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07/11/2024

Dear Sir/ Madam

### **St Albans Local Plan**

1. Thank you for consulting the Home Builders Federation (HBF) on the St Albans Local Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.

### **Consultation on amendments to the NPPF**

2. At the end of July, the Government commenced a consultation on a number of amendments to the NPPF. The proposed revisions will make significant changes to the current document and there is a strong possibility that many of St Albans District Council (SADC) neighbours, will be required to prepare plans that are consistent with the changes being proposed to the NPPF, should they be adopted. Alongside the changes to the NPPF the Government have also consulted on a new standard method. While our comments will be based on the current NPPF we will refer to the potential impact of the proposed changes within our representations.
3. HBF are concerned that Councils such as SADC will, in the face of increases in its housing needs, seek to move quickly to submission in order to benefit from the transitional arrangements. Whilst it is for the council to decide on the timescale for the submission of its local plan it is being proposed to submit this local plan in December 2024, less than 2 months after the consultation closes. While HBF welcomes the speed at which the council

is now preparing the local plan we are concerned that there is insufficient time to not only consider all the representations made on the local plan, complete the evidence base, address any issues with the duty to co-operate and complete the necessary committee cycle.

4. If submitted under the proposed transitional arrangements the council cannot just disregard all of the proposed changes. For example, they will need to take into account the impact of any changes resulting from the NPPF on plan making in neighbouring areas as part of its duty to co-operate. The Council will be aware that this work must be done prior to submission for the council to show that they have fulfilled their duty to co-operate, a point we discuss in more detail below. While the proposed amendments can only be given limited weight with regard to the local plan at this point in time, it is important to note that inspectors are already asking local plans at examination for comment on the proposed changes and the Written Ministerial Statement 'Building the Homes We Need' that was published early this year and it will be necessary for SADC to consider the need for an immediate review should it be submitted prior to the implementation of any changes.
5. In addition to these concerns HBF also notes that the local plan was agreed for submission at its full council meeting on October 16<sup>th</sup> – three weeks prior to the end of the consultation period on the 8<sup>th</sup> of November. It is unusual for full council to give approval of a local plan for submission prior to the end of the consultation and with no consideration of the comments that have been put forward by all members of the council and not just those on a particular committee. While the paper to full council states that should a show stopper emerge from the consultation then the decision will return to full council, HBF are concerned that it should not necessarily be for one committee to determine a show stopper but for all members to properly consider the comments made and make their own determinations on this matter and the soundness of the local plan. The approach taken by the council would suggest that the council will submit regardless of the comments made by representors and as such have predetermined the outcome of the reg 19 consultation. The approach taken by the council runs a high risk of legal challenge and HBF would recommend that any decision on submission is made at full council.

#### *Review*

6. The plan will require modification to set out an immediate review of the plan to take account of proposed changes to the NPPF that are currently being consulted on, should they be

adopted. While these changes are still out for consultation should the remain as currently presented consideration will need to be given to paragraph 227 in the draft NPPF which states:

*“Where paragraph 226 c) applies, local plans that reach adoption with an annual housing requirement that is more than 200 dwellings lower than the relevant published Local Housing Need figure will be expected to commence plan-making in the new plan-making system at the earliest opportunity to address the shortfall in housing need.”*

7. The proposed standard method would see SADC’s housing needs, across the whole of the Borough, increase from 885 dpa to 1,544 dpa and will require the council to prepare a new plan immediately. However, it is the HBF’s experience that without an incentive to review a recently adopted plan these are rarely undertaken rapidly. Therefore, a strong review policy is required that set out clear dates as to when a new plan will be submitted, and the consequences should that plan not come forward in the agreed timescale. HBF would recommend a policy is included in the local plan along the lines of that adopted in the Bedford Local plan 2030 (reproduced in appendix A). This policy was included in the Bedford Local Plan in similar circumstances when the NPPF was amended in 2018 requiring the use of the Standard Method to assess housing needs.

