**West Redbourn**”).
5. The **NER** alone could accommodate **825 dwellings** in a village extension that would follow the existing pattern of development and could include services, care, education and community facilities. Contrary to what was suggested by SADC in the May 2018 PPC Report, the allocation of NER would not be, and does not need to be, a “substitute” to the allocation of the PSGV, but it would be one of the alternative sites which, collectively, would allow SADC to meet its OAHN and deliver the SRFI. With it, there would only be a requirement for about another 845 units in the plan period.
6. The Green Belt review prepared by the owners of NER and submitted in the Reg 19 representation demonstrates that the sites makes little or no contribution to the purposes of the Green Belt. Furthermore, Helioslough’s Reg 19 representation demonstrates that the score of the PSGV in the SA should be downgraded, resulting in NER scoring higher in sustainability terms than PSGV. Taken together, the evidence available to SADC and the Inspector clearly shows that the NER has the credentials to be allocated for housing through a Main Modification of the Local Plan. Once the benefits of the SRFI are included in the analysis, the case for NER becomes overwhelming.

7. SADC's GBR in 2013 considered that **Gaddesden Lane** made limited or no contribution towards the five Green Belt purposes and could accommodate **339 dwellings**. However, the site was given a "red" rating at Stage 1 of the 2018 assessment because it marginally fell below the 500 dwellings or 14 hectares threshold required to be considered a "strategic site" due to it being partially within Dacorum Borough Council. In total it is larger than 14 ha. There is no evidence of any attempt by SADC to discuss this cross-boundary issue with DBC and why the findings of the 2013 GBR were ignored. The fact that it fell just below the threshold appears to have been fatal to its allocation. That is an unsound approach and contrary to the duty to co-operate.
8. The Reg 19 representations by the landowner show that the Gaddesden Lane site is a large single arable field in single ownership with existing reserved highway accesses and that no overriding issues would prevent its development within the plan period.
9. **Windridge Farm** was identified in the St Albans Emerging Core Strategy (July 2009), as a Proposed Strategic Housing Site (Area of Search 1) for the period to 2026 with an estimated potential to accommodate **between 1,000 to 1,200 dwellings**. The site was also included in the 2009 Strategic Housing Land Availability Assessment (SHLAA). Despite this, SADC restarted the allocation process afresh with all previous sites dismissed, including Windridge Farm. The starting point for SADC for identifying which large sites should be allocated for residential/mixed use development was the 2013 GBR, which itself was not subject to consultation. Only those parcels that contributed least to the purposes of the Green Belt were assessed further. However, if either then or now, Windridge Farm had been subject to a site specific rather than parcel wide green belt assessment in the same way as the green and amber sites had been, it would have been recognised that it had did not have such impacts on the Green Belt as to rule it out.
10. Whilst the site makes a partial contribution to the quite substantial gap between Hemel Hempstead and St Albans of 3.8km, it has strong boundaries on all sides including to the west towards Hemel Hempstead in the form of the A414/M1 junction, the A4147 and established woodland which would prevent further sprawl in this direction. The narrow gap of 0.2km between St Albans and Chiswell Green would not be compromised by development in this location given the existing intrusive nature of the A414 which forms the southern boundary of the land. The 2013 GBR also acknowledges that land adjoining St Albans has some urban influence.
11. The Regulation 19 representation submitted by the site's land promoter contains a detailed Development Framework Document setting out the vision, development parameters and expected housing numbers achievable on site through a masterplan

which would deliver around 1,200 homes, children play areas and sport pitches, a primary school, a new local centre and highway improvements. This detailed document demonstrates that the site is capable of accommodating a significant portion of SADC's housing needs during the early stages of the plan period in an urban extension of St Albans.

