

**HARPENDEN GREEN BELT ASSOCIATION'S  
REPRESENTATIONS RELATING TO ST ALBANS  
DISTRICT COUNCIL'S LOCAL PLAN**

**UNDER REGULATION 20 OF THE TOWN AND  
COUNTRY PLANNING (LOCAL PLANNING)  
(ENGLAND) REGULATIONS 2012**

## EXECUTIVE SUMMARY

### **Legal Compliance & Duty to Co-Operate**

1. The Inspector is asked to require St Albans District Council (“**the Council**”) to prove by robust evidence that it has complied with the Duty to Co-operate, by effective co-operation involving “*sustained joint working with concrete actions and outcomes*” rather than simply “*an exchange of correspondence, conversations or consultations*”, particularly with Central Bedfordshire Council and Luton Borough Council in respect of matters which affect Harpenden.
2. The Council is in breach of the Duty to Co-operate because it has not given sufficient weight to the Strategic Economic Plan produced by Hertfordshire LEP in making its decisions as regards the location of housing in its local plan. For political and non-planning reasons, it has chosen to allocate housing to Harpenden, which falls outside the LEP’s M1/M25 growth area, in preference to areas in and around St Albans, which do. This affects the funding available for infrastructure to support new housing development.
3. By Regulation 18(3) of the 2012 Regulations, the Council was under a legal duty to take into account representations made to it during a consultation conducted in the Autumn of 2014. That statutory duty engaged the common law duty of procedural fairness, including the obligation to take the product of consultation conscientiously into account in finalising its local plan. The Council did not take the product of the 2014 consultation conscientiously into account and, in particular, failed to properly grapple with legitimate criticisms of the way in which strategic Green Belt sites had been evaluated and chosen.

### **Soundness**

The local plan is unsound, for the following reasons:

1. The setting of the housing target, and the decision to remove land from the Green Belt, is not **justified or consistent with national policy**. In particular:
  - (1) The decision was taken back-to-front. A housing need figure was first ascertained, then four strategic sites chosen for release from the Green Belt, with the decision as to whether or not exceptional circumstances exist which justify such a release being made only thereafter.
  - (2) No reasoned rationale was given for the assertion that exceptional circumstances exist which merit a change to Green Belt boundaries so as to meet 100% of the District’s objectively assessed housing need, but no more. Reasonable alternatives, including meeting less than 100% of need and releasing less Green Belt, were not considered.

- (3) A proportion of the housing target figure is to be made up of small-scale Green Belt sites which are yet to be identified and will be brought forward “*where directly supported by local communities*”. Direct support by local communities is not an exceptional circumstance justifying Green Belt boundary change and it is inappropriate for the housing target to have been set on the assumption that these sites will be forthcoming.
2. The local plan is not **justified** or **consistent with national policy** as it has not been informed by an up-to-date Strategic Housing Land Availability Assessment (“**SHLAA**”).
3. The local plan is not **justified, effective** or **consistent with national policy** because it is not based on adequate, up-to-date and relevant evidence about current and future transport movements and traffic congestion, which is a serious problem throughout the District and a key issue affecting sustainability of development.
4. The decisions made as to the moving of Green Belt boundaries are not **justified** or **consistent with national policy**, because the Green Belt Review commissioned by the Council from consultants was seriously flawed in its approach; failed to provide a robust method of identifying those areas of Green Belt which perform least well against Green Belt purposes and has resulted in adjusted Green Belt boundaries which are not clearly defined, using physical features that are readily recognisable and likely to be permanent. In particular, the proposed new Green Belt boundary at Harpenden does not comply with NPPF requirements.
5. The identification of four “Broad Locations” to be removed from the Green Belt was not **justified** or **consistent with national policy**, because the sites were pre-determined in advance on political and non-planning grounds and the decision then dressed up by a purported assessment which was illogical, inconsistent and unsupported by, or flatly contrary to, evidence and previous assessments, including those carried out under statute. Elements of the assessment are so bizarre as to be “*Wednesbury*” unreasonable.
6. The local plan is not **positively prepared, justified, effective** or **consistent with national policy** because the Council has failed in its duty to properly assess and plan for the District’s infrastructure needs.
7. Policy SLP 13c, relating to the North West Harpenden Broad Location (“**NW Harpenden**”) is not **justified, effective** or **consistent with national policy** because:
- (1) it proposes a new Green Belt boundary based on an imaginary line, not reflective of any physical feature on the ground;
- (2) it is impossible to achieve;

(3) it is based on assumptions about the sustainability of development at this location which are not justified on the evidence.

8. Policy SLP6 is not **effective** or **consistent with national policy** because the location of a secondary school in Harpenden, which is likely to require further release of Green Belt land, is a strategic issue which should have been dealt with in the Strategic Local Plan rather than being left over for the Detailed Local Plan.

## **I THESE REPRESENTATIONS**

1. These representations are submitted on behalf of the Harpenden Green Belt Association (“**HGBA**”). HGBA is a local residents’ group formed for the purposes of protecting the Green Belt around Harpenden and campaigning to ensure that development is sustainable and supported by appropriate infrastructure. Further details may be found on our website: <http://www.harpendengreenbelt.org.uk/>
2. In preparing these representations, we have assumed that the Inspector will be provided by the Council with the key documents in its evidence base and have not, therefore, appended copies of them. Minutes or agenda papers for the Council’s Planning Policy Committee (“**PPC**”) or other Council meetings have been referenced by hyperlink to the Council’s website. Other documents referred to in these representations have been attached as numbered enclosures or, if very long, a hyperlink is given.

## **II BACKGROUND AND CONTEXT**

1. In order to understand the key components of the draft SLP in relation to housing and Green Belt release, it is necessary for the Inspector to understand the political context in which the draft has been produced.
2. The political make-up of the Council is that Harpenden and the north of the District return Conservative councillors, whilst St Albans and the south are generally represented by the Liberal Democrats and Labour. A considerable number of District Councillors view Harpenden – wholly unreasonably - as ‘upper class’.
3. Political opposition between right and left is often played out as geographical opposition between north and south. Majorities on the Council are generally small or non-existent but in recent years the administration has been Conservative and, therefore, predominantly from Harpenden constituencies. The administration suffered a key defeat in Council in 2012 regarding a proposed plan and the only way in which the Leader of the Council was going to progress a draft thereafter was by deciding where Green Belt land could be released with the fewest political consequences. Thus:
  - The most politically acceptable location for large numbers of new homes was close to Hemel Hempstead, far away from the constituencies of most District Councillors; and

- A draft plan which required removal of land near St Albans from the Green Belt was never going to be agreed by Full Council unless Green Belt around Harpenden was also surrendered for development. In the long-remembered words of one councillor representing a constituency in the south of the District, Harpenden must be obliged to “*take some pain*”.

As the Inspector will see, this is achieved in the local plan by the release of four “strategic” sites or “Broad Locations” from the Green Belt: East Hemel Hempstead (North) and East Hemel Hempstead (South) (together “**the Hemel Hempstead Broad Locations**”), NW Harpenden and East St Albans (Oaklands) (“**Oaklands**”).

4. The core reason why the local plan is in breach of statutory duty and unsound, as detailed in these representations below, is that the Council has not been interested in reaching decisions properly based on robust evidence and planning considerations, but only in achieving a politically convenient outcome. This is, of course, not minuted or otherwise publicly recorded and will no doubt be strenuously denied. However, the requirement of the process to achieve a pre-determined outcome is manifested in, for example:
  - (1) the outright rejection by PPC of the ranking of Green Belt “strategic” sites advised by an independent consultant in the Green Belt Review, in favour of its own scoring system, which completely reversed the rankings, as explained in section IV.E below;
  - (2) the obvious inconsistencies in the scoring of the Green Belt sites, which has been carried out with a view to “inflating” the scores given to the Hemel Hempstead, Oaklands and Harpenden Broad Locations over other strategic Green Belt sites. Further detail is provided in section IV.E below;
  - (3) the refusal of the Council to reconsider its own scoring/ranking, despite the advice of its Sustainability Appraisal consultants that it had not selected the most sustainable sites for release from the Green Belt, as explained further in section IV.E below;
  - (4) the resolute refusal of the Council to acknowledge or correct even basic factual errors such as measurements of distance and area, where to make the corrections might cast doubt on the ranking of sites and therefore fail to achieve the politically-required outcome. Further detail is provided in **Appendix 1**; and
  - (5) the failure conscientiously to engage with the views expressed during the 2014 consultation, as set out in further detail in section III.B below, because to have done so would have put at risk the politically-required outcome.

### III LEGAL COMPLIANCE & DUTY TO CO-OPERATE

By s.20(5) of the 2004 Act,

*“The purpose of an independent examination is to determine in respect of the development plan document-*

- (a) whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents*
- (b) whether it is sound; and*
- (c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation.”*

It is HGBA's case that the Council has not complied with its statutory obligations so as to satisfy s.20(5)(a) and (c).

#### A. Duty to Co-Operate

1. The Inspector is, of course, familiar with the Duty to Co-operate set out in s.33A of the 2004 Act and supplemented by NPPF paragraphs 178-181 and PPG “Duty to Co-operate” paras 1-23. It is for the Council to prove that it has complied with this duty, which should *“result in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development”*: NPPF para. 181, emphasis added.
2. As the passage quoted above, and PPG “Duty to Co-operate” para 13 make clear, the duty to co-operate is not limited to consideration as to whether one authority can accommodate another's housing need. The statutory duty extends to all strategic matters, and that includes infrastructure.
3. Moreover, the Duty to Co-operate requires more than merely hot air: as PPG “Duty to Co-operate”, para. 11 makes clear, it is *“unlikely to be met by an exchange of correspondence, conversations or consultations between authorities alone.”* What is required is *“sustained joint working with concrete actions and outcomes”*.
4. Harpenden lies on the County boundary between Hertfordshire and Central Bedfordshire, with Luton very close by. The quality of life of Harpenden's residents is affected by what happens over the boundary, particularly as regards its transport infrastructure (road and rail) and schools. Traffic congestion is a significant problem in Harpenden, and the trains are full. There is an acute shortage of secondary school places for children from Harpenden and the surrounding villages. Large scale development is planned in Central Bedfordshire and Luton, including the expansion of Luton Airport, which is only a short drive from Harpenden and

which will impact on Harpenden. It is therefore imperative that the Council has properly engaged with Central Bedfordshire and Luton with regard to proper infrastructure planning.

