

ST ALBANS CITY AND DISTRICT LOCAL PLAN 2011 – 2031 EXAMINATION

INITIAL HEARING SESSION THE DUTY TO COOPERATE

Preliminary remarks

1. At the time the HBF prepared its response to the Regulation 19 consultation of the St Albans Strategic Local Plan (SLP), there was insufficient information to judge how far the Council had engaged with the Duty to Cooperate (DTC).
2. Since then the Council has published its *Duty to Cooperate Statement of Compliance*, allowing the HBF to re-consider whether or not the DTC has been met. This is allowed by the *Procedural Practice in the Examination of Local Plans* (PINS, June 2016).

1. *Have cross-boundary strategic priorities been properly identified?*

3. The *Statement of Compliance* (the *Statement*) provides important evidence demonstrating how the Council has sought to engage with the DTC. It documents what the Council considered the relevant strategic issues to be, when these were discussed with other relevant bodies, and what conclusions were reached.
4. The degree to which the Council has needed to engage under the DTC is dictated by the identification of cross-boundary influences. The SLP refers to wider spatial influences, such as the acknowledgement in paragraph 2.1 that the Hertfordshire towns are strongly influenced by London, and that there are major national and international transport links in St Albans district (paragraph 2.10). Paragraph 2.22 refers to the role of the green belt within St Albans in controlling the growth of Greater London. The Plan also refers to its detailed work with Dacorum Council on the expansion of Hemel Hempstead (paragraph 4.19).
5. In respect of housing needs, we are aware that the Council considers St Albans to be a self-contained housing market area (paragraph 1.63 of the SHMA 2013), and it will be necessary at Stage 2 of the examination to examine whether this contention is justified. However this is a soundness issue, rather than one of lawfulness. For the purposes of the DTC it is necessary to examine how the Council went about planning on the basis of being its own HMA and to what extent it communicated this judgement to the other authorities.
6. The evidence indicates that St Albans was aware that this was an issue, and it had discussed this matter with its neighbours. Pages 22-23 of the *DTC Statement* illustrate that since 2008 there has been discussion about the

correct definition of the housing market geography but no agreement has been reached.

7. We note at the meeting of the Hertfordshire Infrastructure & Planning Partnership (HIPP) on 2 December 2013, that the preparation of a *Local Strategic Statement* (LSS) was discussed (page 51). The note states that the preparation of the LSS was to enable the requirements of the DTC to be met. The purpose of the work was to provide a broad strategic direction for Hertfordshire:

“without imposing top-down targets on the scale or location of new development and create a document that recognises the unique characteristics and different priorities of each constituent district and area”.

(page 51)

It continues:

“From the bottom-up the LSS will build on the individual district and borough core strategies/local plans or merging plans.”

(page 51)

Furthermore, the Memorandum of Understanding (MoU) that supported the LSS and which was agreed by the Hertfordshire authorities, states that the authorities will:

“Adopt a flexible approach to joint work, recognising that the County may not always be the appropriate geography for all partnership activity.”

(page 42)

8. It would appear that the Council in developing its NPPF-based Plan from 2013 onwards has taken its lead from the LSS. This is clear from pages 23 and 68 of the *Statement*.
9. It is apparent that the Hertfordshire authorities have been unable to reach a consensus on the correct HMA geography. St Albans' decision to plan alone, while dubious from a planning point of view, is not entirely unreasonable given the inability to secure a political consensus. We consider that the question of the correct HMA geography is a matter of planning soundness rather than legal soundness.
10. Having now had an opportunity to read the *Statement* the HBF is satisfied that the relevant cross boundary strategic issues have been identified.

2. What processes and procedures have been initiated to engender cooperation?

11. We note that various reports have been commissioned and meetings were convened to explore a range of issues. It would appear that the relevant strategic issues have been identified, discussed and work commissioned. In

terms of planning for housing it is apparent from the material in the *Statement* that the Hertfordshire authorities were unable to agree on a correct HMA geography, that St Albans considered that a self-contained HMA was reasonable, and that it was unable to assist any of its neighbours with their unmet need.