12. Hertfordshire County Council stated in its 2018 Call for Site submission that **Carpenters Nursery** could accommodate approximately **350 dwellings** if 50% of the site is developed at 30 dwellings per hectare. The site was considered as part of one of the larger Green Belt parcels (GB37) in the 2013 GBR. Again, the parcel wide assessment meant that the site specific characteristics were not assessed. That flaw then impacted the 2018 exercise too. The site lies directly to the east of the green-rated site, Land North of St Albans, which extends further north towards Harpenden than site 606 and is now identified as "North St Albans Broad Location" in Policy S6 (vi).
13. To avoid compromising the gap between St Albans and Sandridge along St Albans Road, there is potential to reduce the size of the site by moving the eastern boundary parallel with the garden centre. This would have limited impact on the Green Belt given the potential allocation of Land North of St Albans and the railway line to the west, in addition to the existing built development to the south of the site.
14. **West Redbourn** was not considered to "*significantly contribute to any of the 5 Green Belt purposes*" in the 2013 GBR but the site was subsequently removed from the pool of sites identified for development in the Local Plan without appropriate justification. Taking into account the existing constraints and opportunities on the site, the site is considered to have potential to deliver approximately **240 dwellings** at a density of 40 dwellings per hectare. According to the representor of the site's owner, the site is a deliverable and developable source of housing land with an expectation of completions achievable in the Plan Period.
15. Taken together, the sites mentioned above could accommodate between approximately **2,750 and 2,950** dwellings, thus allowing the delivery of housing required by SADC's OAHN within the plan period without the necessity of allocating housing at the Site and prevent/scupper the delivery of the SRFI.

Appendix 4: Transport issues relating to Park Street Garden Village

1. The location of the Site means that the existing transport connections and sustainable transport choices are limited for a garden village. The A414 dual carriageway to the north, the Midland Main Line railway to the east and the M25 to the south all form significant barriers for the range of transport connections required for a permeable and sustainable development. The ability to provide improved connections across each of these constraints is limited and potentially financially challenging.
2. With these constraints and the current Green Belt designation there are few existing public transport services in the area, with these limited to hourly buses to the west of the site and the hourly Abbey Line train service.
3. The only specific public transport proposal in the PSGV policy is for a peak period improvement to the Abbey Line service. Even if such a service is provided, this provision will only provide a very limited public transport function because it is located remotely from the residential development site, and the location of the Abbey Line station in St Albans is neither near the mainline station nor the city centre.
4. Given these circumstances it is unclear how the provision of a suitably located park and rail facility (*Policy S6 xi 14*) will support a sustainable development both in terms of attractiveness for users and vehicle emissions or how it justifies exceptional circumstances.
5. Given the limited public transport proposals suggested in the PSGV policy it is clear that there will need to be major investment for bus services. As a minimum these will need to be to St Albans and use roads which have limited potential for bus priority.
6. A development of a minimum of 2,300 units will generate a significant volume of traffic and it has been shown that the PSGV will result in more traffic than the SRFI both at peak times and over 24 hours. This will be most acute in the AM peak hour (+ 81.5% as against the SRFI).
7. The SRFI was granted consent following detailed consultations on a transport strategy and mitigation which ensured that there was no adverse impact on the local highway network. This ensured that there was suitable capacity for the SRFI although additional capacity was limited.
8. Since the consent was granted HCC have produced the A414 Corridor Study which notes that *'Severe traffic congestion is experienced at different points along the corridor'*. It follows that the additional residential traffic volumes will be on a highway network with severe traffic conditions. The priorities for the A414 Corridor Study for

Segment 6 include maintaining the dual 2-lane carriageway standard on existing dualled sections but not seek an increase in highway link capacity. Hence it can be concluded that the residual impact with PSGV would be to add to the severe conditions on the A414.

9. Unlike the SRFI, the PSGV will generate more traffic movements on local roads, particularly the A5183 into St Albans, and to a lesser extent on the High Street in London Colney.
10. Given these points and as set out above, the SADC Sustainability Appraisal has been unrealistically optimistic in its grading of Greenhouse Gas Emissions, Air Quality and Sustainable Locations objectives of the PSGV. It is of course to be noted that it omits the sustainability advantages of an SRFI especially on GHG.
11. It can be concluded that the PSGV is unable to deliver the attributes of a garden village and at the same time it will generate a significant volume of traffic on a busy local road network. This is in contrast to the SRFI, which can provide a targeted transport strategy which meets the need of the specific attributes of such a facility without such adverse impact on the local highway network.
12. In relation to access, Hertfordshire County Council's agents acknowledged in their Regulation 19 representation that *"technical work on the access arrangements (to either the A414 or A5183) would need to be undertaken to inform the masterplan preparation process and to define the level of development that could be served by one or both of the access points. This work will take some months to complete"* and that the land on which the proposed main access to the site is proposed (the A414 access) is *"in the ownership of the Gorhambury Estate"*. Helioslough has an exclusive option over that access land.
13. It is also worthy of note that the masterplan proposed by HCC in their Regulation 19 representation correctly does not attempt to suggest that the main vehicular access from the north to the PSGV could be further to the north east closer to the bridge. The provision of a suitable junction for 2,300 units on land outside the Gorhambury Estate is simply not possible. The limited land frontage owned by HCC means that it is not possible to provide an all movements junction with the A414. It might be thought that the current layby, which incorporates the bridleway entrance, could be used as a left in / left out junction. However, this would have serious implications on traffic capacity as up to 50% of arriving or departing vehicles would need to make U turns at the nearby congested junctions, thereby further reducing the capacity of the A414. In addition, as HCC highways made clear through the SRFI planning process, there is no ability to provide a suitable and safe physical access junction at the north east because