5. Harpenden is also affected by what happens in Dacorum, particularly as a number of children from villages in Dacorum, such as Markyate and Flamstead, attend Harpenden secondary schools.
6. The Council does not make Duty to Co-operate evidence readily available on its website in one place and it is difficult for members of the public or groups such as HGBA to understand the full extent of joint working between authorities. However, we have seen no evidence of “sustained joint working with concrete actions and outcomes”, as opposed to “exchanges of correspondence, conversations or consultations” between the Council and Central Bedfordshire or Luton as regards the infrastructure which Harpenden needs to support current and projected future levels of development across Hertfordshire and on both sides of the County boundary. It is perhaps not irrelevant that Central Bedfordshire has itself been held to have failed the Duty to Co-operate (see *R (on the application of Central Bedfordshire Council) v Secretary of State for Communities and Local Government* [2015] EWHC 2167 (Admin)) although the primary focus of the Inspector’s criticism was in relation to the lack of co-operation between Central Bedfordshire and Luton.
7. We would particularly draw the Inspector’s attention to the following, in relation to the question as to whether the Council has complied with its Duty to Co-operate:
  - (1) The absence of a robust (or indeed any) transport evidence base to inform its decisions about the amount or location of development in the District, as set out in section IV.C below. There should have been effective joint working with Central Bedfordshire and Luton, as well as Hertfordshire County Council (“**HCC**”) (as local highways authority) and the Highways Agency, in relation to cross-boundary transport issues. In particular this should have taken into account the extent of development which is proposed north of the County boundary and the expansion of Luton Airport and how these factors, together with development within the District (including in Harpenden) was likely to impact, both north and south of the border, and what mitigation measures should be adopted and how they would be financed.
  - (2) The absence of proper infrastructure planning more generally, as set out in section IV.F below. The Council should have been working with Central Bedfordshire and Luton in relation to infrastructure assessment and planning for new (and existing) development on both sides of the border, as well as with HCC and utility companies.
  - (3) The absence of joint working on Green Belt assessment and protection with Central Bedfordshire and Luton. Although the Green Belt Review Part 1 assessed land beyond the Hertfordshire/Central Bedfordshire boundary (parcel 40) and concluded that it significantly contributed to four of the five assessed Green Belt purposes and

partially to the fifth, the fact that the Green Belt Review was not prepared jointly with Central Bedfordshire, and the weak new Green Belt boundary which is proposed at Harpenden exposes Harpenden to the risk of substantial loss of Green Belt just across the administrative boundary (see section IV.G below).

The Inspector is asked to subject the Council's evidence that it has complied with the Duty to Co-operate to rigorous examination. As the Inspector is aware, the Duty must be complied with before a plan is submitted for examination: *Samuel Smith Old Brewery (Tadcaster) v Selby DC* [2015] EWCA Civ 1107.

8. In one respect it appears that the Council has failed in the Duty to Co-operate. By s.33A(2)(b) of the 2004 Act and Reg 4(2)(a) of the 2012 Regulations the Council is under a statutory duty to have regard to the activities of the Hertfordshire Local Enterprise Partnership.
9. The Hertfordshire LEP published a Strategic Enterprise Plan ("**SEP**"), "Perfectly Placed for Business", in March 2014, which is at: <http://mediafiles.thedms.co.uk/Publication/BH-Herts/cms/pdf/Herts%20-20SEP%20FINAL.pdf>

The SEP identified three growth areas, one being the M1/M25 Growth Area, identified in yellow on page 4 of the SEP and including St Albans but not Harpenden. In those Growth Areas, the LEP plans to accelerate housing delivery and invest in infrastructure and it has recently secured the "Hertfordshire Growth Deal", by way of funding, to help achieve this. The Council relies on the SEP when it speaks about East of Hemel Hempstead (North and South) in paragraph 4.19 of the local plan. But it has otherwise placed no weight on a location being in a Growth Area for the purpose of deciding where to locate housing: in particular, in the scoring of Green Belt sites being in the Growth Area was only treated as significant for the Hemel Hempstead Broad Locations: it was not treated as boosting the scores of other sites in the Growth Area, as opposed to sites outside it. Had it been, the ranking of Green Belt sites may well have been different, because sites in St Albans, such as N of St Albans, which are in the Growth Area, would have scored more highly on the "economic" elements of sustainability than NW and NE Harpenden, which are outside it. The Council has not, therefore, properly "had regard to" the activities of the LEP in accordance with its statutory duty.

10. The Council's failure to comply with its Duty to Co-operate in this regard will have a direct and negative financial effect on the ability to provide sufficient infrastructure to support new housing in Harpenden.

## **B. Failure Properly to Consult**

1. S.20(5)(a) of the 2004 Act, set out above, requires the Council to comply with regulations made under s.17(7), namely the 2012 Regulations. By Regulation 18 of the 2012 Regulations, the Council was obliged to carry out a consultation process "*about what a local plan...ought to contain*". Regulation 18(3) provides:



*“In preparing the local plan, the local planning authority must take into account any representation made to them in response to invitations under paragraph (1)”.*

2. The statutory duty to “take the representations into account” involves more than simply going through the motions of conducting a consultation exercise and collating the responses. A consultation process is unlawful if it does not comply with the common law duty of procedural fairness. As the Supreme Court in *R (Moseley) v Haringey LBC* [2014] UKSC 56; [2014] 1 WLR 3947 at [25] has made clear, this comprises four basic elements:
  - (1) that consultation must be at a time when proposals are still at a formative stage;
  - (2) that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
  - (3) that adequate time must be given for consideration and response and;
  - (4) that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.”
3. A decision to proceed with a proposal on a basis which is flatly contrary to the evidence put forward by respondents to a consultation, or a failure properly to grapple with points made by consultees breaches the fourth requirement, namely that the product of consultation must be “conscientiously” taken into account: *West Berkshire DC and Reading BC v Department for Communities and Local Government* [2015] EWHC 2222 (Admin); [2016] JPL 35. It also fails to comply with NPPF para. 155, which says that it is essential that engagement by plan-makers with neighbourhoods, local organisations and businesses is “meaningful”. A local authority preparing a local plan therefore acts contrary to both law and policy by treating consultation as a “tick box exercise” which it must go through but which it does not genuinely take into account in its deliberations.
4. The Council conducted a Regulation 18 consultation in the Autumn of 2014. A summary of the Regulation 18 consultation responses is at [http://www.stalbans.gov.uk/Images/SP\\_SLP\\_Report\\_of\\_Consultation\\_%202014\\_tcm15-49881.pdf](http://www.stalbans.gov.uk/Images/SP_SLP_Report_of_Consultation_%202014_tcm15-49881.pdf). HGBA’s response to the consultation is at **Enclosure 1**, Harpenden Town Council’s response at **Enclosure 2**.
5. SADC did not conscientiously take into account the responses made to the Regulation 18 consultation. PPC went through the motions of reviewing the consultation responses in their meetings on 12 February, 10 March, 21 April, 21 May and 11 June 2015, but the outcome of that process was a *fait accompli*, as demonstrated by the fact that, despite massive opposition to the proposals for release of the four Broad Locations for Green Belt (79.2% of all respondents – see answers to Q4 at page 75), the Council pressed on with its proposals without a single substantive change.

6. In particular, SADC failed to grapple with the responses to Q6 (the Green Belt Review) and Q7 (the ranking/selection of particular Green Belt sites).

7. As to Q6, 27.3% of respondents considered that the approach used by the Green Belt consultants was flawed (see pages 102-3 of the summary). HGBA was amongst those giving detailed reasons for this (see answer to Q6, which reflects the analysis in section IV.D below). The Council's "reply" to this criticism is recorded at page 110 of the summary:

*"This is not accepted. Whilst different methodologies can be proposed, no convincing evidence has been provided that the SLP methodology or conclusions are wrong."*

This reply shows that no conscientious attempt was made to properly grapple with the real issues raised by respondents to the consultation, including HGBA. Detailed and comprehensive criticism of the Green Belt Review was countered, not with reasoned argument, but simply with assertion that "no convincing evidence" had been provided.

8. As to Q7, 12.2% of respondents stated that the process used by the Council to select sites was flawed; the evaluation was not accurate or objective, meaning the sites selected were unsuitable (page 115 of summary). Some, including HGBA, gave very detailed criticisms of the approach (see HGBA consultation response to Q7, broadly reflecting the analysis in section IV.E below). The "Reply" from the Council is at page 130:

*"The process used was open and transparent. No evidence is presented that suggests that the judgments made were fundamentally incorrect."*

Again, this reply shows that no conscientious attempt was made to properly grapple with the issues raised. Responses to the consultation, including that of HGBA, did present evidence that suggested the judgments made were fundamentally incorrect. No reasoned rationale was put forward to meet the legitimate criticisms of the process which had been undertaken.

9. Paragraph 1.22 of the plan claims that views expressed by the community and stakeholders in consultations since 2006 have been "*key in shaping this document*". In fact the document, by taking land out of Green Belt to meet 100% of housing "need" and without proper infrastructure planning, does the opposite of what consultations have repeatedly made clear the community wants. The fact is that the Council was not interested in the product of the 2014 consultation process. It viewed the consultation simply as a hurdle which it must jump through and which would not, in practice, be allowed to deflect it from its pre-determined course. It therefore failed in its legal duty properly to consult and to take these responses into account in finalising the local plan.

## IV SOUNDNESS

### A. Setting of Housing Target/Green Belt Boundary Change

1. The way in which the Council has approached the key issue of Green Belt boundary change to meet housing needs is unsound. This is because it has approached the decision in a back-to-front way, and has failed to give effect to national policy as interpreted by the Courts in recent case law.