Is there a commitment to long-term cooperation?

12. Based on the information provided there would appear to be an on-going commitment to continue to cooperate on the various strategic matters.
13. In terms of housing delivery we note on page 23 of the *Statement* that on-going cooperation will occur through the Hertfordshire Planning Group and the HIPP. We note that HIPP has been important in drawing together a collective response on behalf of the Hertfordshire authorities to the London Plan (page 63).
14. Bilateral discussions have also taken place. The minutes of the meetings between the Council and other local authorities document a willingness to continue to meet (e.g. the minutes of 12 February 2015 of the meeting with Dacorum, page 76), and it is apparent that there is a genuine commitment to continue to discuss the development needs of the other authorities. The cooperation with Dacorum on the East Hemel Hempstead AAP has been effective and is very likely to continue since this is a site that both authorities need to come forward.
15. The minutes confirm a commitment to continue to cooperate to plan for the housing needs of the sub-region. This is apparent from the minutes of meetings with: Dacorum (page 76); Three Rivers (page 81); and Luton (page 89).

3. From initial thinking has St Albans City and District Council engaged with nearby local planning authorities and other public bodies:

- ***Constructively, collaboratively and diligently (for example has the Council responded constructively to requests for cooperation?)***

16. While the minutes of the meeting held on the 16 March 2015 with Central Bedfordshire provide evidence of cooperation over the possible allocation of land at North West Harpenden, the Council has made it clear that it was unable to accommodate any other authority's unmet housing needs, other than possibly Dacorum, owing to the green belt in St Albans. One might say that the Council has been diligent in communicating its inability to assist.
17. Under the current NPPF-based planning system where each authority is sovereign the Council is entitled to disagree with its neighbours and other planning authorities. The Council has made its position very clear, see for instance the minutes of the meeting with Three Rivers (page 81).

- ***Actively and in a sustained manner***

18. The *Statement* documents the various meetings that have been convened since 2006 to discuss a range of strategic topics with relevant bodies. The engagement appears to have been active in that the Council has: completed a green belt review with Dacorum and Welwyn Hatfield; brought forward the Hemel Hempstead AAP; been party to discussions about the South West Hertfordshire SHMA; and sought to discuss potential unmet development needs with other authorities as the various minutes of the meetings document (see pages 74 to 90).

- ***On an on-going basis***

19. The *Statement* confirms engagement has been sustained since 2006. Effective outcomes have been secured in terms of a coordinated green belt review, preparation of a Hemel Hempstead AAP, infrastructure coordination, and discussion regarding the SHMA. The documented discussions on these matters attest to the on-going cooperation.

- ***For the mutual benefit of neighbouring authorities?***

20. It is clear that some actions have been taken for the mutual benefit of neighbouring authorities. This is true of the preparation of the Hemel Hempstead AAP, the coordinated green belt review, and the discussion between the Council and Central Bedfordshire about the release of land at north-west Harpenden (page 85).

4. Is the evidence of cooperation robust?

21. It is evident that the Council has held meetings to discuss a range of key strategic issues with a number of local authorities. Those meetings have resulted in concrete actions and outcomes on housing issues even if this largely amounts to St Albans asserting its self-sufficiency and capacity constraints.

5. The outcomes of cooperation – how has cooperation influenced the content of the Strategic Local Plan?

22. Cooperation on the green belt review has clearly influenced the evolution of the SLP and the decisions it has made for the release of certain parcels of land.

23. The Council has determined that it is a self-contained HMA. It has taken its lead from the LSS supported by a MoU which confirmed the right for local authorities to determine their own affairs as we have described above. The Council has communicated this judgement through its consultations and meetings. The rationale for this decision is questionable and will need to be examined later in the examination timetable. However, the conclusion reached by the Council that it was self-contained, obviating the need to plan with others, is a politically valid one, and it does not appear to have been

challenged by the other authorities when that decision was made back in 2013.