### **Duty to Co-operate**

8. The only evidence the HBF could find with regard to co-operation in the preparation of this local plan is the overarching statement of common ground. This provides a very high-level assessment as to the of the issues on which the council need to co-operate and who their key partners are with regard to each issue but no provide no details as to when the council engaged with these partners and whether there was a realistic chance for this to have had any impact on the preparation of the local plan. Given that the council has now failed the duty to co-operate in its previous attempts to adopt a local plan this is concerning.
9. HBF’s main concern with regard to co-operation is that there is no indication as to how the Council has worked proactively with its neighbours in order to address housing needs across the sub region through this round of plan making. The HBF are aware that SADC are working with neighbouring LPAs on the preparation of the SW Hertfordshire Joint Strategic Plan, but it has been made clear to the HBF in correspondence with the Councils

that the JSP is being prepared in relation to longer term development needs post these local plans. As such the co-operation in preparing the JSP is considered by the HBF to be irrelevant to the preparation of this local plan. The Council must provide evidence as to when SADC has engaged with its neighbours with regard to housing needs during the period covered by this local plan and, if necessary, how any unmet needs could be addressed.

10. HBF are aware that Dacorum have recently agreed to go out to regulation 19 consultation with a local plan that meets housing needs in full, albeit with a very small buffer of just 92 homes. This still leaves both Three Rivers and Hertsmere who in recent regulation 19 consultation were expecting to fall short of meeting housing needs by 367 dpa and 141 dpa respectively. These are significant shortfalls in the delivery of new homes and should have been taken into account when preparing this local plan. As with Dacorum there may well be a change in circumstances regarding these local plans. For example, Three Rivers District Council are considering recommendations by officers to delay the consultation of their local plan and prepare a plan on the basis of an amended NPPF. From committee reports and comments at committees however it would still appear to be the case that there will be unmet needs in Three Rivers and St Albans will need to clarify this position, as well as those in Hertsmere, as part of their duty to co-operate.
11. However, without any evidence as to the discussions between the authorities as to their position with regard housing supply against identified needs it is not possible to say whether or not the council has met the duty to co-operate. This evidence will need to be assembled and submitted as part of its evidence base. It will need to clearly show not only that discussions on housing needs have taken place, but when they took place, who attended and the general frequency of any interactions on these matters between the relevant bodies. In short it must be able to show that the Council has engaged constructively with its partners in order to maximise the effectiveness of plan making. This level of evidence is also expected by Inspector examining local plans and we would point the council to the supplementary questions<sup>1</sup> asked by the Inspectors examining the Bristol City Local Plan who requested:

*“a specific Duty to Co-operate Topic Paper or Statement, which provides a more detailed and structured account of how the Council has engaged constructively, actively and on an on-going basis to maximise the effectiveness of the Plan.”*

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<sup>1</sup> IN3 – Supplementary Preliminary Questions to Bristol City Council (October 2024)

## **Strategic Policy SP1 – A Spatial Strategy for St Albans**

The policy is unsound as it is not justified, effective or consistent with national policy

12. This policy sets out the housing requirement for SADC as 885 dwellings per annum (dpa) a total of 14,603 homes over the whole plan period and is consistent with the local housing needs assessment calculated using the current standard method. However, this is the starting point for assessing housing needs. Paragraph 11 and 61 of the NPPF also require councils to take into account housing needs that cannot be met in other areas when establishing the number of homes to be planned for. Despite this clear requirement of national policy HBF could not find anywhere in the Council's evidence where an assessment of unmet need has been made. Reference to unmet needs is made in both the SA and in the overarching statement of common ground but no attempt seems to have been made to quantify this figure. As set out above HBF recognise there is uncertainty as to whether neighbouring authorities in Hertfordshire can meet their own housing needs, but it remains a key part of plan making to ascertain whether there are any unmet needs in the area and whether it is possible for these to be met within St Albans.
13. In addition to the unmet needs in Hertfordshire the Council will also need to take into account the unmet needs arising in London. Following the examination of the London Plan reductions in the targets across London Borough's means that there is a shortfall of some 140,000 homes compared to what is needed between 2019 and 2029 across the capital placing additional pressure on areas around London. However, it must also be recognised that London is not even meeting its lower target of circa 52,000 homes per annum. Between 2019 and 2023 London has failed to meet this target, delivering on average 37,200 homes each year<sup>2</sup>. As such there remain a substantial shortfall in a neighbouring housing market area (HMA) to South West Hertfordshire HMA within which St Albans is located. These unmet needs, alongside any others within neighbouring LPAs should have been taken into account when considering how many homes the Council should plan for. HBF recognises that such significant shortfalls cannot be addressed by one authority, however if they are continually ignored by all LPAs that surround the capital the impacts of this undersupply in market across the wider south east will never be addressed.