2. Paragraph 14 of the NPPF requires that

*“Local plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless...*

- *Specific policies in this Framework indicate development should be restricted”.*

3. The footnote to paragraph 14, and PPG “Do housing and economic needs override constraints on the use of land, such as Green Belt”, make clear that one of the “*specific policies in this Framework*” which indicates that development should be restricted is the policy on Green Belt, set out in NPPF Section 9. Equally, NPPF paragraph 47 requires local authorities to

*“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area”,*

but only

*“as far as is consistent with the policies set out in this Framework”.*

Paragraph 17 of the NPPF recognises that the protection of Green Belts is a “*core land-use planning principle*”. NPPF paragraph 83 provides:

*“Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.”*

PPG “Do local authorities have to meet in full housing needs identified in needs assessments?” stresses that need is only the first stage in developing a local plan, and that once need has been assessed, the authority should prepare a SHLAA, and in doing so take account of any constraints such as Green Belt, which indicate that development should be restricted and which may restrain the ability of an authority to meet its need.

4. It is well-established that, whilst the application of planning policy is for the planning authorities and the Inspector, the meaning of planning policy is a matter for interpretation by the Courts: *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13 at [18]-[19].

5. The interrelationship of paragraphs 14, 47 and 83 has been considered by the Courts in a number of cases, notably *R (Hunston Properties Ltd) v Secretary of State for Local Government* [2014] JPL 599; *Gallagher Homes v Solihull MBC* [2014] JPL 713 and *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin). From these we may draw the following principles:
- (1) the objective assessment of “need” is an exercise which is prior to, and separate from, the application to that assessment of other policies, including Green Belt policy (*Solihull* [10]; *Hunston* [25]);
  - (2) a local plan may properly fall short of meeting the “full objectively assessed needs” for housing because of the conflict which would otherwise arise with Green Belt policy (*Hunston* [6]);
  - (3) the NPPF does not require the three *desiderata* of sustainable development to be balanced. Review of Green Belt in the face of sustainable development requires exceptional circumstances. Refraining from carrying out sustainable development and thereby causing social and economic damage by omission does not. The impingement on environmental factors will require the identification of exceptional circumstances to be justified and must be ameliorated to the extent possible (*Calverton* [23]);
  - (4) it is illogical, and circular, to conclude that the existence of an objectively assessed need could, without more, be sufficient to amount to “exceptional circumstances” (*Calverton* [50]);
  - (5) there may be nothing special and certainly nothing “exceptional” about a shortfall between housing need and capacity in a district which has very little undeveloped land outside the Green Belt (*Hunston* [32], as applied to plan-making, see *Calverton* [39]);
  - (6) despite some language differences, the NPPF retains the previous requirement that circumstances are not exceptional unless they necessitate a revision of the Green Belt boundary, exceptionality and necessity being a single composite test (*Solihull*, [32]-[35]);
  - (7) the planning judgments to be made involve identifying, and then grappling with, a number of factors, including
    - (a) the acuteness/intensity of the objectively assessed need;
    - (b) the inherent constraints on supply/availability of land prima facie suitable for sustainable development;

- (c) the consequent difficulties in achieving sustainable development without impinging on the Green Belt;
  - (d) the nature and extent of the harm to this Green Belt (or the parts of it which would be lost if the boundaries were reviewed); and
  - (e) the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest practical extent (*Calverton* [51])
- (8) in reviewing Green Belt boundaries, local authorities must consider NPPF paragraph 84, and in particular the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary (*Calverton* [19]).

6. We particularly stress three aspects of the above:

- (1) First, what is required to be identified before Green Belt boundaries may be changed are circumstances which are “*exceptional*”. In a District which is heavily constrained by Green Belt, an inability to meet all housing need is not unusual, special or exceptional. It reflects the whole purpose of the Metropolitan Green Belt, which is to constrain development in the very areas in which the pressure for such development is most acute.
- (2) Secondly, the identification of “exceptional circumstances”, is, by itself, insufficient. Those circumstances must necessitate, or justify, a redrawing of Green Belt boundaries. In other words, it is one thing to identify a problem; the relevant question to be considered is whether redrawing the Green Belt boundaries in a particular way will provide a solution to that problem. In other words, there must be a causal connection between the exceptional circumstances and the redrawing of Green Belt boundaries.
- (3) Thirdly, the nature and extent of harm to the Green Belt in the particular areas it is proposed to take out of Green Belt must be considered.

7. The Council approached its decision as to the redrawing of Green Belt boundaries, as follows:

- (1) a SHLAA was carried out in 2009, but not updated at the time the Plan was published: see section B below;
- (2) the PPC meeting on 7 October 2013 received Part 1 of a Green Belt Review (“**Green Belt Review Part 1**”) by Sinclair Knight Merz (“**SKM**”), which identified 8 “strategic” Green Belt sites and 8 “small, sub-scale” Green Belt sites in St Albans District;

- (3) on 31 January 2014, PPC adopted a “housing need” figure of 436 dpa, amounting to 8,720 over the plan period, being the migration-led (10 year) figure set out in the report prepared by Housing Vision “Independent Assessment of Housing Needs and Strategic Housing Market Assessment” (“**the Housing Needs Assessment**”);
- (4) on 4 March 2014, PPC received the final version of Part 2 of the Green Belt Review from, SKM (“**Green Belt Review Part 2**”), which reviewed and ranked the 8 “strategic” Green Belt sites;
- (5) on 3 July 2014, PPC received a report from officers called “Strategic Local Plan Technical Report: Development Site and Strategy Options Evaluation” (“**the July 2014 Strategy Report**”) which included an “evaluation matrix” by which the 8 strategic Green Belt sites were scored against economic, social and environmental criteria (“**the Evaluation Matrix**”) and the scores carried into a “sites package” reflecting different potential development scenarios, all of which assumed that 100% of assessed need would be met;
- (6) at the same meeting, PPC resolved to consult on a draft plan based on an assumption that 100% of the objectively assessed need for housing would be met, by way of
  - (a) 4,500 dwellings from urban capacity;
  - (b) 500 dwellings from minor Green Belt changes;
  - (c) the remaining 4,500 dwellings from the Hemel Hempstead, Oaklands and NW Harpenden Broad Locations;
- (7) that consultation took place in the Autumn of 2014. Consultees were told in the “summary booklet” that the Council had not taken a decision as to whether “exceptional circumstances” existed or not;
- (8) at its meetings on 12 February, 10 March, 21 April, 21 May and 11 June 2015 PPC received summaries of consultation responses on particular topics. However, no changes of any substance were made to the draft plan following the consultation;
- (9) On 11 June 2015, PPC received an “update report” in respect of housing need from Housing Vision;
- (10) during the summer of 2015, a series of meetings was held in private with the developers of 7 of the 8 strategic Green Belt sites (one owner having declined the invitation) and the results of those meetings, including the “offers” from developers reported to PPC on 13 October 2015;

- (11) at its meeting on 17 November 2015, a draft local plan was brought before PPC. It was advised to consider the draft “*in the context of the total evidence base which underpins the draft*” and was told that planning officers’ view was that the test for “exceptional circumstances” had been made out. PPC, without any discussion of what those circumstances might be or whether they existed or what consequences there were for the plan, proceeded to make minor drafting amendments to the plan and recommend to Cabinet and Council that it should proceed to formal publication of the draft under Regulation 19 of the 2012 Regulations. This recommendation was adopted by Cabinet on 19 November and Council on 2 December 2015.
8. It is apparent that the Council took its decisions in a back-to-front way. It decided, first, which Green Belt sites it wanted to release, before considering whether there were exceptional circumstances which justified the release of any Green Belt, let alone the particular sites identified. Furthermore, as explained in further detail below, the decision as to which sites to remove from Green Belt was taken without regard to the extent to which those sites fulfil Green Belt purposes and resulted in the selection of sites, development of which will cause greater harm to Green Belt purposes, over sites which would result in lesser harm.
9. No rationale has been given as to why exceptional circumstances exist, what those circumstances are and why they justify meeting 100% of housing need, but no more, as asserted in paragraph 6.37 of the plan. PPC members were told to take into account all the evidence laid before them: but this evidence showed only that the assessed housing “need” exceeded likely urban capacity (which urban capacity was not assessed by way of an up-to-date SHLAA in any event). As the Judge held in *Calverton*, it is illogical, and circular, to determine that exceptional circumstances exist from the mere fact that housing need is greater than urban capacity.
10. The issue of whether exceptional circumstances exist was not determined until the PPC meeting of 17 November 2015. At that meeting, no consideration was given to the option of meeting less than 100% of objectively assessed need by a reduced level of Green Belt release. There was no discussion between committee members and no officer report which considered any other options. It was wrongly assumed that if exceptional circumstances exist, that must dictate the release of sufficient Green Belt to meet 100% of the need.
11. Further, no consideration was given to the question whether the release of land from Green Belt would actually meet the need identified. In fact the evidence shows very strongly that Green Belt release is highly unlikely to meet the housing need identified in the Housing Need Assessment. This is because
- (1) the “need” identified in the Housing Need Assessment, in the migration-led (10 year) scenario selected by the Council, is predominantly generated from growth in the local population. This can be seen most clearly in Table 5.5 at page 237 of the report. The

option which the Council has chosen, which works out at 436 dwellings per annum, assumes net migration of only 142 people per annum (it has been clarified with the Council that this is the correct way to read the table and that the 142 figure represents people, rather than households or dwellings). At an average of 2.5 people per dwelling, that means only 57 homes of the 436 per year, some 13%, are allocated for meeting net in-migration into the District;

- (2) on the other hand, the Housing Need Assessment also shows that the housing market in the District is in fact strongly driven by in-migration, particularly from London. This accords with the experience of local people in Harpenden, which is that at every level of the housing market they are out-bid by those coming from London with larger incomes and substantial equity realised from London homes. Harpenden estate agents report that 50% of the houses they sell go to Londoners. Housing Vision conducted an analysis of council tax receipts and found that new-build properties were being acquired by those from outside the District by a ratio of 10:1: see paragraphs 2.26-2.27 of the Housing Needs Assessment. They advised at ES 32 that

*“these patterns and trends of movement to and through St Albans constitute an ‘unstoppable force’, an example of a housing market in which the exercise of demand will always exceed supply and will arise from well beyond St Albans’ boundaries”;*

- (3) changes in national policy and law as regards “affordable housing”, such as extension of Right to Buy to housing association homes and the requirement to build starter homes rather than social rented housing, will also make it difficult to keep even the “affordable” housing on Green Belt sites available for long-term local need. Homes initially available to local people are likely to become market housing within a matter of years, probably well before the end of the plan period. The Housing Need Assessment at paragraph 2.48 records a “surge in Right to Buy sales” in the District since April 2012.