24. Under the NPPF-based planning system each local authority is sovereign: it is entitled to disagree with the views of other local authorities regarding any strategic matter, including the definition of the HMA. Whether this was a sound judgement is a planning soundness point that will be discussed at stage 2 of the examination.
25. On the matter of potential unmet housing needs, we note that the Council had discussed with Dacorum options to accommodate some of its unmet need and vice versa. This is clear from the minutes of a meeting on 12 February 2015 (page 75).

Has the effectiveness of the plan making process been maximised and have effective and deliverable policies on strategic cross boundary matters been produced (including the element of soundness that refers to effective joint working on cross-boundary strategic priorities – NPPF paragraph 182)? For example in relation to:

- ***Housing (including gypsies, travellers and travelling showpeople)***

Housing

26. Page 12 of the *Statement confirms* that a Joint SHMA was originally commissioned in 2008 involving St Albans, Dacorum, Hertsmere, Three Rivers, Watford and Welwyn Hatfield. We note that at that time it was agreed that all LPAs involved would prepare local plans on a district only basis. From this it is apparent that cooperation was occurring even before the Localism Act 2011 and continued to 2013 when the Council published its Housing Needs Assessment report. Its decision to develop an OAN on its own was informed by the LSS which determined that it would be inappropriate to impose top-down targets (see pages 41 and 51). The MOU agreed among the Hertfordshire authorities, including St Albans, states this (see page 41).
27. The other authorities, excluding Welwyn Hatfield, continued to work together, and this cooperation culminated in a SHMA for South West Hertfordshire which was published in January 2016. St Albans is located within this HMA. However, the Council never agreed to joint planning on the basis of this HMA area (page 71, Report to the Planning Policy Committee, 17 May 2016). Although it is hard to understand why the Council wished to distance itself from this geographic configuration that is a matter of planning soundness, not legal soundness, and is a question for subsequent hearings.
28. As we argued above, because local authorities are sovereign St Albans is entitled to make the decision that it is self-contained. The Council only needs to demonstrate that it communicated that decision to the other authorities and give them sufficient opportunity to influence a change of approach. At the time of the Regulation 18 consultation the Council had made it clear that it was prepared to meet its own needs in full. In response:

Three Rivers agreed that St Albans should look to accommodate its own OAN in full. It did not request that St Albans plan as part of a wider HMA group.

Hertsmere welcomed the constructive approach by St Albans to identifying its housing requirement as well as its planned green belt release. It did not request that St Albans plan as part of a wider HMA group.

Watford and Dacorum did question why St Albans had not involved adjoining authorities in defining a wider HMA. Watford also queried why St Albans was not supporting the recommended OAN in its own SHMA (586 dpa). Neither authority supported their representations with arguments to convince St Albans otherwise.

29. We note on page 13 of the *Statement* that the four authorities that commissioned the South West Herts SHMA only challenged the geography of the St Albans HMA (i.e. the view that St Albans is self-contained) at the Regulation 19 stage. While the HBF is sympathetic to these concerns, these objections do seem to have been lodged somewhat late in the day if they were to persuade St Albans to reconsider its approach.
30. We note that St Albans was a member of the HIPP. This appears to have been inaugurated in July 2013. The purpose of the Partnership is to “establish a framework for cooperation between the eleven authorities that comprise the Hertfordshire Infrastructure & Planning Partnership” (see page 40). This seems like a reasonably early administrative response to the new legislative requirement to cooperate, providing time enough for any outputs from the work of the HIPP to inform the development of local plans.
31. We note that a meeting was held with Three Rivers on 12 March 2015. Both councils considered the ability to assist with any unmet needs but both concluded that they could not owing to green belt constraints (see page 81).
32. On 16 March 2015 the Council met with Central Bedfordshire (see page 84). Each asked the other if it was able to assist with unmet need. Central Bedfordshire expressed a willingness to support the expansion of Harpenden to the north-west. It is not clear whether Central Bedfordshire still continues to support this as an allocation in principle, however, the fact that this was discussed indicates that the legal aspect of the DTC has been met.
33. We note at the meeting of 13 March 2015 with Luton the question of unmet housing needs was discussed (page 87). The Council supported Luton’s work on identifying capacity within its administrative area. Luton’s new local plan supported by its SHLAA indicates that the unmet housing need is substantial (circa 9,300). The minutes document the Council’s willingness to continue to work together. It is unclear if Luton made a subsequent request for assistance and how the Council responded. However, we are aware that St Albans is a signatory to a Stage 2 Growth Options Study which will look at options for accommodating Luton’s unmet need if this cannot be accommodated locally.

