

**HARPENDEN GREEN BELT ASSOCIATION**

**HEARING STATEMENT FOR EXAMINATION IN PUBLIC OF  
ST ALBANS DISTRICT LOCAL PLAN**

**MATTER 2 – DUTY TO CO-OPERATE**

1. For ease of reference, Harpenden Green Belt Association's ("HGBA's") response to the 2018 Consultation is at **Appendix 1**. The Duty to Co-operate is addressed in Section II, Part B of the response.
2. References to the appendices to this statement are given below as "**Appx 1, 2**" etc. Documents in the Examination Library are not included in the appendices but are identified by their reference number.
3. HGBA sets out below each of the Inspectors' questions; provides a summary answer to each question it wishes to respond to, with (where appropriate) additional explanation in numbered paragraphs.

### **General**

#### **Q1: What are the genuinely strategic matters as defined by s.33A(4) of the Planning and Compulsory Purchase Act?**

A: The Council has failed to identify the genuinely strategic matters early in the plan-making process as it should have done. There are no Statements of Common Ground, as required by NPPF 2019 para. 27 and PPG "Plan Making", except a draft document with the South West Hertfordshire group.

1. The Inspectors should not have to ask this question. When Mr Hogger determined that the previous draft local plan failed the duty to co-operate (see his letter of 28 November 2016 at **Appx 2**), he said at para. 18:

*"In order that effective policies on strategic cross-boundary matters and priorities can be drawn up, it is necessary first to be clear what those matters and priorities are, and in order to ensure that the plan is robust those issues should be identified at the earliest possible stage in the plan-making process."*

Furthermore, NPPF 2019 para. 27 requires the preparation of statements of common ground "*documenting the cross-boundary matters being addressed and progress in co-operating to address these*". PPG "Plan Making" makes clear that it is through Statements of Common Ground that authorities agree the key strategic matters and record progress in relation to co-operation on these matters: see "What is a statement of common ground" and "What is a statement of common ground expected to contain?"

2. If the Council had complied with these duties, there would be a document prepared early in the plan-making process setting out the strategic matters falling within s.33(A) and a series of statements of common ground with other authorities clearly explaining the progress which has been made on each of these. Instead, the Inspectors and participants in this Examination are left having to pick through CD 028 Duty to Co-operate Statement ("**the DtC Statement**"), a document prepared only after the Plan had been submitted, for the shreds of evidence it contains.
3. Some of the strategic matters falling within s.33A(4) have been expressly identified in the DtC meeting minutes in the appendices to the DtC Statement<sup>1</sup>. Others have not.
4. HGBA considers that the strategic matters include:
  - **NW Harpenden Broad Location** (located on the boundary with Central Bedfordshire Council; identified as a cross-boundary issue with Central Bedfordshire Council and implicitly with Luton Borough Council)
  - **NE Harpenden Broad Location** (located very close to the boundary with Central Bedfordshire; not identified as a cross-boundary issue with Central Bedfordshire but implicitly identified as a cross-boundary issue with Luton BC)
  - **Transport, education and other infrastructure issues concerning Hertfordshire** (identified as issues with Hertfordshire County Council)
  - **Road and rail transport issues concerning Luton** (identified as issues with Luton BC)
  - **Road and rail transport issues concerning Central Bedfordshire** (not identified as issues with Central Bedfordshire but clearly as relevant to CBC as to Luton BC. Central Bedfordshire is a highway authority.)

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<sup>1</sup> The appendices to the DtC Statement are not paginated. References to page numbers in this document are to the pages in the PDF, viewed electronically.

- **The proposed expansion of Luton Airport** which will add an additional 14 million passengers to the 18 million who already travel to and from the Airport (identified as an issue with Luton BC).
- **The proposed “Lea Bank Energy Park”** (a combined heat and power facility burning 500,000 tonnes of refuse-derived fuel p.a.) at New Mill End on the B653 Lower Luton Road, just over the border into Central Bedfordshire (identified in the meeting notes with CBC, but not specifically described as a cross-boundary issue).

**Q2: Should these be set out in the Plan?**

A. Whether or not set out in the Plan, the strategic matters should have been clearly identified at the outset of plan-making, so that the Council could ensure that it had complied with the DtC by effective engagement from the outset.

**Overall Housing Provision**

**Q3: Who has the Council engaged with in terms of overall housing provision and what form has this taken?**

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**Q4: Are there issues of unmet need from within neighbouring authorities? If so how are these being addressed?**

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**Q5: Have specific concerns been raised through duty to co-operate discussions or representations?**

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**Q6: Does overall housing provision being planned for in St Albans City and District area have any implications for other authorities? If so, what are they and how are these being addressed?**

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

**What has been the outcome of co-operation and how has this addressed the issue of housing provision?**

- A. The Council makes a great deal of its engagement with the South West Herts Group, but none of this engagement appears actually to have informed the content of the Plan. On the contrary, it appears that the Council has brought this draft Plan forward in haste, for the sole purpose of relieving the pressure of threatened Government intervention, but will rewrite it when the work of the SWHG is complete. Thus the Council has told other councils:

