

St Albans Strategic Local Plan Examination
Duty to Cooperate
Further Submissions to the Examination

1. At the Initial Hearing session on the 26 October the inspector invited the Harpenden Green Belt Association and Commercial Estates Group to submit copies of their statements rather than have these read out in full at the hearing session. The inspector has allowed the Council and other invited participants to comment on these statements.
2. The HBF had argued at the Initial Hearing session that because St Alban's Council considered that its housing market area (HMA) was contained within its own administrative boundary, the Council was not obliged to cooperate with neighbouring districts other than to inform them of its judgement on this planning matter. While we disagree with the Council's planning judgement in terms of the correct definition of the HMA, our argument was that this issue does not go to whether or not the duty has been met, but is a matter of soundness. In others respects, such as cooperation with Dacorum over the preparation of the Hemel Hempstead Area Action Plan and the Green Belt review that has been undertaken jointly with Dacorum and Welwyn Hatfield councils we believe there is adequate evidence of effective engagement.
3. Our interpretation of the arguments by the South West Hertfordshire Group (SWHG) is that they remain unhappy with the outcome of the various bilateral and multilateral meetings with the Council regarding the definition of the HMA. The suggestion is that if St Albans had met with them more often and discussed the issues in greater depth then St Albans Council might have accepted the SWHG's view on the HMA and the housing need. That is not how the Duty works.
4. As we advised at the Initial Hearing, a district is entitled to reach its own conclusion on the HMA. It is entitled to disagree with the planning perspectives of others, including those of neighbouring authorities. St Albans' conclusions on this matter will inevitably shape the nature and content of its meetings with the neighbouring districts. So long as St Albans Council disagrees with the views of the other Hertfordshire authorities – trusting the judgement of its own officers – then there is little that one can do about this until the question of the HMA (and the OAN) comes to be scrutinised at the examination. While we sympathise strongly with the concerns of the SWHG, the legislation does not require a local authority to submit to the judgement of other planning authorities.
5. In our opinion, the discussions at the Initial Hearing confirmed, first, our view that the duty has been met, and secondly, because of the definition of the HMA, the duty required far less cooperation than would have been required had the Council concluded that it was part of a wider HMA. This is a view that

the HBF has reached with some reluctance but it is based on the evidence put before the examination.

Harpenden Green Belt Association, Harpenden Society and Joanne Whitehead

6. We have considered the joint statement prepared by the Harpenden Green Belt Association, the Harpenden Society and Joanne Whitehead. For brevity we refer to the statement by these parties as Ms Whitehead's statement, since Ms Whitehead was the representative of the group at the hearing.
7. We do not consider that the criticisms levelled at the Strategic Local Plan (SLP) point to an unsound Plan. We consider the issues under the relevant sub-heading below.

Scope, Timing and Content of the Duty to Cooperate

8. In paragraph 11, the Ms Whitehead's statement, she argues that the duty will only have been met if a district had changed its plan:

"...co-operation which brings about results which do not influence the content of the plan is not co-operation in relation to the preparation of the plan".

9. Ms Whitehead's point has some logic, it is not right in terms of its application to local plan making under the NPPF-based regime. Local authorities must cooperate but they are still entitled to disagree. Cooperation does not always have to result in effective and deliverable policies, as the Luton Local Plan examination illustrates well (Central Bedfordshire's commitment to accommodating an element of Luton's unmet need is highly uncertain and contingent). More pertinently perhaps in the case of St Albans, if the Council has concluded that its HMA is only district-wide, and has remained unconvinced by the arguments to the contrary put forward by others, then the Council should not be forced to ignore its own evidence on pain of failing the duty. The fact that the Broad Locations selected by the Council have not changed does not demonstrate that the duty has been failed: it demonstrates the Council's confidence in its own evidence.
10. Secondly, Ms Whitehead suggests that the duty has not been met because the cost of infrastructure remains unknown. However s.19 of the 2004 Act states that the Council must have regard to the "*resources likely to be available for implementing the proposal in the document*" (our emphasis). Planners know that it is impossible to be absolutely categorical about anything that is contained in a local plan, including the cost of and future funding and investment in infrastructure. A plan is merely a plan. It is not a legal contract between various parties. Nevertheless, on the basis of the evidence presented to the examination, we note that (a) Hertfordshire Highway's agreement that there were unlikely to be any 'showstoppers' and (b) credible assurances from the promoters of the Broad Locations (reflecting the potential value of residential land in the District), the Council is confident that adequate resources are likely to be available to implement its proposal is well-placed. This is a question of soundness.

11. Thirdly, Ms Whitehead criticises Hertfordshire Highways' suggestion that if the duty has not been met in respect of the SLP it can be 'cured' by meeting it in respect of the Detailed local Plan (DLP). This would be wrong reading of the legislation since if the SLP fails the duty then this cannot be remedied by making changes. The SLP will not be able to proceed further in examination (NPPG, paragraph ID 9-001).

Failure to cooperate with Central Bedfordshire and Luton Councils

12. Luton and Central Bedfordshire councils fall within a different HMA (the 'Luton HMA' which includes all of Luton, a large part of Central Bedfordshire, and a smaller part of North Hertfordshire). This HMA geography is not disputed by St Albans or the SWHG. Nevertheless, St Albans Council shares a border with Central Bedfordshire. We noted from the evidence base that discussions between Central Bedfordshire and St Albans have taken place to discuss the expansion of Harpenden to the north-west into Central Bedfordshire and there is agreement about the future growth of Harpenden towards the north-west to meet an element of Central Bedfordshire's future development needs. We are satisfied that the duty has been met in this respect.

Highways

13. We have already referred to Hertfordshire Highways' submission about the absence of any 'showstoppers' and the likelihood that adequate resources will be available to implement the SLP. This is a question of soundness that may need to be explored further at the examination of the SLP.

Schools

14. We consider that the location of the new school for Harpenden is a district issue that relates to the soundness of the Plan. The Council is satisfied that it is a self-contained HMA. Because it is a self-contained HMA, we assume that the Council is confident that it can provide adequate land to accommodate the schools needed to educate the children living in the new homes that will be built in the district by 2031 – i.e. those pupils will not have to travel out of the district to be educated. Whether the Council has done so is a question of planning soundness.

The LEP

15. We see no conflict with the agenda of the Hertfordshire LEP. The Council has cooperated with the LEP over the development of the M1/M25 growth area which allows for the future growth of Hemel Hempstead and St Albans to accommodate the development levels indicated by the SLP. The LEP has not objected to the St Albans Plan for having failed the duty.

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