

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

**Matter 3 – The Spatial Strategy, Settlement  
Hierarchy and Development Strategy  
(Policies S1 and S2)**

**Responses on behalf of  
M Scott Properties Limited**

December 2019

**Turley**

# Contents

1.	Introduction	3
2.	Responses to the Spatial Strategy	4
Appendix 1: SACDC Strategic Local Plan (2016) Inspector's Post Hearing Letter		

Nichola Traverse-Healy  
nichola.traverse-healy@turley.co.uk

**Client**

M Scott Properties Ltd

**Our reference**

SCOC3009

12 Dec 2019

# 1. Introduction

- 1.1 This Statement has been prepared by Turley on behalf of M Scott Properties Ltd (herein referred to as Scott Properties), pursuant to Matter 3 (Spatial Strategy, Settlement Hierarchy and Development Strategy (Policies S1 and S2)) of the St Albans Local Plan Examination.
- 1.2 Scott Properties are promoting land to the west of Watling Street, Park Street, for the delivery of residential development, including a minimum of 50% affordable housing to be delivered within the first 5 years of the Plan. Scott Properties has submitted written representations in connection with the promotion of this sustainable site to all previous consultation stages of the emerging Local Plan.
- 1.3 Scott Properties maintains its objection to a number of policies within the emerging St Albans City and District Local Plan, as set out in the submitted 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 to be sound in its current form and requires major modification.
- 1.4 The primary areas of concern in relation to Matter 3 relate to the following issues:
  - The plan period, commencing from 2020 not 2018, is contrary to national guidance and will not seek to address any under delivery during this period;
  - The robustness of the Sustainability Appraisal and the lack of a genuine assessment of suitable alternatives to inform the Spatial Strategy;
  - Inconsistent and incorrect application of the Green Belt exceptional circumstances policy test, resulting in a deficient Spatial Strategy with an over-reliance on a small number of large development sites;
  - An over-concentration of strategic development to the west of the M1 corridor east of Hemel Hempstead, relative to other key locations in the District, in particular the 'Category 2' Settlements of Park Street and Frogmore, How Wood and Bricket Wood, all with existing rail stations;
  - Specific delivery and timing issues in relation to the East Hemel Hempstead and Park Street Village broad locations, with over 40% of the housing allocations directed to only two broad site locations;
  - The lack of any flexibility in the overall development strategy to respond to rapid change or delay in the delivery of the broad locations; and
  - The exclusion of small and medium sized sites, which would contribute towards the immediate housing need (most notably affordable housing) and allow the Council to address its housing shortfall within the first 5 years.
- 1.5 The remainder of this Statement responds directly to the questions raised by the Inspector. Scott Properties and its professional advisors have also requested to participate in the relevant Matter 3 Hearing Session to articulate the issues within this Statement.

## 2. Responses to the Spatial Strategy

**Q1) What is the basis for the overall spatial strategy and broad distribution of growth set out in policy S1? What options were considered and why was this chosen?**

- 2.1 The entire premise of the Spatial Strategy is flawed, beginning with the decision of St Albans City and District Council (SACDC) to establish the plan period as commencing from 1 April 2020 – 1 April 2036.
- 2.2 In establishing the housing requirement, the Council have used the standard methodology as set out in the NPPF and its associated guidance. With regards to establishing the base date for the housing requirement, the Planning Practice Guidance states at paragraph 004 Reference ID: 2a-004-20180913 that 'this should be 10 consecutive years, with the current year being the first year'.
- 2.3 By setting the requirement to start in 2020 and not 2018 the Council are simply not accounting for two years of assessed housing needs, from the point at which needs are meant to be set. This approach is contrary to national guidance and in addition will not seek to address any under delivery during this period, amounting to 1826 dwellings based on the standard method figure of 913 homes per annum.
- 2.4 Whilst the plan may not be adopted until 2020 the housing requirement must start from the point at which needs are calculated. The current approach is not considered to meet the tests of soundness. To meet the needs of the District between 2018 and 2036 additional sites should be allocated, in sustainable locations such as Park Street, which would contribute towards the immediate housing need (most notably affordable housing) and allow the Council to address its housing shortfall within the first 5 years.
- 2.5 As set out in our representations to the Regulation 19 Draft Local Plan, Scott Properties are in part supportive of the approach set out under Policy S1, which identifies the most sustainable settlements in terms of accessibility to local services, community facilities and public transport. In particular we support the identification of Park Street & Frogmore as a Category 2 Settlement. However, the rationale for the broad distribution of growth is very poorly defined. The policies which present the spatial strategy and the development strategy have no supporting or explanatory narrative. Therefore in the absence of any suitable explanation for the construct of Policy S1, it is necessary to cross reference with other documents in the evidence base in an attempt to find the justifications for the approach taken. The evidence in this regard is however materially deficient and in the absence of clear and reasoned justification, Policy S1 does not meet the soundness tests set out at paragraph 35 of the NPPF.
- 2.6 The spatial strategy is fundamentally flawed as it is predicated upon a Sustainability Appraisal (SA) which does not objectively appraise the potential impacts of the Plan, the proposed allocations and all other reasonable alternatives to the same level of scrutiny to properly identify their contribution to sustainable development. The SA is the primary mechanism for assessing and enhancing the sustainability performance of policies and allocations within a draft plan to ensure that new development is directed to the most sustainable locations within the local authority area. However by reason of the arbitrary exclusion from consideration of all small to medium Green Belt sites in