of the existing alignment of the A414, and particularly the railway bridge to the east. This means that most safety standards for approaches to a junction cannot be met; for example, the substandard horizontal and vertical approaches from the east are fixed by the bridge and there are substandard approach visibilities, which are particularly relevant on a road with a speed limit of 70mph.

Appendix 5: Feasibility of Abbey Line improvements

1. The proposals for upgrading the St Albans Abbey branch line to support housing development on and around the Site produced the following response from Network Rail in their 2016 presentation to local stakeholders, which noted:
 - Current journey times along the line do not allow for a 30-minute service frequency;
 - To achieve an enhanced service for all remitted options infrastructure interventions are required;
 - If Hertfordshire CC wish to progress the scheme to feasibility (GRIP 2) this will be as a third-party funded enhancement (for a cost of £257k);
 - Costs for the train service enhancements as proposed would range from £15m to £75m;
 - A full business case would need to take into consideration a range of factors including: rolling stock implications, any increase in operator subsidy or profit, agreement of Track Access Rights, DfT and train operator agreement, planning consents, revenue allocation, safety considerations and wider capacity utilisation on the West Coast Main Line.
2. The local stakeholders appear to have excluded any Network Rail involvement in, or validation of, a subsequent 2019 feasibility study into the possibility of upgrading Network Rail's infrastructure on the branch line. The report concludes that:
 - There is an 80% probability of the capital costs of this option being <£8.6m;
 - The value of the scheme benefits being sufficient to compensate for the capital expenditure, but not the operating costs;
 - A two-pronged strategy is recommended - seeking ways of reducing the operating costs, and other sources of funding income. Particularly promising for the latter are said to be potential development gain monies from a large local housing development at the Site;
 - However, the status of this passing loop project needs to be compared to other local transport ideas, also designed to address the worsening transport problems of the area;
 - The next stage of technical work might also aim to include open dialogue with Network Rail.
3. It is not understood on what basis it can now be said that the necessary Abbey Line improvements to support the PSGV allocation can be delivered.

Appendix 10 – Network Rail

a. Original objection

16/10/18 15:16

Comment Receipt

Event Name	St Albans Local Plan Publication 2018
Comment by	Network Rail (Infrastructure) Ltd (Mr Anthony Rivero - 1184616)
Comment ID	PLP458
Response Date	16/10/18 15:16
Consultation Point	St Albans Local Plan Regulation 19 Publication (View)
Status	Submitted
Submission Type	Web
Version	0.1

Question 1

Please give the name or number of the Policy or Paragraph your comment relates to:

Park Street Garden Village Policy S6(xi) pg22/23

Question 2

Do you believe the Local Plan &/or its sustainability appraisal is:

(1) Legally compliant	No
(2) Sound	No
(3) Complies with the Duty to co-operate	No

Question 3

If you have entered *No* to 2.(2), continue with Q3, otherwise please go straight to Q4

Do you consider the Local Plan is unsound because it is NOT:

- (1) Positively Prepared (it is not providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and

is consistent with achieving sustainable development)

- . (2) Justified (it is not an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence)
- . (3) Effective – (not deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground)
- . (4) Consistent with national policy (not enabling the delivery of sustainable development in accordance with the policies in the NPPF)

Question 4

Please give details of why you consider the Local Plan &/or its sustainability appraisal is or is not legally compliant, unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan &/or its sustainability appraisal or its compliance with the duty to cooperate, please use this box to set out your comments.

In relation to the proposed new settlement at Park Street Garden Village, Network Rail is aware of aspirations to increase service patterns on the St Albans Abbey branch line to support this new community, and it is reassuring to note that the Council acknowledges that new/enhanced infrastructure will be required.

However, this is not a committed rail industry scheme and delivery would be subject to a feasibility study and funding, together with all necessary consents. In addition we cannot support any increase in frequency along the Abbey line unless the level crossing at Cotton Mill Lane is closed.