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<sup>2</sup> Housing delivery in London – Letter from Deputy Prime Minister to London Mayor 30 September 2024.

### Housing supply

14. The HBF welcome the Council's decision to amend green belt boundaries in order to meet its housing needs in full and agree there are the exceptional circumstances required to support the proposed amendments. However, HBF consider that the high cost of housing in the area, the pressure of under supply on market due to unmet housing needs in London and the lack of development opportunities in urban areas are sufficiently severe to warrant further releases in order to address some of the unmet needs in neighbouring areas and to provide a more significant buffer between housing needs and supply.
15. Turning to the supply trajectory over the local plan HBF are concerned that the buffer between housing needs and supply is just 385 homes, a little over 2% of the overall housing requirement. This level of buffer between needs and supply is insufficient for the council to show, as required by paragraph 35c of the NPPF, that the plan is deliverable over the plan period and as such is effective. Given the reliance of the Council on delivery from strategic sites HBF would have expected to see supply exceed needs by at least 10% due to the uncertainty that strategic sites of the scale proposed by the council will deliver as expected. The Council state that they have in their assessment of delivery rates on the strategic site allocations used the latest iteration of Start to Finish published by Lichfields. While the use of this information is welcomed as it provides a reasonable starting point on which to set delivery rates it also shows that some sites deliver much more slowly than others and why a buffer between overall need and supply is necessary.
16. With regard to the trajectory in provided in table 3.2 HBF would have expected further information to be provided on the expectations for each site. On the basis that the Council has broken down supply into broad categories of site this evidence must be readily available and is necessary for all parties to properly consider whether the rate of delivery on each site is justified. It is our experience that where site by site trajectories are not provided, they are asked for by inspectors in order to ensure effective scrutiny of the local plan. For more information on what is expected we would refer the Council to the Preliminary Questions published recently by the inspector examining the Bristol Local Plan<sup>3</sup>. Question 62 and Appendix 1 provide some indication of the detail required. Rather than wait to be asked we would suggest that such a trajectory as part of the evidence supporting the submitted local plan.

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<sup>3</sup> <https://www.bristol.gov.uk/residents/planning-and-building-regulations/planning-policy-and-guidance/local-plan/local-plan-review/local-plan-examination/local-plan-examination-library-inspectors-documents>

17. In particular HBF would expect further evidence to be provided as to the deliverability of the sites identified through the urban capacity study (UCS). The site proformas do not appear to have any indication as to the availability of these sites and the Methodology Paper states at paragraph 1.10 that these were identified through *“a desktop review of maps, aerial photographs and online street photography and in some cases site visits. Sources of sites included under-utilised sites such as garage blocks and car parks, vacant and derelict land and buildings, and public sector land”*. Unless further work has been undertaken to ascertain their availability the UCS alone is insufficient for their inclusion in the local plan. In addition to evidence to support the availability of these sites evidence will also be needed with regard to their deliverability.
18. Turning to Hemel Garden Community, HBF could not find any evidence supporting the trajectory for this site in table 3.2. The Council state in 6.3 of the Housing Supply and Windfall Paper that a bespoke piece of work has been completed to inform the delivery rates being for HGC, but we could not find this in the council's evidence base. HBF would have expected that this evidence would have been provided to support the delivery rate for this allocation, especially given that it is expected to start delivering homes within five years of the plan being adopted. The Council will need to provide the necessary evidence showing how and when each phase of this new community would come forward and the evidence supporting these delivery expectations.

#### Windfall

19. The Council have included a windfall rate of 145 dpa from 2027/28. This is based on windfall delivery between 2013 and 2023. However, HBF are concerned that there could be significant overlap between windfall rates on the sites identified in the UCS which are expected to deliver 860 home over the plan period. If there is sufficient evidence regarding the availability of the sites identified in the UCS to allocate these sites, then the Council will need to reduce the level of windfall to avoid the risk of double counting of these sites in its housing supply estimates.

#### Exclusion of sites due to the potential expansion of the Chilterns National Landscape

20. Finally, we note that four sites have been removed between the Regulation 18 and Regulation 19 consultation on the basis of possible expansion of the Chilterns National landscape. This would seem premature given that no evidence has been presented as to

the potential extent and reasons for any proposed expansion. HBF does not promote sites, but we are concerned that potential development sites are being discarded from the local plan on the basis of an expansion that has not been published has had no consultation. HBF considers that without any evidence minimal weight can be attached to the expansion of the national landscape and that the Council should revisit the decision to remove these sites from the regulation 19 local plan.