sustainable locations, irrespective of their contribution to sustainable development, the SA is materially unsound (see our Matter 1 Statement).

- 2.7 National guidance (PPG) advises that the SA should predict and evaluate the effects of the preferred approach and reasonable alternatives and should identify the significant positive and negative effects of each alternative. The SA should outline the reasons the alternatives were selected, the reasons why rejected options were not taken forward and the reasons for selecting the preferred approach in light of those alternatives.
- 2.8 However it is clear that a more subjective conclusion has been reached, that considers only large-scale development (14 ha and/or 500 units and above) as the appropriate model for growth to the exclusion of lesser scales of development. This is based on the erroneous perception that only this minimum threshold of development can provide significant new infrastructure along with policy compliant levels of affordable housing.
- 2.9 There is however no evidential basis for this judgement, which fails to recognise the wider cumulative benefits that can accrue from smaller sites. There are also tensions with the CIL Regulation 122 tests as infrastructure contributions can only be levied in order to make a proposed development acceptable in planning terms. The benefits accruing from any scale of development as part of the growth strategy are therefore able to address impacts arising from that development.
- 2.10 Furthermore, the Community Infrastructure Levy Regulations (2019) are now in force and have ended the former pooling restrictions which enables SACDC to take a more objective, plural approach to the spatial strategy and the apportionment of obligations. Consequently there is no justification for excluding lesser scales of new development from the spatial strategy on the basis of future infrastructure provision, as all scales of development can proportionately contribute to new infrastructure within the district.
- 2.11 To summarise, there is a tangible lack of evidence to justify the basis for the overall spatial strategy and the broad distribution of growth as set out in policy S1. In terms of the options considered, the SA did identify some alternative strategies, but they were not properly considered as reasonable alternatives because they involved reliance on a scale of development that was judged to be contrary to the pre-determined Green Belt methodology set for the Plan.

**Q2) Is the growth in large villages consistent with their position in the settlement hierarchy set out in policy S1?**

- 2.12 The 'Tier 2 - Large Villages' have an important role and settlement function with a range of services and opportunities for employment, retail and education. There is a key corridor of Large Villages (Park Street and Frogmore, How Wood and Bricket Wood) that benefit from a train station on the Abbey Main Line that would be sustainable areas for growth, whilst also supporting the existing facilities and services for the long term.
- 2.13 Despite the level of services available and access to public transport opportunities, housing growth over the plan period around large villages is limited to one site, to the west of Chiswell Green. This strategy is not consistent with the position of large villages

in the settlement hierarchy and contrary to paragraph 78 of the NPPF which states that:

*“Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services”*

- 2.14 In the case of Park Street new residential development would not only provide much needed affordable housing, but help to support local services. An example being the declining usage of Park Street Train Station. The total number of entries and exits from Park Street train station in 2012 was 35,618, this reduced to 20,202 in 2017, representing a 43% reduction.
- 2.15 The current approach set out under Policy S1 directs a significant proportion of the District’s housing need to Park Street Garden Village, a settlement which doesn’t currently exist, whilst more sustainable settlements such as Park Street and Frogmore, How Wood and Bricket Wood, all with existing rail stations, are completely overlooked.
- 2.16 Scott Properties do not object in principle to the inclusion of a new settlement as part of the development strategy. However, it should also be recognised that due to the significant infrastructure requirements and lead in times associated with new settlements and strategic sites, it is critical that a range of smaller and medium sized sites, such as land west of Watling Street, are brought into the spatial mix of the Plan.

**Q5) Is there a need to define settlement boundaries?**

- 2.17 Beyond the urban areas, the District is designated as Green Belt. As stated at paragraph 136 of the NPPF 2018:

*“Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period.”*

- 2.18 To ensure that the Local Plan has identified sufficient sites to meet the housing needs of the District, settlement boundaries should be clearly defined. In accordance with paragraph 136 of the NPPF 2018, the amendment of settlement boundaries should be established in Policies S1 and S2 of the Local Plan.