Consequently, there is strong evidence that redrawing Green Belt boundaries will not meet the local “need” which the Council has identified. New-build properties on former Green Belt sites will simply fuel in-migration, leaving the local need untouched and exacerbating the problems for the future by boosting the District’s population through in-migration.

12. Lastly, under this heading, Green Belt land has wrongly been treated as if it were urban land. This is in respect of the “smaller” Green Belt sites, which have consistently been treated by the Council as if they were not subject to Green Belt policy. At its meeting on 31 January 2014 PPC received a report on “Housing Land Supply/Urban Capacity Update”:

<http://stalbans.moderngov.co.uk/documents/s50010276/5%20and%2020%20Year%20Land%20Supply%20Final%20to%20publish%202.pdf>



Paragraphs 5.25-5.30 of this report identified capacity of about 500 dwellings from “small scale” Green Belt sites. The draft plan which was put out for consultation in Autumn 2014 contained, at paragraph 6.33, a detailed calculation of expected sources of housing and made clear that these 500 dwellings counted towards the overall figure of 9,000. This is obscured in the current plan, which does not contain the same table and at Appendix 2: “Housing Trajectory” appears to include these small-scale Green Belt sites within the row of “current known/projected delivery”. The Council’s housing target figure has therefore been reached on the basis of inclusion of these small Green Belt sites, despite the facts that:

- (1) there has been no consideration given as to whether there are exceptional circumstances justifying the redrawing of Green Belt boundaries in these locations: rather these sites are to come forward “*where directly supported by local communities*”, or by way of “*rural exception*” sites (plan, para. 6.32). However, “direct support by local communities” is not an exceptional circumstance justifying the redrawing of Green Belt boundaries;
- (2) these sites have not been subjected to any sustainability analysis and it is not intended to subject them to any such analysis but rather to include or exclude them based on “community support” (and without consideration being given as to how the housing target figure can be reached if there is no such community support, as the responses to the 2014 consultation suggest is the most likely scenario): and
- (3) there has been no consideration given to the overall sustainability of a sites package which locates 500 dwellings on small, sub-scale Green Belt sites. The only strategies considered in the July 2014 Strategy Report were ones which involved the release of small Green Belt sites for 500 homes. The potential for a more sustainable option, if Green Belt release is really required, namely the use of a single larger site rather than multiple smaller sites which are unlikely to support any strategic infrastructure, was not considered. The Council has not wished to countenance this option because it would involve consideration of utilising the N of St Albans Broad Location (with capacity for 900 homes) in preference to NW Harpenden (with capacity for a maximum of 400 homes – see below in section H) and the smaller Green Belt sites. This would, of course, upset the politically-driven strategy of ensuring that Harpenden “takes the pain” of Green Belt release.

13. For all these reasons, therefore, the setting of the housing target, and the decision to remove land from the Green Belt, whether on the “strategic” or the “smaller sub-scale” sites is not **justified or consistent with national policy**.

**B. Absence of up-to-date SHLAA**

1. By NPPF paragraph 158

*“Each local authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.”*

By NPPF paragraph 159, such evidence includes a SHLAA compiled in accordance with guidance in PPG “Housing and Economic Land Availability Assessment”.

2. It is axiomatic that a local plan can only be “*based on*” evidence if the evidence is available and considered at the time the decisions about what is to go into the local plan are made. As the PINS Guidance Booklet, “Local Development Frameworks Examining Plan Documents: Learning from Experience” notes (at para. 33):

*“The guiding principles are that the evidence should be proportionate and it should inform what is in the plan rather than being collected retrospectively in an attempt to justify the plan”.*

3. The Council did not have an up-to-date SHLAA on 17 November 2015 when PPC resolved on the form of plan which it would recommend to Cabinet and Council or on 2 December 2015 when Full Council resolved to publish the local plan under Regulation 19 of the 2012 Regulations.
4. The SHLAA available as at November 2015 had been produced in 2009 and could not possibly be considered “up-to-date”. A “refresh” of the SHLAA was proposed, but had not been carried out at the time the local plan was published and is not available at the date of these representations.
5. As indicated above, the draft plan which was subject to a Regulation 18 consultation in 2014 contained, at paragraph 6.33, a detailed calculation of expected sources of housing over the plan period, indicating that the Council was then expecting 4,625 homes to be delivered from non-Green Belt sources, 4,000 homes from large-scale Green Belt Broad Locations and 500 from small-scale Green Belt locations, totalling 9,125. The relevant extract is at **Enclosure 3**.
6. The equivalent paragraph has been removed from the current draft plan. Instead the only indication of the anticipated housing supply sources is in the “Housing Trajectory” at Appendix 2. The sources and assumptions of the numbers in the Housing Trajectory are not fully explained. However, as the total (9,155) is fairly similar to the 2014 consultation draft, it would appear that the Council has not updated the assumptions on which the 2014 consultation plan was based to reflect existing national policy. In particular it would appear that the Council has not taken into account the policy change announced on 13 October 2015 under which permitted development rights from offices into residential properties were made permanent, rather than expiring in 2016.

7. The expressed purpose of the October 2015 change to permitted development rights was to increase housing capacity whilst “*protecting our precious green belt*”. It is obvious that if the Council has failed to take into account these permitted development rights, it is likely to have significantly underestimated its urban capacity supply of housing land and therefore that the plan requires more Green Belt release than is necessary.
8. The absence of an up-to-date SHLAA on which to base the plan, coupled with assumptions about urban housing supply which fail to take into account current planning policy, means that the decisions made about Green Belt boundary changes are not **justified** or **consistent with national policy**.

**C. Absence of Transport Evidence Base**

1. It is apparent that in order properly to assess the impact of development, including the sustainability of particular sites for housing and other development, it was necessary for the Council properly to assess the impact of such development on traffic movement and congestion. Only by having a robust understanding of current and future likely transport issues could the Council direct development towards the most sustainable locations and plan positively for transport infrastructure to support current and future needs. Traffic congestion is a serious issue affecting the quality of life of residents across the District and there has been very rapid and noticeable growth in the use of the Thameslink rail line in recent years.
2. The requirement for a local planning authority to have a robust transport evidence base to support the preparation of a local plan is emphasised by PPG “Transport Evidence Bases in Plan Making and Decision Taking”. The key issues to be considered in developing the transport evidence base

*“include the need to*

- *assess the existing situation and likely generation of trips over time by all modes and the impact on the locality in economic, social and environmental terms*
- *assess the opportunities to support a pattern of development that, where reasonable to do so, facilitates the use of sustainable modes of transport...*
- *consider the cumulative impacts of existing and proposed development on transport networks*
- *assess the quality and capacity of transport infrastructure and its ability to meet forecast demands...*”

PPG “When should the transport assessment of the Local Plan be undertaken?” indicates that an assessment of transport implications should be undertaken at a number of stages in the

preparation of a Local Plan, including as part of the options testing and as part of preparation of the final submission.

3. The Council has failed woefully in this regard. It does not have a robust, or any, transport evidence base and has not carried out any traffic modelling to assess the impact of development at all. This is despite the fact that many respondents to the 2014 consultation expressed concern about existing pressure on the road and rail network and their capacity to cope with further development, including development outside of the District.
4. The Council has not even complied with its own agreed methodology for assessing the eight Green Belt strategic sites on traffic and access grounds. At its meeting on 4 March 2014 PPC required officers to assess the sites in accordance with the methodology proposed in the report called "SLP Green Belt Strategic Sub Area Development Options – Evaluation Methodology" (the "**Evaluation Matrix Methodology**"):

<http://stalbans.moderngov.co.uk/ieListDocuments.aspx?CId=459&MId=7443&Ver=4>

Paragraph 5.18 of the methodology indicated that officers would have "*detailed discussions with Hertfordshire County Council*" before scoring the sites. They did not have any discussions with HCC at all in relation to the eight specific sites before scoring them in July 2014. This has been confirmed through a Freedom of Information Act response, a copy of which is at **Enclosure 4**. The four Broad Locations had been selected in July 2014, yet the FOI response makes clear that the Council sought no advice at all from HCC in relation to the traffic and access aspects of the local plan until 8 October 2014, when a very general and high-level meeting took place. It is not clear how the Spatial Planning Manager felt able to tell PPC members on 1 May 2014, as appears from the minutes, that "*there had been some discussions with the Highways Department at Herts County Council at a high level*", in light of the confirmation given in the FOI response.

5. HCC has repeatedly said in response to consultation exercises that a proper assessment of traffic impact needs to be carried out, but this advice has been ignored. A copy of the HCC response to the 2014 consultation is at **Enclosure 5**.
6. The Highways Agency's response to the 2014 consultation also highlighted, in particularly strong terms, the absence of evidence to support the assertions made in relation to traffic, and the consequences for the "soundness" of the plan. A copy of this response is at **Enclosure 6**.
7. It is understood that HCC is currently conducting a traffic modelling exercise across the County. Such details as we have are set out in emails from HCC at **Enclosure 7**. However, as the results of that modelling are not yet available they have not been taken into account by the Council in drawing up its local plan.

8. In any event, the traffic modelling exercise being conducted by HCC will only take into account the Broad Locations which the Council has selected. It will not model the traffic impact of development on the Broad Locations which have been rejected. Consequently, it cannot provide evidence, even after the event, to justify the selections made. Nor will the modelling assess the impact of allocations which are required by the housing target the Council has set itself, but will only be made in the Detailed Local Plan, such as school sites and 500 homes on “small, sub-scale” Green Belt sites. Proper traffic modelling was required before, not after, the decisions were made.