Smaller sites of less than 1 ha

21. HBF could not find any evidence to show that at least 10% of the Council's housing needs will be delivered on sites of less than one hectare as required by paragraph 70 of the NPPF. The delivery of such sites is important in ensuring that SME house builders are able to gain allocations within local plans and the certainty this brings with regard to its future development. The current Government continue to recognise the importance of this sector stating the recent consultation on the proposed reforms to national planning policy.

*“Small and medium sized builders are essential to meeting our housing expectations and supporting local economies. They also build out the majority of small sites. Their business models often rely on identifying and securing small sites and building them out quickly. The Government is concerned that SME housebuilders are not able to access the small sites that they need, and that local planning authorities are not bringing forward small sites in their plans to the level set out in the NPPF”.*

22. The HBF agrees, a thriving SME sector increases choice and competition within the housing market as well as enabling more homes to come forward early in any plan period – which given the level of supply in the early years of the plan is some 2,400 homes short of meeting what is needed. The trajectory for the first five years makes no attempt to boost supply despite the severe shortfalls in housing delivery due to the failure of the Council to adopt a local plan. The proposed trajectory merely continues the trend from previous years which saw just 395 dwelling delivered each year over the last 20 year. The delays to the delivery of new homes over this period will inevitably exacerbate affordability concerns in an area where the median house price being over 17 times local median salary.
23. Instead of recognising this the Council have chosen a strategy which relies on large sites coming forward at the end of the plan period and seemingly ignored the important



contribution smaller sites can make to supply early in a plan period. Therefore, whilst the HBF recognise that a stepped trajectory may be needed we would question whether such a significant step is justified given that it delays meeting identified development needs.

24. The Council must do more to identify more small and medium sized sites that would ensure the council meet the requirements of paragraph 70 as well as increasing delivery in the first five years of the plan.

*The stepped trajectory.*

25. HBF does not consider the stepped trajectory to be sound. As set out above in our comments on small sites the trajectory for the first five years makes no attempt to boost supply despite the severe shortfalls in housing delivery. The Council have alighted on a strategy that delivers a significant number of homes at the end of the plan period but the consequences of this is limited delivery in the early years of the plan. More can be done to address this through allocation of small and medium sized sites. The strong housing market in St Albans would suggest that such sites would come forward quickly on the adoption of the plan and begin delivering the homes St Albans needs in the short term. This would also support the Government's ambitions of delivering 1.5 million homes in the next five years and which are considered essential in addressing the housing crisis the country is currently in.

**SP3 – Land and the Green Belt**

The policy is unsound as it is not justified, effective or consistent with national policy

26. This policy repeats the housing requirement for SADC, and it is not clear why it is then repeated in SP3. HBF agree that there are exceptional circumstances to amend Green Belt boundaries. However, HBF consider there to be potential for further green belt boundary amendments to be made in order to address the unmet needs arising in neighbouring areas. As we set out in our regulation 18 representations the SA has shown that delivering beyond the 900 home housing requirement is not unsustainable and as such essential that the council revisit sites that have been considered to be unsuitable to be revisited to assess whether these could be made suitable for allocation. It is the HBF view that there are significant benefits arising from the delivery of housing to meet the housing needs of neighbouring areas given the high cost of housing in the South West Hertfordshire areas and the significant need for affordable housing.

27. The latest assessment of affordable housing need for St Albans is set out within the 2024 SW Herts LHNA. This document identifies an annual net need for the delivery of 449 affordable dwellings with St Albans, around 50% of the overall LHN. Analysis of affordable housing delivery in St Albans identifies that this level of delivery has not been achieved since 1994/95. Indeed, the highest recorded level of affordable housing delivered was 243 dwellings in 2004/05 and an average since 1994/95 of just 72 affordable dwellings per annum. Whilst this has increased to an average of 84 affordable dwellings per annum over the last 5 monitoring years, it remains nowhere near the identified need for affordable dwellings.
28. It is therefore essential that the Council revisits its assessment of sites in both the Green Belt Review and the site selection process to look to identify whether there are sites that could address unmet needs arising in neighbouring areas.