**Q6) Is the proposed development strategy set out in policy S2 appropriate and realistic?**

- 2.19 Policy S2 sets out the proposed development strategy for new homes and employment during the period 2020-2036. The accompanying diagram identifies a limited number of broad locations for strategic housing growth, which are almost exclusively focused only on the top tier settlements in the District. It is fundamental test of soundness that a Local Plan demonstrates a clear and logical connection between the identification of the future strategic priorities of the area and the resultant allocation of land to accommodate the growth that will deliver on those strategic priorities. However as the

Development Strategy does not adequately set out any context for the District, this translates into a vague and generic vision for the area, with a lack of clear, strategic priorities resulting in an incoherent Development Strategy.

- 2.20 The Development Strategy is flawed on numerous counts. The principal issue being the clear lack of any properly considered alternatives in the SA, which fetters the ability of the Strategy to genuinely deliver upon the most pressing strategic priorities of the district (the persistent, chronic undersupply of affordable housing). The Development Strategy is also heavily compromised by the automatic exclusion of sites smaller than 14 ha / 500 dwellings.
- 2.21 The perception of the need for a minimum development scale threshold in order to satisfy the Green Belt exceptional circumstances test however has no evidential basis and is therefore an entirely subjective judgement. This approach is also inconsistent with national planning policy and runs counter to the judgement of the Secretary of State in other Hertfordshire authorities in the recent adoption of Local Plans (see our Matter 4 Statement).
- 2.22 The Development Strategy in the current Plan largely mirrors that of the Council's earlier Strategic Local Plan (SLP) submitted for examination in August 2016, but which subsequently failed the Duty to Cooperate in November 2016. Whilst the examining Inspector mainly focused on legal compliance within his letter of 28 November 2016, the Inspector also concluded there was a significant risk that the SLP, as presented, would also be found unsound. The inspector reasoned that the SLP was not based on effective joint working on strategic matters and that there was insufficient evidence to suggest that the SLP had been positively prepared (see Appendix 1).
- 2.23 The current Development Strategy is not justified as it has not been prepared using an appropriate strategy, rather it is a clear derivative of the earlier failed Strategic Plan with the inclusion of further broad locations, predicated on a very similar methodology. This is reflected in the fact that although a Call for Sites exercise was held until 21st February 2018 and the evaluation methodology set by the Planning Policy Committee as late as March 2018, within just two months (May 2018) a draft Plan was presented to the same Committee containing 11 of the current Broad location sites.
- 2.24 Given the scale and nature of work required to develop the proposals for each of the Broad Locations (combined with the fact that they were presented to the Committee alongside the results of the Call for Sites exercise) the conclusion to be drawn suggests that the outcome of the evaluation had been pre-determined. This seriously calls into question whether the Call for Sites exercise was undertaken objectively and without prejudice, or was merely a perfunctory statutory exercise to validate a largely pre-determined preferred Development Strategy.
- 2.25 This has resulted in the most significant feature of spatial strategy within the Local Plan being an almost exclusive emphasis on strategic sites, with nearly 70% of the housing delivery in the Plan coming from the Broad Locations. There is also a heavily reliance upon only two locations at Hemel Hempstead and the recently allocated Park Street Village to deliver over 40% of the total housing numbers required (6,000 homes) during

the new Plan period. In total, nearly 50% of all new housing in the Plan period (around 7,000 homes) is proposed from strategic sites of 1,000 dwellings or more.

- 2.26 Whilst we do not question the principle of populating the Development Strategy with a proportionate amount of strategic development, the current strategy is too 'top heavy' as was the case with its failed 2016 SLP predecessor. In essence, the strategy lacks the flexibility necessary to address the existing strategic priorities of the District, notably affordability, particularly in the early years of the Plan. There is also no 'Plan B' with a development strategy predicated upon a static model for delivery, with no allowance made for delay or failure to deliver from one of the key sites.
- 2.27 There is acute need for affordable homes in St Albans District. Affordability ratings, comparing the costs of buying a home in an area with average levels of regional pay, show that the cost of home ownership in five cities, including at St Albans, is now more than 10 times the average local income. Policy S2 is neither appropriate, nor realistic, relying only on a few large strategic sites to deliver all of the District's market and affordable housing over the plan period.
- 2.28 Contrary to paragraph 11 of the 2018 NPPF, this approach provides very limited flexibility and will not deliver the level of housing required to meet the needs of the District. The level of infrastructure provided for in the policies for the Broad Locations is likely to render the provision of policy compliant level of affordable housing unviable and result in further under-delivery. Therefore to ensure that the strategy is sound in accordance with the requirements of paragraph 35 of the NPPF, additional sites need to be identified, consistent with the objective of sustainable development.
- 2.29 Such sites need to be genuinely capable of delivering in the first five years of the Plan, thereby ensuring that identified housing needs are met throughout the whole plan period following adoption. The current failure by the Council to consider the potential for smaller sustainable sites to be released with minimal Green Belt harm has therefore distorted the development strategy, which fails to provide the correct balance of housing, including an appropriate buffer, to boost overall supply.