*“SADC is under pressure from the Government Intervention process to progress its Plan in accordance with its LDS. The approach in the context of joint working is to prepare a Plan which meets full need and then undertake future review in the context of SWH joint working and the proposed Joint Strategic Plan (JSP)” (page 112 of DtC Statement).*

**Jobs Growth and employment land provision**

**Q8: Who has the Council engaged with in terms of jobs growth and employment land provision and what form has this taken?**

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**Q9: What are the inter-relationships with other authorities in terms of economic activity, travel to work and the market for employment land and premises?**

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**Q10: How have these inter-relationships been taken into account in preparing the Plan in terms of jobs growth and employment land provision?**

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**Q11: In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Plan? What has been the outcome of co-operation and how has this addressed the issue of jobs growth and employment land provision?**

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## **Transport Infrastructure**

### **Q12: What are the strategic matters and particular issues?**

A. The strategic matters relating to transport infrastructure include:

- **The impact on the road network** of housing development in St Albans District and elsewhere, and the expansion of Luton Airport, particularly on the roads leading to M1 junctions and those junctions, the B653 Lower Luton Road and the A1081 Luton Road.
- **The impact on the Thameslink railway line** of housing development, in St Albans District and elsewhere, and the expansion of Luton Airport.
- **The impact on the road network of the proposed Lea Bank Energy Park.** The operator's website ([www.lbep.uk/facts](http://www.lbep.uk/facts)) indicates that 256 daily lorry journeys will be necessary to maintain the incinerator's operation.

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

A. There is no evidence of robust engagement, as required by the Duty to Co-operate, particularly with authorities to the north of the District. There are no Statements of Common Ground with Central Bedfordshire Council, Luton Borough Council or Hertfordshire County Council as required by NPPF 2019 para. 27.

1. The only evidence provided in the DtC compliance statement as regards engagement with Central Bedfordshire and Luton Borough Council is:

- Reference to the Joint Luton Housing Market Area Memorandum of Understanding 2014 (page 16 of the DtC Statement) – but the volume of housing development proposed in St Albans has very significantly increased since 2014: in particular NE Harpenden, which lies close to Luton, is now proposed for development when it was not in 2014.
- A single meeting with Central Bedfordshire Council on 22 August 2018 (DtC Statement, page 108). At this meeting four cross-boundary issues were listed at

para. 2 but all that is said is that there was “*discussion regarding these issues*”. The Lea Bank Energy Park was also mentioned but although the Council raised “*significant concerns*” there was no agreement as to how these might be addressed.

- A single meeting with Luton Borough Council on 17 July 2018 (DtC Statement, page 125). At the meeting, there was a short discussion about cross-boundary transport issues. It was agreed to co-ordinate traffic modelling, but there is no evidence that co-ordination has occurred.
2. As regards engagement with Hertfordshire County Council, HCC have made it clear that the Council has failed to undertake timely or sufficient traffic modelling to assess the impact of the proposed Plan growth (see minutes of meeting 11/6/18, DtC Statement Appendix 12, page 120; see also HCC 2018 consultation response). NPPF 2019 para. 102 makes clear that transport issues should be considered “*from the earliest stages of plan-making*” and PPG “Transport evidence bases in plan-making” expressly addresses the need for a robust transport evidence base in preparation of a plan. In the absence of proper traffic modelling, the Council cannot properly understand (a) whether the Broad Locations are sustainable locations for development or (b) what additional infrastructure is required to support them. It is not acceptable for the Council to try to plug this gap by traffic modelling carried out long after the Plan was published and indeed submitted: “*the evidence needs to inform what is in the plan and shape its development rather than being collected retrospectively*”: PPG “Plan Making” – “How can strategic policy-making authorities gather evidence needed to justify policies?”.

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

- A. The evidence does not demonstrate the kind of constructive, ongoing and effective engagement required by the Duty to Co-operate. There have been occasional discussions with other authorities on strategic transport matters, but importantly none of those appear to have actually influenced the content of the Local Plan.

#### **Water resources/waste water**

**Q15: What are the strategic matters and particular issues?**

A. The strategic matters include:

- Water resource deficits as a consequence of the planned volume of growth across the South East: paragraph 12.9 of the INFR 001 2018-2019 Infrastructure Delivery Plan (“IDP”) indicates a supply/demand deficit in the zone which includes St Albans District during the Plan period.
- Inadequacy of wastewater treatment plants for Harpenden as a consequence of the planned volume of housing development: paragraph 12.18 of the IDP indicates that NE Harpenden and NW Harpenden will require upgrades to the wastewater network.

**Q16: Who has the Council engaged with? When did this engagement begin, has it been active and ongoing and what form has it taken?**

A. Paragraphs 12.2 – 12.21 of the IDP indicates a level of engagement by the Council with other authorities and with water and wastewater utilities companies.