9. A supposedly “Core Strategic Objective” of the plan, at paragraph 3.19, is

*“Providing a sustainable movement network which encourages the use of public transport, walking and cycling and which improves access to services, jobs and facilities, particularly for rural settlements and those without the use of private vehicles. Traffic congestion will be managed to an acceptable level while parking will be appropriately priced and located. Improvements will be made to air quality and reductions made in carbon emissions”.*

Without a proper transport evidence base, the Council has simply no idea whether the plan which it puts forward is consistent with the so-called Strategic Objective. These are simply fine words, without substance.

10. As local residents in Harpenden, we draw particular transport issues relating to NW Harpenden to the Inspector’s attention, none of which have been given any proper consideration by the Council:

(1) Congestion on the A1081 Luton Road. There are often long queues of traffic from the outskirts of Harpenden to the north, through the centre of Harpenden and towards and through St Albans to the south. This is reflected in the Harpenden Urban Transport Plan, with the NW Harpenden site being in a “congestion hotspot” (key issue C1i at paragraph 4.10):

[http://www.hertsdirect.org/services/transtreets/tranpan/tcatp/harutranspln/18432204.pdf/](http://www.hertsdirect.org/services/transtreets/tranpan/tcatp/harutranspln/18432204.pdf)

In addition to congestion at peak times and as a consequence of school traffic to the Roundwood Schools on Roundwood Park, the A1081 suffers badly when there are problems on the M1, with traffic coming off the motorway at J10A and driving through Harpenden and St Albans to access the M25 by an alternative route. At peak times, the road from Redbourn to Harpenden is also congested.

(2) A disused railway, which has been turned into a leisure route for cyclists and walkers, the Nickey Line, runs from northern Harpenden to Hemel Hempstead. In the vicinity of NW Harpenden it creates two traffic “pinch points”:

- (a) The Nickey Line bridge over the A1081 at the junction with Park Hill is narrow and controlled by three-way traffic lights. Widening it would require significant and expensive engineering works. The complex movements between the southbound and northbound traffic on the A1081 and on Park Hill cause tailbacks in all directions. Park Hill is heavily used by school traffic accessing Roundwood Primary School and Roundwood Park (Secondary) School, including school buses which bring children into Roundwood Park from villages around Harpenden. Although Park Hill and Roundwood Park are notionally two-way streets, parked cars make them effectively one-lane only, so that there are long delays in this area during school drop-off and pick-up times.
  - (b) Where Ambrose Lane, to the West of the Site, crosses the Nickey line over a bridge, there is a sharp, blind, bend. Cars often stray over to the wrong side of the road and any heavier use is likely to be dangerous.
- (3) Cooters End Lane is a single track and very narrow country lane: it has two lanes only for a short stretch at its junction with the A1081. It winds picturesquely through the countryside to join Thrales End Lane near the river Lea. The section from the A1081 to Ambrose Lane is already over-used, as cars “rat run” to avoid congestion on the A1081. The section of Cooters End Lane beyond the junction with Ambrose Lane is narrow, winding and dangerous, as cars share the highway with walkers (the Chiltern Way, a long-distance footpath, runs along the down the road at this point) and cyclists.
- (4) Ambrose Lane itself attracts traffic going to the Spire Hospital and the Kings School. It is often effectively one-way because of the number of parked cars. Because of a one-way system on Hollybush Lane, traffic using this route to get into central Harpenden tends to drive down Tennyson Road, which is very narrow and effectively one-way, lined with residents’ parked cars on either side. Any greater weight of traffic is likely to cause a serious logjam. St George’s School in this area also creates traffic at drop-off and pick up times.
- (5) It is difficult to turn out of Bloomfield Road onto the A1081, particularly going north (RH turn). This is shown as a “*hazardous site*” in the Harpenden Urban Transport Plan (see figure 4.1 at page 31). Visibility at the junction of Bloomfield Road and Ambrose Lane is also poor: residents have erected a mirror to assist.
- (6) Although the Site is within easy cycling distance of the Town Centre, the nature of and congestion on the A1081 make it suitable only for the most confident cyclist.

There is also only one footpath under the Nickey Line bridge: it is narrow and unpleasant to walk under. There is no footpath next to NW Harpenden on the A1081.

(7) Harpenden is an affluent town with very high levels of car usage and the gradients in the area are not very conducive to walking, with the A1081 lying in a valley: so whilst the A1081 itself is a relatively flat walk, walking from NW Harpenden to the Roundwood Schools, for example, would involve a downhill, then steep uphill, climb. We estimate that residents in the centre of the Broad Location will have a brisk 20-25 min walk into the town centre, about 30 mins to the station. Based on our experience we would say that whilst fit and healthy residents of the new development may walk to town on a fair day if they are not carrying shopping or with young children, most of the journeys will be by car. There are bus services along the A1081 but most residents of Harpenden prefer to use their cars.

7. Lack of parking capacity in Harpenden is also a matter of considerable local concern. The rail station is heavily used by those who drive from the villages around Harpenden, with the consequence that the two central surface car parks next to the rail station are full by 8.30am on a weekday. At the PPC meeting on 21 May 2015, officers informed members that there “are currently no plans for additional town centre parking”. This is another example of the selection of sites having been made without due consideration of the issues which have to be resolved to make them sustainable locations for development. The centre of Harpenden is congested with traffic already and here is a chronic shortage of parking places. The Town’s layout stems from the Victorian and Edwardian era and it currently barely copes with the existing volume of traffic, let alone the traffic from an additional 1,300 homes in the town. Most of the centre of Harpenden is a Conservation Area which is a major constraint, as are the narrow access roads leading to the station car parks. Another restraint is the widespread use by the Council of zonal residents parking permits which severely restrict the opportunities for commuters and shoppers to park on roads anywhere near the station or the shops. In June 2015, officers stated frankly that they had “no idea” of the traffic and parking impact on Harpenden of the 1,500 homes to be built near Redbourn. Officers could not even give a “best estimate” of the impact, even though many current Redbourn residents not only use Harpenden railway station but also shop in Harpenden.

8. For the above reasons, the local plan is not **justified, effective or consistent with national policy** because it is not based on adequate, up-to-date and relevant evidence about current and future transport movements and traffic congestion.

#### **D. Deficiencies in the Green Belt Review**

1. The Council commissioned a Green Belt Review from independent consultants, Sinclair Knight Merz (“**SKM**”). Their report was produced in two parts.

2. In Part 1, large parcels of land were assessed against four national Green Belt purposes and one local Hertfordshire Green Belt purpose. The fifth national purpose, to assist urban regeneration, was not assessed because it was considered that all of the Green Belt would contribute equally to this purpose.
3. The Inspector is asked to note that in Part 1, the Green Belt around Harpenden was assessed as playing an important role. In particular, Parcel 40, which lies to the north and north east of Harpenden, makes a significant contribution towards checking sprawl (Figure 7.1), safeguarding the countryside (Figure 7.3), preserving the setting of historic towns (Figure 7.5) and maintaining the settlement pattern (Figure 7.6), in addition to the unassessed purpose of assisting the regeneration of brownfield land.
4. At the end of Part 1, certain sub-areas which were considered to contribute less to the four national and one local Green Belt purposes were identified for further assessment in Part 2. These were the “strategic areas”. In St Albans District, there were eight such areas: see paragraphs 8.2.3 - 8.2.9. At section 8.3, the consultants also referred to “small-scale” sub-areas which were considered to contribute less to Green Belt purposes. There were eight such “small-scale” areas in St Albans District, referred to in paragraphs 8.3.4 – 8.3.11. Only the eight “strategic” areas were taken forward for assessment in Part 2.
5. In Part 2:
  - (1) the eight “strategic” areas were each sub-divided into 2 or more parts. So, for example, the NW Harpenden strategic area was divided into “south-west” (shown green on Figure 7.1) and “East/North” (shown purple on Figure 7.1);
  - (2) the landscape characteristics of one part of the strategic area were considered against the landscape characteristics of the other part or parts of that area: see, for example, in respect of NW Harpenden, the table at page 64. The part with the lesser landscape sensitivity was then selected; and
  - (3) the parts of each strategic area so selected were then ranked, according to their contribution to the assessed Green Belt purposes and three other assessment criteria: environmental, historical and other constraints; integration with existing urban areas and landscape sensitivity. This ranking is set out at Table 9.1.

The four Broad Locations each represent a sub-area reached by way of this process of division and comparison, the Hemel Hempstead Broad Locations being S1 and S2, Oaklands being S3 and NW Harpenden being S5.

6. The Inspector is asked to read the Green Belt Review, and in particular Part 2, with care. It is readily apparent to the careful reader that the approach taken did not provide a robust method



of identifying the areas of Green Belt which perform least well against the 5 national and 1 local purpose, for the following reasons.