**Q7) Will this provide a sufficient mix of sites and provide the size, type and tenure of housing to meet the needs of different groups in the community? Does this reflect the evidence from a local housing needs assessment?**

**Q8) Should the Plan include some small and medium size sites in order to provide greater choice and flexibility and accord with NPPF paragraph 68?**

- 2.30 We do not consider that SACDC's development strategy provides a sufficient mix of sites to meet the needs of those who require affordable housing within the District, contrary to paragraph 61 of the NPPF. We have concerns as to the longer lead-in times for the Broad Locations, owing to their size, complexity and the level of infrastructure required within Policy S6 which could delay the delivery of much needed housing, including affordable housing, towards the later years of the Plan. The use of the stepped trajectory, which, as set out in our Matter 8 statement is unjustified and exacerbates this.



- 2.31 In addition, we also expressed our concerns as to the ability of the Broad Locations to deliver 40% affordable housing in our Matter 6 statement, given the level of infrastructure required and the lack of evidence to demonstrate this is viable.
- 2.32 To address this, the Plan should allocate additional, suitable small and medium sized sites, such as the land to the west of Watling Street, Park Street, to boost housing delivery in the early years of the Plan, helping to address the chronic shortfall in the supply, as highlighted in our Matter 8 statement.

## **Appendix 1: SACDC Strategic Local Plan (2016) Inspector's Post Hearing Letter**

To: Chris Briggs  
Spatial Planning Manager  
St Albans City and District Council  
St Peters Street  
St Albans  
AL1 3JE

28<sup>th</sup> November 2016

Dear Mr Briggs

**St Albans Strategic Local Plan  
Duty to Co-operate (Issue 1)**

1. Further to the Initial Hearing Session (HS) held on 26<sup>th</sup> October 2016, I set out below my conclusions with regard to the duty to co-operate (DtC).

**Preamble**

2. The Council's evidence is initially included within Core Document CD 015: the Duty to Co-operate Statement of Compliance. However, I have also taken into account the Council's Statement in response to my questions in relation to Issue 1; the Council's contributions to the debate at the HS; other written evidence such as CD011: Consultation Report – Addendum 2016 Consultation and CD016: Monitoring Report; and the further evidence submitted following the hearing. Similarly I have considered the relevant evidence in the representations made with regard to the publication draft Strategic Local Plan (SLP), the further Statements and legal opinions that have been submitted by interested parties, the points they raised at the HS and the comments they have made regarding the post-hearing submissions.
3. It has been suggested by an interested party that great weight should be attached to the fact that St Albans has a very old local plan (1994) and that every effort should be made to find the SLP sound, albeit this may require a temporary suspension of the examination in order for additional work to be undertaken. However, whilst I understand and fully support the need to secure up-to-date local plan coverage, the DtC is an 'independent' legal requirement, which either has or has not been fulfilled.
4. For the avoidance of doubt the references to 'Joint Statement' in this letter relate to the Hearing Statement submitted on behalf of Dacorum, Hertsmere, Three Rivers and Watford Councils.

**Legislative Background**

5. Section 33A of the Planning and Compulsory Purchase Act 2004 establishes the legal duty to co-operate in relation to planning of sustainable development and stipulates that, in this case, the City and

District Council (SADC) is required to engage constructively, actively and on an on-going basis in any process related to the preparation of development plan documents. The Council must have regard to the activities (insofar as they relate to a strategic matter) of any relevant local planning authority, county council or other prescribed body or person. The engagement should include considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of a number of activities, including the preparation of development plan documents. Regard must be given to any guidance on the matter published by the Secretary of State.