Gypsies and travellers

34. The *Statement* refers (page 99) to a discussion at the HPG that Broxbourne was progressing a gypsy and travelling show-people study. We also note the cooperation between St Albans and Three Rivers in respect of gypsy and traveller sites (page 81).

- **Jobs**

35. We note that the Council participated in a *Joint Hertfordshire Employment Land Review* in 2006 and a *Joint London Arc Employment Land Study* in 2009 (see page 6). Furthermore we note from the agenda and minutes of the meeting with Dacorum in February 2015 that an *Economic Development Strategy* was discussed. We note at the subsequent meeting between the two councils in 27 April 2015, that the *Economic Development Strategy* was discussed again, with both councils concluding that “there may be some potential to positively engage with Watford”.

- **Retail**

36. We note that employment land studies were commissioned with the LEP (page 9) and Hertfordshire and the London Arc (page 6).

- **Infrastructure provision (including highways)**

37. At the meeting of 12 February 2015 with Dacorum the Strategic Rail Freight Exchange Interchange site was discussed. So too was the expansion of Hemel Hempstead and its relationship to the M1 growth corridor. We also note that item 8 of the agenda considered infrastructure ‘showstoppers’.

38. The minutes of the meeting of 13 March 2015 with Luton documents agreement to continue to work together over the provision of infrastructure along the London M1 growth corridor and for north-west Harpenden. The discussion of infrastructure features heavily on the agenda of the meeting of 2 February 2016.

39. In the *Hertfordshire Infrastructure & Planning Partnership Annual Review 2015/16* page 139 documents how the authorities have progressed a joint project to identify water infrastructure needs in Hertfordshire to 2050. A Phase 1 study report was to be produced in May 2016. The Hertfordshire authorities have also cooperated on health infrastructure planning (see page 139) with a joint workshop on this subject held in June 2015.

40. In summary, while it is unclear from the various minutes quite what was agreed in terms of the planning of infrastructure across South West Hertfordshire, it does appear that the issues were discussed.

- **Green belt**

41. We note in the *Statement* that a joint green belt review was initiated in 2013/14 with Dacorum (page 6) and Welwyn Hatfield (page 7). Page 21 explains the outcome. The review has identified those locations where the release of land from the green belt for development would cause the least harm. In this sense the HBF is satisfied that both the legal and positive planning dimensions of the DTC have been satisfactorily discharged. The green belt review was also undertaken early enough to enable the satisfactory evolution of the plan and meaningful consultation with the public to take place.
42. Whether the Council has released sufficient land from the green belt to meet its true development needs is a planning soundness matter and depends largely on the conclusion reached about the OAN. This is a matter for a subsequent stage of the examination to consider.

6. *Any other related matters*

43. No comment.

Summary

44. The HBF considers that St Albans has demonstrated that it has engaged actively and in a sustained manner with relevant bodies on the key strategic planning issues. While we question some of the planning conclusions reached – in particular the definition of St Albans as a self-contained HMA and the OAN – St Albans has engaged adequately with the relevant authorities. As a sovereign planning authority it is entitled to disagree with others. There is no joint agreement in place to plan on the basis of a wider HMA that includes St Albans.
45. A legal opinion is appended to this statement.

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