7. First, the areas of land which were eventually identified and ranked at the end of Part 2 are the result of division, sub-division and sub-sub-division. The process starts with the large parcels assessed in Part 1. Only parts of those large parcels are taken forward to Part 2. In Part 2 these smaller parcels are again sub-divided and the even smaller parcels are then ranked.
  - (1) This process of concentration on ever smaller areas of land has resulted in parcels of Green Belt which are no longer of a size to be considered truly strategic. A number of the sites, including NW Harpenden and NE Harpenden, are too small to be able to provide any strategic infrastructure. Moreover, the process has deprived the Council of considering any strategy other than urban extensions: none of the parcels would be large enough, for example, to accommodate a new settlement. Thus reasonable alternatives were not considered.
  - (2) Further, some of the eight areas identified by this process are not substantially larger than some of the "sub-scale" areas identified in Part 1. However, there has been no evaluation of the sub-scale areas against the sustainability criteria against which the "strategic" areas have been scored. The two kinds of site have been treated as conceptually different, when they are not.
  - (3) A further consequence of this repeated sub-division is to result in areas of land of a size unlikely to be able to demonstrate that they fulfil all five national and one local Green Belt purposes to the fullest extent. That is because no area of Green Belt land, when cut down to a sufficiently small size and assessed in isolation from the land around it, is likely to be able to do so. Despite that, the sites eventually ranked perform well against Green Belt purposes: for example, NW Harpenden (site S5) and NE Harpenden (site S6) contribute significantly towards the Green Belt purpose of safeguarding the countryside and make a partial contribution towards the preservation of the setting of historic towns. They both, of course, also significantly contribute towards the unassessed purpose of assisting regeneration.
8. Secondly, in Part 2, the eight "strategic" areas were not compared with each other. Rather one part of each area was compared with the other part or parts of that same area. For example, the West part of S1 was compared with the East/North part of S1, but neither the whole nor any part was compared with S2, S3, S4 etc. The Green Belt Review wrongly assumes that part of every site must be released from Green Belt, but that the whole of any site could not be. Each comparison reaches the conclusion that the area closest to an existing settlement is the "best" for development. This is hardly surprising. In circumstances where the areas assessed are not large enough to accommodate a new settlement, it would be a very

odd conclusion to draw that it was better to release from Green Belt a parcel of land which was not adjacent to an existing settlement, in preference to one which was. As a consequence the Green Belt Review does not properly consider all reasonable alternatives. It does not consider, for example, whether it may be better to use, for example, the whole of S1 but not any of S2.

9. Thirdly, the comparison between parts of strategic areas conducted in Part 2 was made on the basis of landscape/visual sensitivity characteristics, not Green Belt purposes. This is to confuse quite different things. It is therefore, not possible to be sure that the same parcels would have resulted from an assessment which only considered Green Belt purposes.
10. One of the consequences of selecting sites by reference to landscape/visual characteristics rather than Green Belt purposes is that the boundaries of the areas identified are not sufficiently robust Green Belt boundaries: see section G below.
11. Consequently, for the reasons given above, the Green Belt Review was not **justified** or **consistent with national policy**.

#### **E. Scoring of Green Belt Strategic Sites**

1. Although SKM were instructed to prepare, and were paid for, a report which ranked the eight “strategic” Green Belt sites, the Council entirely jettisoned this assessment in favour of its own scoring system. This was because the independent consultants had come up with a politically unacceptable outcome: in particular, the SKM ranking placed the Hemel Hempstead Broad Locations at the bottom of the ranking (i.e. least suitable for development), whereas the politically-desired outcome required them to be considered most suitable for development, because they lie furthest away from the constituencies of most District Councillors. In addition, the SKM ranking put at risk the politically-necessary selection of a Harpenden Green Belt site, by ranking NW Harpenden (Site S5) equally with N of St Albans (Site S4). The SKM ranking could not, therefore, simply be adjusted but needed to be completely buried.

#### Process

2. As indicated above, on 3 July 2014, PPC received the July 2014 Strategy Report which included an Evaluation Matrix by which the 8 strategic Green Belt sites identified in Part 2 of the Green Belt Review were scored against economic, social and environmental criteria and the scores carried into a “sites package” reflecting different potential development scenarios for the meeting of 100% of assessed need.
3. The process by which the July 2014 Strategy Report was arrived at was as follows:
  - (1) On 4 March 2014 PPC resolved to endorse the Evaluation Matrix Methodology and required officers to carry out work on the assessment of the sites and packages of sites using this methodology;

- (2) On 1 May 2015 PPC received a report entitled “Progress Report – Initial Evaluation of Green Belt Strategic Sub-Areas (sites) which, at Appendix 4, attached a draft Evaluation Matrix scoring the eight sites against the specified criteria <http://stalbans.moderngov.co.uk/documents/s50011409/14%2004%2023%20-%20PPC%20Report%20May%202014%20Sites%20Evaluation%20Final%201.pdf>

The draft Evaluation Matrix gave sites a “low”, “medium” or “high” scoring against the criteria.

- (3) Comments on the draft Evaluation Matrix were made by developers, residents and local groups such as Harpenden Green Belt Association. A copy of the HGBA comments on NW Harpenden (S5) and NE Harpenden (S6) is attached at **Enclosure 8**. A copy of the Harpenden Town Council comments is at **Enclosure 9**.

- (4) The July 2014 Strategy Report was received at the PPC meeting on 3 July 2014: <http://stalbans.moderngov.co.uk/ieListDocuments.aspx?CId=459&MId=7539&Ver=4>

Section 3 of this Report presented a final version of the Evaluation Matrix. The final Evaluation Matrix used numerical scoring in respect of each specified criterion, a higher score meaning that the site was considered good for development in relation to that criterion, a lower score meaning that it was less good for development. Scores were either out of 5 or out of 10. The scores from the final Evaluation Matrix were taken into the tables in Section 2 of the July 2014 Strategy Report, which assessed various development strategies and determined that the preferred option was a sites package set out at the table in paragraph 2.5. In particular, this table provided for “*Harpenden Urban Extension Green Belt release*” at S5 NW Harpenden, with an estimate of 500 dwellings at 40 dph and the notes providing for “*SKM site but reduced in scale with north eastern boundary on Cooters End Lane*”.

- (5) In July 2014, PPC also received a draft Sustainability Appraisal Working Note, the final version of which is now to be found in Appendix E to the Sustainability Appraisal accompanying the draft plan.

- (5) The strategy recommended in the July 2014 Strategy Report formed the basis of the draft local plan which was submitted to Regulation 18 consultation in 2014 and is now reflected in the draft plan before the Inspector.

4. The Inspector may be provided with a version of the July Strategy Report dated October 2014, rather than July 2014. This version of the July Strategy Report has never been received or noted by PPC and did not form part of the evidence base on which it resolved to recommend to Cabinet and Council the plan which is now before the Inspector. Further details about the circumstances in which the October 2014 version of the July 2014 Strategy Report came to be prepared are set out in **Appendix 1**.

### Criteria Applied in the Evaluation Matrix

5. It is important that the Inspector realises that *only* the scores in the Evaluation Matrix informed the recommended (and adopted) strategy: that is to say, the scores in the tables at paragraph 2.1.6 and 2.2.8 of the July 2014 Strategy Report are taken directly from the Evaluation Matrix, without any adjustment. Therefore, the strategy adopted, and the ranking of the 8 strategic sites depended solely on the criteria applied and scored in the Evaluation Matrix.
6. The methodology adopted by the Council **failed to reflect national policy** in two respects.
7. First, there was no score given to reflect the extent to which the sites fulfil Green Belt purposes. This had formed an integral part of the SKM ranking, which had placed highest in the ranking S8 (Land at Chiswell Green), S3 (E of St Albans) and S7 (Land at London Colney), none of which served Green Belt purposes to a significant extent. However, in the Council's own scoring system there was no score in the Final Evaluation Matrix for Green Belt purposes at all.
8. As a consequence, the four sites selected for release from the Green Belt are four of the five sites scoring best for GB purposes. By failing to take into account in the evaluation the extent to which the sites fulfil Green Belt purposes, the Council has failed to reflect paragraph 6 of the NPPF, which makes clear the Government considers that Green Belt policy is an important aspect of "sustainable development" in practice and failed to have regard to the emphasis placed in *Calverton* on the harm to the Green Belt caused by the removal of the particular sites under consideration.
9. At paragraph 6.20 of the plan it is claimed that "*Broad Locations have been selected as locations where development will cause least damage to Green Belt purposes...*" and at paragraph 6.28 it is said that "*The Strategy will meet development needs with minimum impact on the Green Belt...*". However, neither of these sentences can be considered accurate, as the Council disregarded the extent to which sites fulfilled Green Belt purposes in order to achieve the politically-desired outcome, which involves releasing sites which better serve Green Belt purposes over those which serve them less well.
10. Secondly, as explained above under the heading "Duty to Co-operate", the Council's scoring process did not give any weight to whether or not a site was within or outside the Local Enterprise Partnership's "M1/M25 Growth Area", save in respect of the Hemel Hempstead broad locations. Consequently, the Council failed to have regard to an important element of the "economic" strand of sustainability, namely promoting growth in the LEP's Growth Area. This is contrary to NPPF para. 160, which requires local planning authorities to work together with Local Enterprise Partnerships, as well as to s.33A(2)(b) of the 2004 Act and Reg 4(2)(a) of the 2012 Regulations.

## Scores Given

11. The Final Evaluation Matrix, and therefore the conclusions drawn from it about the appropriate sites package in the July 2014 Strategy Report, is patently unsound: illogical, inconsistent and unsupported by, or flatly contrary to, evidence and previous assessments, including those carried out under statute. That is because the scoring has been driven by the need to achieve the politically-required ends referred to above: consequently it has been necessary to artificially inflate the scores attributed to the Hemel Hempstead Broad Locations, Oaklands and the Harpenden Broad Locations (NW and NE) and to depress those of the other sites. Below we highlight a number of deficiencies in the Council's approach, which render the Evaluation Matrix wholly unsound. Given our Harpenden focus, we have concentrated on the scoring of the NW and NE Harpenden Broad Locations, but it is likely that the same or other deficiencies may be identified in other scores.

### *Wholly Irrational Scores, Contrary to Evidence*

12. A particularly striking example, but by no means the only one, of the way in which the scoring has been manipulated to achieve the desired outcome, rather than based soundly on proper evidence, is the difference in treatment of NW Harpenden (S5) in relation to the "traffic and access" score, in comparison with N of St Albans (S4). NW Harpenden was given 9/10, the highest of all eight sites. N of St Albans was given 2/10, the lowest of all eight sites. When one considers the evidence on which these judgements were supposedly made, it is so bizarre as to be, not only unsound, but *Wednesday* unreasonable. In this regard, HGBA highlights the following:
  - (1) In about 2007, SADC identified "areas of search" in the Green Belt, for possible Green Belt boundary change. One of these, Area of Search 8, was in the general location of the NW Harpenden, although slightly larger (the exact boundaries were not defined). As the proposals became more refined, this area was split into two. Area of Search 8 (SE part) was the field bounded by the A1081 Luton Road, Cooters End Lane, Ambrose Lane and the back gardens of Bloomfield Road ("**NW Harpenden South Field**"), whereas Area of Search 8 (NW part) was the remainder of NW Harpenden, north of Cooter's End Lane ("**NW Harpenden North Field**"), with some additional land. Area of Search 8 (SE part) was identified as having capacity for about 300 homes, Area of Search 8 (NW part) as having capacity for about 400 homes. Area of Search 7 was the area now called "N of St Albans", and was considered to have capacity for 800 homes
  - (2) In 2009-10 there was a public consultation on the basis that Area of Search 8 (NW part) would remain in the Green Belt but Area of Search 8 (SE part) (ie NW Harpenden South Field) and Area of Search 7 would both be designated as "safeguarded land" for post-2025 housing needs.