6. This latter requirement is of particular relevance in this case. The legislation refers to strategic matters which are, in summary, sustainable development or the use of land that would have a significant impact on at least two planning areas. Further guidance, however, is included within the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG). The NPPF refers to Strategic Priorities (e.g. paragraph 156) and the PPG to both Strategic Priorities (e.g. paragraph 002) and Strategic Matters (e.g. paragraph 001). Whilst such advice cannot override the statutory provisions (which refer to strategic matters), it is clear that it must be taken into account because it includes national guidance on the DtC. I have proceeded on that basis.
7. The following paragraphs summarise the published guidance which the Council are required to have regard to.
8. The NPPF<sup>1</sup> confirms that public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those that relate to strategic priorities, such as the delivery of homes and jobs needed in an area and the provision of infrastructure, for example in relation to transport. Strategic priorities across local boundaries should be properly co-ordinated and clearly reflected in individual local plans. The implication is that local planning authorities should, for example, work together to assess the opportunities that exist for the substantiated unmet development requirements of one local authority to be met within the area of one or more nearby local authorities. The emphasis is on diligence and collaboration.
9. Although I am primarily considering the legal duty to co-operate, it is important to record that for the SLP to be found sound (as opposed to legally compliant) it must be positively prepared and effective. This means it must be based on effective joint working on cross-boundary strategic priorities and where appropriate and sustainable, on a strategy which seeks to meet unmet requirements from neighbouring authorities.
10. Further advice is included in the PPG which confirms that a proactive, ongoing and focussed approach to strategic planning and partnership working is required. Active and sustained engagement is required, evidence of co-operation must be robust and co-operation should produce effective and deliverable policies on strategic cross-boundary matters.

---

<sup>1</sup> Paragraph 178

The exchange of correspondence, conversations or consultations between authorities alone is unlikely to be sufficient.

11. I have taken into account the fact that the duty is not a duty to agree and for example, just because SADC does not agree with nearby Local Planning Authorities regarding the definition of the Housing Market Area, this does not, in itself, demonstrate that the DtC has not been met.
12. I believe that the Report to Planning Policy Committee entitled 'Review of Neighbouring/Nearby Authority Planning and Duty to Co-operate Update' (dated 7<sup>th</sup> October 2014) clearly demonstrates that the Council fully understands the responsibility it has in terms of the duty.
13. Finally I have placed significant weight on the evidence provided by SADC, the other nearby Councils and the County Council because in this case they are the main parties to which the duty applies.

### **Strategic Cross-Boundary Matters and Priorities**

14. The first sentence of paragraph 156 of the NPPF is unambiguous – local planning authorities should set out the strategic priorities for the area in the Local Plan. Paragraph 178 goes on to explain that public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities. Paragraph 179 confirms that local planning authorities should work collaboratively to ensure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual local plans.
15. There is no clear indication in the submitted SLP as to what the strategic priorities are, particularly those with cross-boundary implications. The Council directed me, in paragraph 14 of its Statement, to the priorities that are set out on page 5 of the Duty to Co-operate Statement of Compliance (CD015). In the same document there is a relatively brief explanation of the central issues relating to the DtC (pages 11 to 19). However, CD015 was only published in August 2016, towards the end of the current phase in the plan making process.
16. The SLP includes three paragraphs relating to the sub-regional context (page 12). These include references to employment, travel, retail, leisure and environmental matters but there is no reference to housing. On page 14 (paragraph 2.18) the key issues and challenges for the District are listed (as identified in the Council's 2009 Sustainable Community Strategy) but although affordable housing is identified as a key issue, there is no reference to the need for market housing. There is a reference to the 'provision of new housing' under strategic objective 2 (page 20) and in the two paragraphs under 'Wider Spatial Planning and Duty to Co-operate' (page 25) there is a reference to fully engaging in addressing 'sub-regional and regional strategic spatial planning issues'. However, although the sub-regional context is briefly summarised, nowhere in the SLP is there a clear explanation or detailed identification of what all those sub-regional and regional issues are or how the Council has addressed them.

17. At the hearing the Council confirmed that there is no specific list of strategic cross-boundary matters or priorities in the plan but that they are nevertheless implicitly reflected in the content of the SLP. That may be the case but without a clearer indication of what the Council considers those strategic issues to be, it is uncertain how all the relevant parties could co-operate in a meaningful and constructive manner.
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.
19. Despite the lack of detailed reference in the SLP to strategic matters and priorities, there is no reason to doubt that the Council has been aware of what those priorities for the area are from the early stages of plan preparation but this is not made sufficiently clear in the SLP. It would be difficult for someone reading the SLP to draw any firm conclusions regarding strategic cross-boundary matters and priorities and in turn they would not be able to conclude whether or not those issues had been properly addressed by the Council. On the evidence submitted I am unable to conclude that cross boundary strategic matters and priorities have been afforded appropriate weight in the plan-making process in St Albans.
20. Although this matter, on its own, may not be terminal in terms of making progress on the Examination, the lack of clarity regarding this issue does not provide a secure foundation from which other matters of co-operation can be assessed. If strategic cross boundary matters and priorities are not clearly identified it is difficult to see how effective and deliverable policies to address those issues can be drawn up.

