

St Albans City and District Local Plan Examination

Matter Statement 2 The Duty to Cooperate

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

December 2019

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Client

Bovis Homes
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Our reference

BOVC 3000

10 December 2019

1.0 INTRODUCTION

- 1.1 This Statement has been prepared by Turley, on behalf of Bovis Homes, pursuant to Matter 1 (Legal/Procedural Requirements) of the St Albans City and District Council (SACDC) Local Plan Examination. Bovis Homes is an established national housebuilding company with a legal promotional interest in land in St Albans District. Bovis Homes is a national employer and has nationwide experience of bringing land forward for mixed-use residential development.
- 1.2 Bovis Homes is actively promoting land at Gaddesden Lane, Redbourn, for residential development (formerly promoted by Mr Richard Blair). Representations in response to the St Albans City and District Council Regulation 19 Consultation and the SACDC Call for Sites Consultation, January 2018, have been submitted in relation to the above site (SHLAA Ref: GB-R-444a).
- 1.3 Bovis Homes maintains its objection to a number of policies within the emerging St Albans City and District Local Plan, as set out in the Regulation 19 representations. Namely; that the SACDC Local Plan is not positively prepared, is not justified, is not effective, or consistent with national policy. As such, the submitted Local Plan cannot be considered sound in its current form and requires major modification.
- 1.4 The primary concern relating to Matter 2 is that SACDC has failed to resolve matters regarding the reasonable share of new homes at the Hemel Hempstead Broad Location as requested by Dacorum Borough Council and has also deferred the issue of meeting the unmet needs of other authorities, including London, to a future Strategic Plan. Accordingly, the overall housing provision planned for in the SACDC area has significant implications for other neighbouring authorities and in particular, the highly constrained authorities of Watford and Dacorum.
- 1.5 Bovis Homes and its professional advisors have requested to participate in the relevant Matter 2 Hearings to articulate the above concerns.

2.0 RESPONSE TO THE DUTY TO CO-OPERATE

Overall Housing Provision

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

- 2.1 Section 33A of the Planning and Compulsory Purchase Act (2004) sets out that local planning authorities are required to demonstrate evidence of having made every effort to engage constructively, actively and on an ongoing basis to maximize the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.
- 2.2 Pursuant to this objective, the Council published a Duty of Cooperation Compliance Statement (CD 028) in April 2019, which sets out on page 6 a list of the neighbouring local authorities and prescribed bodies that it has engaged with during the preparation of this Draft Local Plan.
- 2.3 Whilst it is noted that regular partnership meetings have taken place and that some prescribed bodies have worked jointly to produce various strategies and documents, the Statement is not conclusive in explaining how this engagement has been carried out constructively and actively to identify SACDC's overall housing provision as set out in the Draft Local Plan.
- 2.4 Furthermore, whilst the Council states that they have consulted with their neighbouring authorities, the Council should have also engaged fully with those London Boroughs who border the Council's Housing Market Area and the Greater London Authority. This is important given that London is unable to meet its own housing needs, as consideration would then have been given to the future impact that this could have on areas such as South West Hertfordshire and the St Albans area specifically.

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

- 2.5 There are issues of unmet need from within neighbouring authorities. Paragraphs 24-27 of the NPPF provide clear advice on effective cooperation in plan making, including a requirement for strategic policy-making authorities to prepare Statements of Common Ground (SoCG) setting out the cross-boundary matters to be addressed and outlining progress in resolving the spatial issues which are deemed to be a priority.
- 2.6 Paragraph 35 of the NPPF confirms that for plans to be found sound at the examination stage, amongst other things, they should be effective including; *"working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground"*.
- 2.7 Alongside the changes to the NPPF is extensive guidance on the Duty to Cooperate (DtC) contained in Planning Practice Guidance (PPG). With regards to maintaining effective cooperation, paragraph: 015 (Reference ID: 61-015-20190315) of the PPG sets out some of the activities expected to be documented within a SoCG.

- 2.8 This includes assessing the impacts of emerging policies and preparing and agreeing strategic policies affecting more than one authority area to ensure that development is coordinated and that unmet needs are met.
- 2.9 The South West Hertfordshire Authorities (SWHA) prepared a Statement of Common Ground (SoCG) which was submitted to the examination in February 2019. It identifies that the authorities are committed to the preparation of a Joint Strategic Plan (JSP) for addressing strategic spatial and infrastructure priorities. The remainder of the SoCG sets out how the JSP will be set up. However with specific reference to strategic housing need, the SoCG simply sets out that if *'unmet housing need is identified then it will be distributed within South West Herts or elsewhere'*.
- 2.10 Such an ambiguous broad statement of intent clearly does not meet the requirements of paragraph 35 of the NPPF or the guidance contained within the PPG, which specifically identifies that cross boundary strategic matters should be dealt with rather than being deferred. Given that the timeline for the JSP, as set out in the SoCG, envisages that the Regulation 18 Consultation of the JSP will not take place until February 2020, this clearly identifies that neither SACDC nor the other South West Hertfordshire Authorities are addressing this important matter in this present time, as part of their Draft Local Plans.
- 2.11 Following recent Draft Plan consultations in other neighbouring authorities, such as Watford, there are identified significant shortfalls, which need to be resolved. In the case of Watford, it has been identified that this authority will have a shortfall of 335 dwellings per annum. Given Watford's urban pattern of settlement and its tightly drawn boundaries there are very limited development opportunities to address this shortfall.
- 2.12 It will therefore have been clear for some time that Watford will struggle to meet its future housing needs. There are however no firm proposals as to where these homes will be delivered. This is a highly relevant matter, which is not addressed either within the SACDC Draft Local Plan or within the SoCG, to which all authorities within the SWHA including Watford, are signatories.
- 2.13 With the above in mind it cannot be demonstrated that the Duty to Cooperate has been effectively met with regard to the delivery of the identified spatial priorities sought by the Council and its partners in the JSP area. Such action is however urgent, in order to address the unmet housing need arising in the HMA and cannot be simply deferred to a future plan, namely the JSP, which may require further future allocations in the SACDC area to remedy the identified shortfalls.