- (3) One of the documents which formed the evidence base for that decision was the 2009 SHLAA. Appendix 14 to the SHLAA, a copy of which is at **Enclosure 10**, was an assessment of the Areas of Search, setting out the perceived positives and negatives of using these areas for housing development. In relation to Area of Search 8 (SE part) (i.e. NW Harpenden South Field), the SHLAA gave as a “negative”:

*“Traffic impact – the A1081 Luton Road is congested. Further consultation needed with Hertfordshire County Council and Hertfordshire Highways, but the principle of housing development is unlikely to be ruled out on traffic grounds.”*

The conclusion was

*“There are concerns about traffic and education issues, which need further investigation...”*

In relation to Area of Search 8 (NW part) (i.e. NW Harpenden North Field), the SHLAA gave as a “negative”:

*“Traffic impact – the A1081 Luton Road is congested. Further consultation needed with Hertfordshire County Council and Hertfordshire Highways”.*

In the conclusion it was said

*“The case for housing development in this part of Area of Search 8 is much weaker than with the land south east of Cooters End Lane...other concerns include traffic and education issues and the lack of a natural new defensible Green Belt boundary.”*

In contrast, a relatively more positive assessment in traffic terms was made of Area of Search 7, North of St Albans (page 10), it being said

*“Might add to traffic congestion at the Ancient Briton and King William IV junctions – but it appears that the development would fund improvements to these junctions”.*

- (4) HCC responded to the 2009 consultation by a response dated 16 September 2009, a copy of which is at **Enclosure 11**. The Inspector is asked to read pages 8-10 of this document in full, which relate to the assessment of Area of Search 8 (SE part) (i.e. NW Harpenden South Field) and Area of Search 7 (i.e. N of St Albans). HCC noted that NW Harpenden South Field was in a congestion hotspot and of the need for measures to avoid rat-running and a sustainable transport strategy. It referred to HCC’s policy to oppose new junctions on the primary road network, including the A1081, but said there “*may be a case*” for introducing another arm to the existing junction with Roundwood Lane. It concluded

*“This area of search represents a large site that will have a significant impact on the road network in the area. Issues surrounding network capacity, access and*

*sustainability must be fully investigated at the earliest opportunity. To date the highway authority are not aware of any work that has taken place to support this proposal*.

The comments on Area of Search 7 (i.e. N of St Albans) were nearly identical. HCC also noted that the site was in a congestion hotspot, the policy against new junctions on the primary road network and the need for a sustainable transport strategy. The conclusion was exactly the same as that quoted above for NW Harpenden South Field.

- (5) In 2011 the Harpenden Urban Transport Plan was produced by HCC (see link above). This noted substantial problems of traffic congestion in Harpenden, particularly in the morning peak and identified Harpenden as a “*congestion town*” (para. 4.9). The stretch of the A1081 running from the town boundary into the town centre, and therefore including the stretch of road alongside NW Harpenden, was specifically identified as a “*congestion hotspot*”: see “key issue Ci1” at para. 4.10. and Figure 4.2.
- (6) In its comments on the draft Evaluation Matrix, HGBA drew the Council’s attention to a traffic report on NW Harpenden, produced in 2011 on the instructions of HCC when it (identified as Site A) was being considered by HCC as a potential location for a new secondary school. The relevant extract is at **Enclosure 12**. Access via Cooters End Lane was considered, and a number of issues highlighted associated with traffic backing up down the A1081 Luton Road and rat-running through the country lanes close to the site.
- (7) At PPC’s meeting on 1 May 2014, a member questioned the scoring given to NW Harpenden, which it was felt understated the heavy congestion already experienced in the area.
- (8) In the final Evaluation Matrix, the traffic and access score of 9/10 for NW Harpenden (at pages 123-4) is justified on the grounds that “*satisfactory vehicular access could be provided and traffic impact is likely to be acceptable*” and it is claimed that there is a “*relatively straightforward access position*”. The 2009 HCC consultation response is referred to; the Harpenden Urban Transport Plan is effectively dismissed as irrelevant, it being said that it “*provides background*” but does not “*provide detailed guidance regarding vehicular access and traffic impact for potential development on this site*”.
- (9) In contrast, the score of 2/10 for N of St Albans is said to be based on the fact that there would need to be “*significant investment in road access improvements*” and that there are “*a number of potentially difficult problems to solve in relation to both immediate road access and surrounding junction capacity constraints*”. The evidence for this conclusion is also said to be the 2009 HCC consultation response.

- (10) However:
- (a) The 2009 HCC consultation response provides no basis for the assertion that there is a “*relatively straightforward access position*” at NW Harpenden. First, the 2009 response did not suggest that access via an additional arm added to the Roundwood Lane junction would be “*straightforward*”, merely that there might be a case for it. Secondly, the 2009 response was addressing NW Harpenden South Field, not the whole of the NW Harpenden Broad Location. It is not possible to access NW Harpenden North Field from an additional arm added to Roundwood Lane, which is too far south. Thus development on the NW Harpenden Broad Location as a whole would require a second access, either at Cooters End Lane or directly from the A1081. The 2009 consultation response had not considered either option but had made clear HCC’s policy against the opening up of new accesses onto the A1081. Further, the 2011 school traffic report suggested that there might be significant difficulties associated with using Cooters End Lane – which might be exacerbated if this was in addition to, and not an alternative to, a new junction at Roundwood Lane.
  - (b) There is no evidential basis at all for the assertion that the “*traffic impact is likely to be acceptable*”. The 2009 consultation response did not say so – it said the opposite, and urged full investigation of the impact on the network capacity at the earliest opportunity. Moreover, since 2009 the proposed area of development had grown, from 300 homes on NW Harpenden South Field, to 500 homes on NW Harpenden North and South Fields, thus exacerbating the likely traffic impact of development. Furthermore, the Harpenden Urban Transport Plan specifically addressed congestion on the stretch of the A1081 next to the NW Harpenden site as one of Harpenden’s “key issues”: this is more than simply “background”, but identified a potential problem which the Council had no evidence could be satisfactorily addressed.
  - (c) The gross disparity in the scoring of the two sites simply cannot be justified on the evidence. The 2009 SHLAA (which formed a key part of the evidence base, being the only SHLAA available to the Council) was, if anything, rather more positive about traffic issues at N of St Albans than at NW Harpenden. Certainly, it provided no sensible ground for scoring them so differently. The 2009 HCC consultation response was almost identical in relation to each site: in each case there are potentially difficult issues of access and congestion, which required urgent further investigation. That further investigation had not taken place at the time the Council scored the sites through the final Evaluation Matrix, and still has not taken place.
- (12) HCC’s response to the 2014 Consultation again drew attention to congestion on the local road network and the need to fully assess the impact from development of NW Harpenden. The Highways Agency response gave a similar “high level” assessment



of impact on the strategic road network for both NW Harpenden and N of St Albans, again casting doubt on the relative scoring of the two sites in traffic terms.

- (13) It is clear that the only rational score, properly based on the (inadequate) evidence available to the Council at the time of the Evaluation Matrix, would have been to assess NW Harpenden at 2/10 for “traffic and access”, consistently with the score for N of St Albans.

#### *Failure to Follow Agreed Methodology*

13. The Evaluation Matrix Methodology for the evaluation of sites agreed by PPC on 4 March 2014 was not followed in significant respects.

- (1) Contrary to paragraph 5.18 of the methodology, the Council’s officers did not have “*detailed discussions with Hertfordshire County Council*” before scoring the sites on traffic and access grounds, making the assessments unreliable. Further details are given in section C above.
- (2) Contrary to paragraphs 5.8 and 5.21 of the methodology, the Council’s officers used “as the crow flies” distances rather than measuring walking routes on the ground. They then sought to cover up their mistake by pretending, in answer to public questions, that they *had* followed the methodology. Full details are provided in **Appendix 1** below.

The differences between the distances given in the Evaluation Matrix and the real walking distances are significant and cannot be fobbed off as mere matters of approximation. For the Inspector’s benefit, we have timed some of the walks from the NW Harpenden site and also correctly measured the distances involved, in comparison with those given in the Evaluation Matrix: these are shown in **Appendix 2**.

The consequence of the erroneous measurement, and failure to apply the agreed methodology, has been to affect the scoring of sites. Although all sites will be affected by the errors, the errors will be most significant for sites which have scored highly because they are said to be within walking distance of facilities and services, and therefore more sustainable places for development. If a journey which people will drive is misstated by, say, half a mile, that will not make much difference because they are in their cars anyway. To misstate a walking journey by half a mile is substantially to overestimate the sustainability of a location by assuming that a journey is likely to be walked when, in fact, it is likely to be driven.

#### *Internal Inconsistency within Evaluation*

14. If sites are to be properly evaluated, it is vital that the same area of land is scored consistently throughout the evaluation. However, for the purposes of some scores NW Harpenden was treated as including the field north of Cooters End Lane, whereas for the purposes of others it was not. Furthermore, the consequences of assertions made in relation to one criterion were not carried through to the scoring of other criteria. For example, in relation to NW Harpenden, the score for “sustainable location” depended upon education capacity issues being “*capable of resolution*”, including by a new 2FE on-site primary school. However, for the purposes of the traffic/access score, no consideration was given to the need to provide a separate access for a school or to the impact of school-related traffic.