### **Processes Undertaken**

21. Although there is no specific requirement to establish a framework through which the DtC can be monitored (for example in terms of frequency of meetings, issues to be addressed, outcomes to be anticipated and bodies to be involved) a more structured approach may have assisted in demonstrating the Council's commitment to co-operation.
22. A number of local planning authorities that were represented at the Hearing confirmed that in their opinion there was no structure in place in terms of the regularity and frequency of joint meetings and that many of the meetings were 'high level' where issues were addressed in a 'broad-brush' way, indeed the Council itself described some of the meetings as being 'over-arching'.
23. Quarterly Reports are presented to the Planning Policy Committee but it is not clear from the examples provided in CD015 whether or not the recommendations were agreed and if so, what the outcomes were.

24. Although this is not a matter on which my conclusions have turned I do consider that if a more rigorous approach towards establishing the 'mechanics' of the DtC had been adopted by the Council (remembering that it is not a duty to agree), then the arguments advanced by the Council would be more persuasive.

### **The Requirements of the Duty**

#### ***Has Engagement been Constructive from the Outset?***

25. There has been engagement between St Albans Council and nearby local planning authorities, particularly in the earlier stages of plan-making, for example in relation to the 2008 Strategic Market Housing Assessment (SHMA) and employment work undertaken in 2009. Constructive engagement in more recent years appears to be less evident and it is difficult to conclude that the Council has approached cross-boundary priorities in a meaningful and positive way. SADC recognises that there are 'strong economic and spatial relationships with neighbouring towns, particularly Hemel Hempstead, Welwyn Garden City, Hatfield, Watford and Luton'<sup>2</sup>. However, there is no persuasive evidence that the Council has pro-actively sought meaningful engagement with all of these and other nearby Local Planning Authorities. Meetings have been held and doubtless appropriate issues have been discussed but it needs to be demonstrated that cross-boundary issues, for example in terms of housing, employment and infrastructure provision, have been fully addressed and that opportunities to be constructive have been given appropriate consideration and where necessary have been acted upon. I acknowledge that there may be difficult issues to tackle but that is no reason to adopt a less than constructive approach throughout the plan-making process.

#### ***Has Engagement been Active?***

26. The Council refers to the various groups that meet on a bi-monthly basis<sup>3</sup> and it is clear that the Council has attended these meetings at both political and officer level. However, the Agendas and Minutes of those meetings that were submitted do not enable me to conclude that the Council has been sufficiently active in seeking engagement with nearby local planning authorities (for example those with which it acknowledges it has a strong economic and spatial relationship – see paragraph 25 above), with a view to quantifying and tackling cross-boundary matters and priorities, particularly (but not exclusively) in terms of housing provision.

#### ***Has Engagement been On-going?***

27. Co-operation should start with the 'initial thinking' (NPPF paragraph 181) and evidence of effective co-operation from the earliest stages up to the submission of the SLP (and beyond if necessary) should be demonstrated. It is reasonable to conclude that in order to achieve this objective, there

---

<sup>2</sup> Page 4 of CD015

<sup>3</sup> Paragraph 66 of Statement

should be continuing and frequent engagement, even if that engagement is only to provide an up-date on issues of strategic relevance.

28. I am satisfied that there have been opportunities for the Council to engage with nearby Councils throughout the plan-making process – whether or not those opportunities have been maximised is another issue. I am concerned, for example, that the Council did not reply to a letter requesting a meeting (dated 11<sup>th</sup> April 2016) from Three Rivers District Council (on behalf of four south-west Herts LPAs) for over 5 months, despite being sent a reminder via e-mail. The letter also includes a request for housing data to be forwarded<sup>4</sup>.
29. The Council's response<sup>5</sup> includes an apology for the delay but also refers to 'difficult dilemmas', 'past, difficult political level discussions' and 'the technical, political and practical challenges of developing a plan in St Albans'. I completely accept that plan preparation is not always straightforward but the significant delay in responding to a request for a meeting does not demonstrate that engagement has been on-going.
30. Furthermore the aforementioned response (dated 23<sup>rd</sup> September 2016) includes a list of 13 bullet points which summarise the 'matters we should all now be considering and crucially clarifying at a political level'. Several of the 'matters' referred to relate to the duty and in my opinion should have been addressed much earlier in the plan-making process, rather than a month before the hearing session (for example DtC outcomes not delivered; the level of cross-boundary agreement; and proposals for new joint technical work). This is another indication that engagement has not been on-going from the earliest stages in plan preparation.
31. I am told in the 'Joint Response'<sup>6</sup> that there has been a significant delay in the publication of draft Minutes of a DtC meeting held in February 2016 (for example Hertsmere received them on 10<sup>th</sup> November 2016). More significantly it is confirmed that the four LPAs do not accept them 'as being a fair record of the issues raised by the four Authorities on which they sought unsuccessfully to discuss'. I acknowledge that SADC has not had the opportunity to respond to this claim but it nevertheless provides a further indication that satisfactory engagement has not been achieved.