**Q17: In overall terms has the Council engaged constructively? What has been the outcome of co-operation and how has this addressed the issue?**

A. The outcome of co-operation has been to identify the need for works to upgrade the wastewater network to service NW Harpenden and NE Harpenden. However, those upgrades are not shown in the Infrastructure Delivery Schedule at page 154 of the IDP: there is no indication of how much they will cost or by whom, how or when they will be provided. Furthermore, the table at paragraph 12.21 of the IDP indicates a long lead-in time for these works to be completed. Consequently, the co-operation has not resulted in effective planning for this infrastructure need.

### **Flood risk**

**Q18: What are the strategic matters and particular issues?**

A. The Council has not complied with NPPF paras. 156 in relation to flood risk, nor has it applied the sequential test as required by NPPF para. 157 and PPG “Flood Risk and Coastal Change”. It commissioned ENV 001 South West Hertfordshire Strategic Flood Risk Assessment only after deciding where development should go (the Assessment



was not available to consultees upon publication of the Plan). The Assessment identifies a number of flood risk areas in the District but as a consequence of the Council's failure to carry out strategic flood risk assessment as required by the NPPF and PPG, the strategic matters have not been properly identified or addressed.

**Q19: Who has the Council engaged with? When did this engagement begin, has it been active and ongoing and what form has it taken?**

A. There is no evidence of any engagement on this issue.

**Q20: In overall terms has the Council engaged constructively? What has been the outcome of co-operation and how has this addressed the issue?**

A. There is no evidence of any engagement on this issue.

#### **Other strategic matters**

**Q21: What are the other strategic matters and particular issues?**

A. The proposed expansion of Luton Airport and the proposed Lea Bank Energy Plant, referred to above. There are a number of serious concerns about both of these proposals, including the impact on the transport network and the potential for harmful levels of emissions affecting Harpenden.

**Q22: Who has the Council engaged with? When did this engagement begin, has it been active and ongoing and what form has it taken?**

A. As regards the expansion of the Airport, the Council agreed to liaise with Luton BC generally but particularly with regard to transport issues and co-ordination of traffic modelling. The Council expressed significant concerns to Central Bedfordshire Council regarding the Energy Plant.

**Q23: In overall terms has the Council engaged constructively? What has been the outcome of co-operation and how has this addressed the issue?**

A. There is no evidence as to the outcome of the Council's agreement to liaise with Luton BC or its expression of concern to Central Bedfordshire.

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

- A. No. The Infrastructure Delivery Schedule at page 154 of the IDP is woefully inadequate. Major elements of necessary funding for transport and other infrastructure are shown as “TBC”. Moreover, as indicated above, there are essential infrastructure needs which have been identified but which are not shown on the Schedule, such as the wastewater treatment upgrades for Harpenden. The failure to provide for essential infrastructure puts at risk the Housing Trajectory in the Plan.
1. The IDP and its many appendices is a lengthy document but its length obscures the fact that it offers very little by way of concrete evidence as to (a) exactly what infrastructure is required, and where (b) how much it will cost (c) who will provide it and (d) by when.
  2. In many places, the IDP identifies infrastructure needs arising from the scale of development proposed, but merely says that work is “ongoing” in relation to the assessment of the infrastructure required: see e.g. paras. 11.20 – 11.54 (road transport). In other places, the IDP identifies infrastructure needs which are not reflected in the policies in the Plan: see e.g. the healthcare table at pages 22-23 which identifies the potential need for healthcare provision on-site at NW Harpenden and NE Harpenden, which is not reflected in policies S6(vii) or (viii).
  3. The Infrastructure Delivery Schedule at page 154 of the IDP is a particularly weak document. Even for the categories of infrastructure which it lists, there are no adequate costs given. For example, under “*transport infrastructure*” the figure of £72.5m is given, but in the “*notes*” column it appears that this is an estimate for only four broad locations. The costs associated with other broad locations are “*tbc*”, as are all costs associated with development otherwise than at the broad locations. The Schedule sometimes gives the funders as including “O” – i.e. “others”, without identifying who those others might be. As regards timescales, these are given for all categories of infrastructure as “*10/15 years*”, which would seem to be incompatible with meeting the Housing Trajectory. Moreover, there are some categories of infrastructure identified as necessary in the IDP which are not mentioned in the Schedule: for example, as explained above, para. 12.18 of the IDP shows that NE Harpenden and NE Harpenden

will require upgrades to the wastewater network, but no provision for this is made in the Schedule.

### **Broad locations for development**

**Q25: Are there cross-boundary issues in relation to any of the proposed site allocations such as transport or other infrastructure requirements? If so, how have they been addressed through co-operation?**

A. Yes, there are cross-boundary issues in relation to NW Harpenden and NE Harpenden which have not been adequately addressed. See the comments above.

### **Conclusion**

A failure to comply with the Duty to Co-operate cannot be rectified through Examination. HGBA submits that the Council has not complied with s.33A and that the Inspectors have no option but to recommend non-adoption of the Plan.

## **APPENDICES**

1. Harpenden Green Belt Association's 2018 Consultation Response
2. Mr Hogger's letter dated 28 November 2016 in respect of previous draft Plan.