### **LG1 – Broad locations**

The policy is unsound as it lacks clarity required by paragraph 16 of the NPPF.

29. It is not clear why the council is still referring to these sites as broad locations for development. Broad locations are areas where housing development is considered feasible and will be encouraged, but where specific sites cannot yet be identified. What is clear from the local plan however is that it has identified specific sites for the delivery of development. Even the larger allocations are sites with clear expectations as to where development will come forward and is inconsistent as to what a broad location actually is in planning terms. It would also appear to be inconsistent with the plan itself with each of the allocations in part B of the local plan defined as a broad location being referred to as sites. Whilst not a fundamental issue it is confusing and gives the impression that the council is still to identify specific sites at these locations which does not appear to be the case. The Council should amend this and refer to these as strategic allocations.

### **HOU2 – Affordable Housing**

The policy is unsound as it is unjustified and inconsistent with national policy

30. The policy requires all development on 10 or more homes or large and 0.5 hectare to deliver 40% of the homes as affordable units. This is supported by the Council's viability assessment. However, in setting this standard the viability assessment notes in the key findings on page 4 of the local plan that the 40% is a "*maximum reasonable proportion*" on the basis that there are typologies that cannot meet the 40% being proposed in this policy. In addition, there are potential increases in costs that have not been considered in the council viability assessment such as the introduction of the Future Homes Standard. As such HBF are concerned that the policy as written does not provide sufficient flexibility should development be made unviable by this policy.
31. Whilst the policy refers to the use of offsite contributions in part g and alludes to reduced contributions in relation to review mechanisms the policy does not state that where development is made unviable by the policy the council will consider a reduced level of provision. National policy sets out in paragraph 58 that there may be circumstances where it is necessary to reduce contributions and HJBF consider it is important that this is clearly reflected in this policy. This could be achieved by amending part a) to state "*Where viable requiring development proposals ...*". This would establish for the outset that viability is a consideration in decision making and then also ensure consistent with both parts f and h of the HOU2.

## **HOU5 – Self Build**

### The policy is unsound as it is unjustified and into effective

32. The Council are suggesting that where self-build plots are not sold after 12 months of marketing they must remain on the open market or be offered to the Council or registered provider before being built out by the development for market housing. There is no justification for requiring plot not be offered to registered providers or the council. These plots are for plots allocated for market housing and as such if there is no demand for this from self-builders after 12 months, they should automatically go back to the developer to be built out as market housing and reduce the delay in the delivery of much need new homes. HBF would also disagree that plots should remain on the market for self-build following 12 months of marketing. This provides too much uncertainty for the developer as to how those houses will be delivered and the need to schedule these into the build out of the site.

## **NEB11 – Chilterns National Landscape**

33. It is not clear why NEB is necessary given that it merely repeats national policy. If it is considered necessary to include NEB11 it is not clear why part b is necessary as it is self-evident that should the Chilterns National Landscape expand then the requirements for the consideration of national land scape will apply. As such we would suggest part b is deleted.

## **Conclusion**

34. At present we do not consider the plan to be sound, as measured against the tests of soundness set out in the NPPF. I can therefore confirm that the HBF would like to participate in any hearing sessions held at the examination in public on the matters raised in our representations and that we would like to be kept informed of the submission and examination of the local plan.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Behrendt', with a stylized flourish at the end.

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## **Appendix 1: Review Policy from Bedford Local Plan 2030.**

### **Policy 1 - Reviewing the Local Plan 2030**

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*The Council will undertake a review of the Local Plan 2030, which will commence no later than one year after the adoption of the plan. An updated or replacement plan will be submitted for examination no later than three years after the date of adoption of the plan. In the event that this submission date is not adhered to, the policies in the Local Plan 2030 which are most important for determining planning applications for new dwellings will be deemed to be 'out of date' in accordance with paragraph 11 d) of the National Planning Policy Framework 2019.*

*The plan review will secure levels of growth that accord with government policy and any growth deals that have been agreed. The planning and delivery of strategic growth will be aligned with the delivery of planned infrastructure schemes including the A421 expressway, Black Cat junction, East West Rail link and potentially the A1 realignment.*

*The review will also serve to build stronger working relationships with adjoining and nearby authorities and may result in the preparation of a joint strategic plan based on a wider geography.*