### ***Has Engagement been Collaborative?***

32. The Council needs to demonstrate that it has worked with the relevant bodies in a co-operative and positive manner. The correspondence I refer to in the section above demonstrates that there has been a lack of meaningful collaboration. The Joint Statement (paragraphs 3.3 to 3.6) provides examples of invitations to St Albans to participate but there appears to have been a reluctance to accept and contribute to the debate. As already stated, there is no obligation on the Council to agree with its neighbours but without even entering fully into the debate, it is difficult to conclude that there has been collaboration.

---

<sup>4</sup> Appendix 10 of Joint Statement

<sup>5</sup> Appendix 11 of Joint Statement

<sup>6</sup> Ref: 872722-2



### ***Has Every Effort been made to Secure the Necessary Co-operation?***

33. The Council needs to demonstrate that no stone has been left unturned in the pursuit of co-operation. Active and sustained engagement should be the objective. However, there is little evidence that a rigorous approach has been adopted by the Council. The evidence provided, for example in the appendices to the Joint Statement, set out some of the efforts made across Hertfordshire to secure co-operation. However, it appears to me that SADC has not made every effort to become fully involved in the processes, to engage fully and to explain to other nearby LPAs its approach towards, for example, housing and employment provision and the related evidence on which the Council relies. The references to 'watching briefs'<sup>7</sup> and 'general liaison'<sup>8</sup> do not instil confidence that every effort has been made.

34. There is a Memorandum of Understanding (MoU) prepared by the Hertfordshire Infrastructure and Planning Partnership (HIPP) (May 2013). Its purpose is to 'provide a framework through which HIPP members will commit to engaging constructively, actively and on an on-going basis with each other ...'. Among the stated objectives are (and I summarise):

- To provide the opportunity to work collaboratively across local boundaries on issues of broader strategic importance;
- To facilitate the achievement of a broad, co-ordinated but consistent approach to strategic spatial planning;
- To facilitate joint working on strategic issues which affect more than one local authority area; and
- To ensure that policies prepared by each local authority are, where appropriate, informed by the views of other local authorities in Hertfordshire.

35. These are appropriate objectives to establish but there is little evidence that SADC has made the necessary effort to ensure that they are satisfactorily achieved. The aim is to encourage continuous partnership working on issues that go beyond a single local planning authority's area.

36. As I confirm in paragraph 25 I am aware that there has been a relatively high level of co-operation and joint work undertaken in Hertfordshire in the past. However, any momentum that may have been generated at that time appears to have dissipated and it cannot be concluded that SADC has made every effort secure co-operation throughout the entire plan-making process to-date.

### ***Has Engagement been Diligent?***

37. In order to demonstrate diligence it is reasonable to conclude that the Council's approach should have been careful, thorough and with

---

<sup>7</sup> For example in paragraph 5.1 of the Report to Planning Policy Committee on 7<sup>th</sup> October 2014 (see CD015)

<sup>8</sup> For example in Table 1 of CD015

commitment. However, no in-depth analysis of the issues facing the local planning authorities in the area appears to have been undertaken by St Albans and no robust assessment of how those issues should be addressed has been prepared. The level of diligence, particularly in terms of seeking engagement, has not been high.

### ***Is the Evidence Robust?***

38. Whilst I understand the need to strike an appropriate balance in the submission of evidence, I would not describe the Council's submissions as comprehensive and, drawing together all the threads in the previous paragraphs, it can be concluded that the evidence of co-operation on cross-boundary matters and priorities is not robust.

### ***Has Engagement been of Mutual Benefit (the broad outcomes)?***

39. Taking all factors into account the answer to this question must be no, especially as there are objections to the approach of St Albans City and District from several nearby local planning authorities. Mutual benefit, in terms of strategic matters and priorities, does not appear to have been at the top of the list for the Council. As I have intimated elsewhere, it may not be possible to achieve a high level of mutual benefit and as I have already made very clear, there is no requirement for Councils to agree. However, if that is the case then robust evidence has to be available to demonstrate that at least the achievement of mutual benefit has been sought.

40. The 2013 MoU establishes the objectives for co-operation and makes it clear that if requested an LPA will meet with and discuss any issues raised by one or more of the other HIPP local authorities and take into account any views expressed. On the evidence submitted I am unable to conclude that St Albans City and District Council has given sufficient weight to enacting the approach embodied in the MoU and that consequently any engagement that has occurred has not been of mutual benefit.