Note is made of the proposal for a strategic development at Park Street Garden Village. Notwithstanding the proposed allocation, you will be aware that outline consent exists for the development of a strategic rail freight interchange {SRFI}, granted on appeal by the Secretary Of State in 2014 (reference 5/2009/0708).

Network Rail has consistently supported the proposals for creation of a SRFI at this location. This would align with the Government's policy objectives for SRFI as set out in the National Policy Statement on National Networks 2014 (NPS), which states that there is a compelling need to create an expanded network of SRFI. The NPS notes that most intermodal RFI and rail-connected warehousing in London and the South East is on a small scale and/or poorly located (para 2.57), and that the number of locations suitable for SRFIs will be limited, which will restrict the scope for developers to identify viable alternative sites (para 2.56).

Our long-term planning has taken account of Radlett as one of the quantum of SRFI expected to be developed, through the Freight Market Study 2013 and the Freight Network Study of 2017. Our latest Freight & National Passenger Operators (F&NPO) Route Strategic Plan 2018 states that we will facilitate new terminal developments at Radlett and elsewhere nationally, specifically through the facilitation of new main line connections and associated network capability as required.

In this context Network Rail is working with Helioslough on the delivery of the SRFI at Radlett. Outline planning permission was granted in July 2014 and approvals have been granted for the reserved matters applications to facilitate the delivery of the project. Indeed the Authority will be aware that we have provided responses recently on several reserved matters with the aim of enabling these to be progressed to close out. We are therefore continuing to assist Helioslough in development of the SRFI at Radlett and its integration into the national rail network.

The apparent allocation of the whole of the site is in direct opposition to the outline consent for the SRFI and can only be viewed as an attempt to frustrate the development of the latter. Given the support of the Secretary of State to the proposal following lengthy consideration of the merits of the scheme, and its strategic importance in serving the north of London and the weight given to meeting targets for creating sustainable patterns of freight delivery we cannot see any justification given for the allocation of the whole site at Park Street. It may be that some development could be accommodated in the north

west corner of the site, and so long as this would not prejudice the delivery of the freight facility the objection to the allocation on freight grounds could be removed; however the issue of Cottonmill Level Crossing (below) remains pertinent and would still be outstanding.

Question 5

Please set out what modification(s) you consider necessary to make the Local Plan &/or its sustainability appraisal legally compliant or sound. Please have regard to any answer you have given at 3 and 4 above. (NB: Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan &/or its sustainability appraisal legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

The deletion of the Radlett SRFI land from Park Street village allocation.

A commitment to closing Cottonmill LC as part of any increase in frequency of service along the Abbey line.

Page 43 – Harpenden – NR support the proposals to look at providing additional car parking at Harpenden and look forward to participating in the “full exploration of options”.

Policy L19 – road safety (page 44)

This should also consider the impact of development on level crossings and we seek to alter criterion (i)

by adding: **“This should also take into account the impact on adjacent or nearby railway level crossings”.**

Decisions relating to developments adjacent to, or affecting, rail lines (including those resulting in a material increase or change of character of the traffic using a rail crossing) will have regard to the views of Network Rail. Development should be refused unless any significant impacts can be adequately mitigated.

The justification for this would be to be consistent with the new advice in the NPPF (bold is our emphasis):

Para 108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

*b) **safe and suitable access to the site can be achieved for all users; and***

*c) **any significant impacts from the development on the transport network** (in terms of capacity and congestion), or **on highway safety**, can be cost effectively mitigated to an acceptable degree.*

Para 109 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Para 110.

Within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Leyland Avenue Triangle site

Should this site be brought forward for residential development the layout should be designed to accommodate a diversionary route to allow Cottonmill Level crossing to be closed.

-

Question 6

If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination? Yes

Question 7

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

We believe that there are serious operational and safety railway issues that have not been assessed by the council and that Network Rail needs to be present to ensure that the implications of the proposed allocations are fully explained and understood by an appropriate expert. In addition to this the council is seeking to allocate a Strategic Freight Site for which the Secretary of State granted approval at appeal and Network Rail can present further information for why this is an important site which should not be allocated alternatively in the Local Plan.

Question 8

Do you wish to be notified of any of the following? Please mark all that apply.

- . (a) when the Local Plan has been submitted
- . (b) when the Inspector's Report is published
- . (c) when the Local Plan is adopted