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

- 2.14 It is primarily for the Council to set out whether there have been any specific concerns raised through their general Duty to Co-operate discussions. However with respect to the representations made, it is quite clear from the Council's response to the Inspectors Initial Questions (Question 4) in May 2019, that some neighbouring authorities still have a number of specific concerns.

2.15 This includes comments from Dacorum Borough Council who still have concerns in relation to how agreement can be reached between the two authorities regarding how much (if any) of the proposed housing and employment development on the edge of Hemel Hempstead within St Albans District should count towards Dacorum's needs.

2.16 The Dacorum Borough Council comments further set out that they would;

'welcome further negotiations on this matter and suggest that our authorities should jointly commission an independent study to advise on the possible way forward. We look forward to taking forward this work with St Albans District over the months leading up to its formal submissions of the SALP'.

2.17 Reviewing the SACDC evidence base to date, we can find no information to suggest that this work has been taken further forward to inform the SACDC Local Plan and as such, the concerns of Dacorum still remain unresolved. This potential apportionment of new homes between SACDC and Dacorum however has significant delivery implications in relation to the Housing Trajectory and the assumptions made for the contribution of East Hemel Hempstead Broad location to the SACDC housing land supply.

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

2.18 As set out in the response above, the overall housing provision that has been planned in the SACDC area does have significant implications for other neighbouring authorities and in particular, more constrained authorities such as Watford and Dacorum.

2.19 In the case of Watford Borough Council the recent consultation on the Draft Watford Local Plan highlighted that, notwithstanding increased urban densities, Watford would have a shortfall of around 335 dwellings per annum. Given the historic settlement pattern and Watford's tightly drawn boundaries there are very limited development opportunities for future strategic growth. However currently there is no clear strategy as to where these new homes will be delivered.

2.20 As stated above, Dacorum Borough Council has also raised concerns regarding SADC's approach towards the DtC. This is set out at page 2 of Dacorum's representations to the Regulation 19 Draft Local Plan, whereby it is clear that the issue of the allocation of numbers from the East Hemel Hempstead Broad Locations towards meeting the housing needs of the Dacorum Borough Council is still not resolved.

2.21 Dacorum is a heavily constrained authority, both by the Green Belt and by an Area of Outstanding Natural Beauty. The major mixed use urban extensions proposed at East Hemel Hempstead by SACDC represents 30% of its total housing requirement and will create a single, large, cohesive, mixed-use extension to the existing former New Town, with little or no relationship with the remainder of the St Albans district east of the M1 corridor. Accordingly it is an entirely reasonable request from this constrained authority that some of the total 5,500 new homes which will be built at Hemel Hempstead for the benefit of SACDC in the Plan period and beyond should also contribute to meeting some of Dacorum's medium and long-term housing needs.

2.22 In this regard, Paragraph 60 of the NPPF states that:

“... needs which cannot be met within neighbouring areas should also be taken into account when establishing the amount of housing to be planned for”.

2.23 At page 2 of the Draft Local Plan it states that a review will need to be undertaken once strategic issues have been identified and progressed as part of the South West Herts Joint Strategic Plan. However this is a primary issue that should have been thoroughly considered by SACDC as part of the preparation of the Plan submitted for examination and not deferred to a future Strategic Plan, with indeterminate timescales.

2.24 The failure to consider whether more housing sites should be allocated for development as part of this Plan is contrary to paragraph 60 of the NPPF. This is because there is a clear indication that the unmet needs of other, more constrained authorities, will not be met until either a much later point in the future or potentially not at all.

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?

2.25 In September 2016 the Inspector, David Hogger, recommended that the St Albans Draft Strategic Local Plan (SLP) should be withdrawn after he found that the Local Planning Authority had failed to meet the Duty to Cooperate. SACDC challenged the Inspector's decision but following the decision in July 2017 by the High Court to dismiss the judicial review the Council instead decided to prepare a new Local Plan.

2.26 Since the High Court judgment, SACDC have generally taken a more proactive approach to engaging with other neighbouring authorities and the evidence suggests that the necessary minimum legal requirements of the statutory duty may have been met. However as set out above, no agreement has been reached regarding the unmet needs of Watford and Dacorum. Therefore despite the tactical engagement undertaken to date with some neighbouring authorities, we do not consider that the proposed outcome with regards to the overall housing provision being planned for in the SACDC area is consistent with national policy.

2.27 The resolution in relation to Dacorum Borough, is for at least 25% of the East Hemel Hempstead allocation to be appropriated to this Council which will, in some part, meet the unmet needs of this neighbouring Authority. There is also an aspiration by the West Hertfordshire Hospital Trust to develop a single planned care hospital within the East Hemel Hempstead Broad Location (see Our Matter 7 Statement) which will also allow the redevelopment of the existing Hemel Hempstead site to additionally contribute to meeting, in part, some of Dacorum's needs.

2.28 The evidence therefore clearly indicates that in order to assist significantly constrained areas such as neighbouring Dacorum and Watford, SACDC should be seeking to allocate a much greater scale and range of additional housing sites for development.