### **Planning Topics**

41. Concerns have been raised by interested parties regarding co-operation in relation to a number of planning topics, including housing, transport, gypsies and travellers, employment, the provision of infrastructure and the green belt. Although in the view of some respondents the level of co-operation regarding the consideration of these issues falls well short of what might be expected, I would have been content to address many of the concerns raised in subsequent hearing sessions which would have considered matters of soundness. I am therefore restricting my comments in this regard to only one issue that has clear DtC implications.

42. I share the concerns of Dacorum Borough Council regarding the role that land to the east of Hemel Hempstead could play in terms of housing provision. Policy SLP 13(a) states that the urban extension of Hemel Hempstead would 'meet the needs of the St Albans housing market area'. Paragraph 4.5 of the SLP confirms that 'development needs arising in the

District can readily be met in this location'. This may be an appropriate approach to take but the Report into the Dacorum Core Strategy<sup>9</sup> refers to meeting that Borough's housing needs 'including in neighbouring Local Planning Authority areas' (e.g. in St Albans). At the very least I would have expected a much clearer process for the consideration of the role of this land. At the end of the day the Council's decision to allocate all the land to meet the needs of St Albans may well be justified but in order to reach that conclusion there needs to have been a proper consideration of all the issues by all the interested parties and there is no substantive evidence that the appropriate level of collaboration and engagement on this matter has been sought or achieved.

43. Although this by itself is not a matter on which my decision has turned, it adds weight to my overall conclusion and is a further indication that the level of co-operation falls short of what is expected.

### **The Effectiveness of the Strategic Local Plan (in relation to soundness)**

44. To be effective the SLP must be based on effective joint working on cross-boundary strategic priorities (for example housing provision). I understand the conclusions that the Council has drawn with regard to accommodating additional growth but those findings do not appear to be based on collaborative working or effective co-operation with other bodies. It may be that the Council's conclusions are correct, for example in terms of housing numbers and the definition of the Housing Market Area, but on the evidence before me I am unable to confirm that St Albans City and District Council has given adequate consideration to helping meet the development needs of other nearby local planning authorities. In these circumstances the plan would not be effective and therefore it could not be found to be sound.

### **Conclusion and the Way Forward**

45. I have taken into account all the relevant representations (including those in support of the Council for example from the Local Enterprise Partnership and the Home Builders Federation). However, the evidence submitted clearly demonstrates to me that the duty has not been met by St Albans City and District. A small number of nearby Councils consider that the duty has been met but there is no opportunity for a Council to be selective over which of its 'neighbours' it co-operates with.
46. The evidence does not enable me to conclude that prior to the submission of the SLP, St Albans City and District Council gave satisfactory consideration to identifying, addressing and seeking co-operation with regard to strategic cross-boundary matters and priorities. The legal requirements, as expanded upon in paragraphs 178 to 181 of the National Planning Policy Framework and in the Planning Practice Guidance, have not been fulfilled and therefore **it is with regret that I must conclude that the Duty to Co-operate has not been met.** As the Plan has not been based on effective joint working on strategic matters and priorities

---

<sup>9</sup> Appendix 1 of Joint Statement

and because currently there is insufficient evidence to demonstrate that the SLP has been positively prepared, there is also the significant risk that the Plan could be found to be not sound.

47. It must be emphasised that this does not mean that St Albans City and District should be expected to accommodate additional growth – that is not necessarily the case. What it does mean is that the Council should give detailed and rigorous consideration to strategic cross-boundary matters and priorities and draw robust conclusions with regards to whether or not any of those priorities could be delivered in a sustainable way within the District, bearing in mind the environmental and other constraints that exist.
48. I understand that this is not the conclusion that the Council would have wanted and that there may be consequences in terms of the Council's housing land supply and the adoption of an up-to-date Development Plan. Nevertheless these factors cannot outweigh the legal requirement for the Council to engage constructively, actively and on an on-going basis with those bodies (as appropriate) identified in the 2004 Planning and Compulsory Purchase Act (as amended).
49. Under the circumstances this leaves two options. Firstly the Council could decide to receive my Report, however, given my findings I would have to recommend non-adoption of the SLP. Alternatively the Council may choose to withdraw the SLP under S22 of the Planning and Compulsory Purchase Act 2004 (as amended). In any event I would advise the Council to undertake a more rigorous assessment of cross-boundary matters and priorities, particularly in conjunction with nearby LPAs and the County Council, draw justified conclusions and in so-doing ensure that it meets the requirements of the Duty to Co-operate. Any necessary consultation should be undertaken and a revised Plan re-submitted as soon as possible.
50. Although I have not tested the evidence (and it has no bearing on my conclusions with regard to the DtC) I would remind the Council about my initial pre-hearing concerns regarding the soundness of the SLP which I outlined in my letter dated 22<sup>nd</sup> August 2016 entitled 'Preliminary Concerns of the Inspector'.

Yours sincerely

*David Hogger*

Inspector