#### *Mismatch between comments and scoring*

15. There are sometimes discrepancies between the comments in the evaluation and the scores awarded. For example, in respect of “Landscape quality/surrounding area characteristics” for NW Harpenden, the overall conclusion is that a “*mid level evaluation score is appropriate*”. However, in fact a high level has been given, 7/10, in respect of this criterion. Again, the consequence of this mismatch is to inflate the score given to NW Harpenden when compared with other sites.

#### *Inconsistent approach between criteria*

16. The Council claims – although this is not reflected in the Evaluation Methodology – that the scoring in the Evaluation Matrix is relative between sites rather than against an absolute standard: i.e. it is intended to show whether one site is more sustainable for development than another, not whether they are objectively sustainable locations for development. If this is the case, it does not appear to be reflected in the scoring of all the criteria. For example, on “heritage/archaeology” grounds, the only factor which differentiates different sites is the presence or absence of listed buildings (or in the case of S7, proximity to a historic park). If the scoring were truly relative, that would mean that a site with a listed building/close to a historic park would attract a score of 0 or 1 out of 5, a site without such features a score of 5 out of 5. Instead the Evaluation Matrix gives all sites with a listed building on site or close to a historic park a score of 4 out of 5. The effect, again, is to inflate the scoring of NW Harpenden, which has a listed building on site and another close by, in comparison with other sites and in particular N of St Albans which has no such heritage features.

#### *Inconsistency with Sustainability Appraisal*

17. A Sustainability Appraisal Working Note was provided to PPC in draft at its July 2014 meeting, together with the July 2014 Strategy Report, and the final version of the Working Note accompanied the 2014 consultation draft plan. This is now captured at Appendix E of the published Sustainability Appraisal, with a table comparing the findings of the sustainability

appraisal assessment of the eight strategic Green Belt sites appearing at Table 21 on page E7-16.

18. The Working Note reveals significant discrepancies between the sustainability of the sites, as assessed in accordance with the European Directive on Strategic Environmental Assessment, and the Council's scoring. For example, Table 21 rates East Hemel Hempstead (north) and East Hemel Hempstead (south) as "very sustainable" under "sustainable location", but NW and NE Harpenden as only "sustainable". Consequently the view of the sustainability appraisal consultants was that NW and NE Harpenden are less sustainable locations for development than the Hemel Hempstead sites. The Evaluation Matrix however, gives NW Harpenden a higher score than East Hemel Hempstead (north) for "sustainable location", and NE Harpenden the same score.
19. Most striking, given what we have said above about the "inflation" of the score given to NW Harpenden in comparison to N of St Albans, is the fact that the Sustainability Appraisal Working Note assessed N of St Albans as being a more sustainable site for development than NW Harpenden. The assessments against all of the objectives are the same, with the exception of two:
  - (1) N of St Albans is assessed as "very sustainable" in relation to "good quality housing", because it can deliver a large number of affordable homes, whereas NW Harpenden is only assessed as "sustainable" in this respect; and
  - (2) NW Harpenden is constrained in relation to "historic and cultural assets", because of the presence of two listed buildings (one on the Broad Location, one adjoining it), whereas N of St Albans is not.

The 2014 Working Note is the only part of the sustainability appraisal process at which all eight Green Belt sites, including those which have been rejected, have been considered by the sustainability appraisal consultants. The current sustainability appraisal for the draft plan updates the NW Harpenden appraisal in light of detail in Policy SLP 13c, but there is no equivalent updating of the N of St Albans appraisal in light of the developer's "offer" in respect of that site. Consequently the 2014 Working Note is the only place in which the sustainability appraisal of both sites is made.

20. The politicisation of the choice of Green Belt sites is manifest in the Council's failure to reconsider its own scores in the light of advice from their own sustainability consultants and its dogged and unjustified preference for NW Harpenden over N of St Albans.

### *Failure to carry over scoring assumptions into policies*

21. Sites have been scored as sustainable because of features which are not reflected in the specific policies in the plan. For example, NW Harpenden was given a score of 8/10 for “sustainable location” on the basis that it would accommodate a 2FE primary school on a 2.5 ha site, which HCC said was “*necessary to meet the need arising from this housing*”. However, Policy SLP 13c only requires a 1FE primary school to be provided.
22. The Inspector is also respectfully referred to HGBA and Harpenden Town Council’s submissions on the draft Evaluation Matrix at **Enclosures 8 and 9**, which give further detail relating to local circumstances, with supporting evidence, all of which were effectively ignored by the Council.
23. For these reasons, the identification of four “Broad Locations” to be removed from the Green Belt was not **justified** or **consistent with national policy**.

### **F. Lack of Proper Infrastructure Planning**

1. The NPPF repeatedly stresses the need for local plans to plan positively for infrastructure, as well as other needs, and for local authorities to base their decisions on accurate and up-to-date information about infrastructure capacity, including joint working. Thus NPPF para. 156 requires local plans to set out

*“strategic policies to deliver...*

- *the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);*
- *the provision of health, security, community and cultural infrastructure and other local facilities”*

NPPF para. 157 continues

*“Crucially, Local Plans should:*

- *plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this Framework...*
- *be based on co-operation with neighbouring authorities, public, voluntary and private sector organisations”.*

NPPF para. 162 requires local authorities to assess the “*quality and capacity of infrastructure...and its ability to meet forecast demands,*” whilst para. 177 says that it is

*“equally important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion”.*

2. We have commented above in section C on the abject failure of the Council to properly assess the quality and capacity of transport infrastructure or to take any steps to plan positively for what is required or to ensure that there is a reasonable prospect that it is deliverable in a timely fashion. The Council simply has not complied with its duties in this regard at all.
3. One look from the Inspector at the so-called “Infrastructure Delivery Schedule” at Appendix 5 to the plan will tell him or her how badly the Council has fallen short of its duties as regards infrastructure planning in other respects. Almost every entry on the Schedule indicates that costs are unknown. In many cases the Council does not have any idea by whom they will be met. In particular, the Inspector is referred to pages 153-156 of the plan, at which the infrastructure requirements of the four chosen Broad Locations are supposedly set out. Every single column relating to how the infrastructure is to be financed, by whom and how much it will cost is stated to be *“unknown at this stage”*. This does not even pay lip-service to the requirements of the NPPF to plan positively for infrastructure. This document might as well be called the Infrastructure Non-Delivery Schedule.
4. Moreover, if the Council does not know whether and how the infrastructure needed to make the Broad Locations sustainable places for development will be delivered, it should not have decided to release them from the Green Belt. For example, Policy SLP13c requires the development at NW Harpenden to deliver *“significant improvements to existing and/or new walking and cycling facilities to promote car-free access to Harpenden town centre, railway station and secondary schools”*. It was a key part of the Developers’ “offer” that there would be safe cycle routes down the A1081 Luton Road and the provision of such routes has informed the sustainability appraisal for this site. However, such provision will be particularly expensive to achieve, because a safe cycle and walking route will require re-engineering of the Nickey Line bridge over the A1081 Luton Road. Nevertheless, it does not feature in the Infrastructure Delivery Schedule save as part of undefined and uncOSTed *“transport network improvements along Luton Road”*. Without a proper recognition of the cost of providing safe cycle routes and positive planning for how they are to be met, there is every likelihood that a requirement which the Council considers necessary for NW Harpenden to be a sustainable location for development will end up being watered down or not happening at all.
5. The local plan is not **positively prepared, justified, effective or consistent with national policy** because the Council has failed in its duty to properly assess and plan for the District’s infrastructure needs.

**G. Policy SLP 13c – NW Harpenden – Inadequate Green Belt Boundary**

1. The NW Harpenden Broad Location, as identified by the Green Belt Review and purportedly scored through the evaluation process, is shown bounded in yellow on Figure 7.3 of the Green Belt Review Part 2.
2. The Inspector is asked to compare the satellite photograph at **Enclosure 13** with the area shown bounded yellow in Figure 7.3. It can be seen that the northern boundary of the site as identified in Figure 7.3 does not reflect any feature on the ground. The Inspector is also asked to note the location of the administrative boundary between Hertfordshire and Central Bedfordshire.
3. Policy SLP 13c clearly does not comply with NPPF para. 85 which requires local planning authorities, when defining new Green Belt boundaries to

*“define boundaries clearly, using physical features that are readily recognisable and likely to be permanent”.*

Obviously, such physical features must exist and be “readily recognisable” at the time the boundaries are defined in the local plan, but there is no such physical feature here. NPPF paragraph 83 also stresses that, at the time of reviewing Green Belt boundaries through the local plan process,

*“authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.”*

As submitted above, the reason why the proposed new Green Belt boundary is so weak is because the Green Belt Review determined the boundaries of the “strategic” sites by reference to landscape character, rather than Green Belt purposes.

4. A weak Green Belt boundary at this location is of particular importance because it places the line at the administrative boundary between Hertfordshire and Central Bedfordshire. Indeed, the Developers’ “Scheme 1” option at **Enclosure 14** places it beyond the administrative boundary. Central Bedfordshire Council responded to the Council’s 2014 consultation expressing interest in development of this area. Furthermore, the developer of the northern part of NW Harpenden controls large areas of land on both sides of the County boundary and is understood to be presently carrying out ecological surveys on land within its control, outside of the NW Harpenden site, with a view to promoting it for development through Central Bedfordshire’s local plan process, in respect of which a “call for sites” has recently been made. Thus a weak Green Belt boundary is an open invitation to Central Bedfordshire to seek to add a further large, and very much unwanted, “urban extension” to Harpenden within its administrative area.

5. The Council has long recognised that a Green Belt boundary drawn at or about the County boundary would not be a sufficiently defensible boundary to comply with national policy. See Appendix 14 to the 2009 SHLAA at **Enclosure 10**, in which NW Harpenden North Field and some additional land was called “Area of Search 8 (north west part) – North of Harpenden, north west of Cooters End Lane”. This stated

*“Other concerns include...the lack of a natural new defensible Green Belt boundary”.*

6. Similarly, in the Evaluation Matrix, under the heading of “Other Matters”, it was stated

*“In terms of an additional matter, a potential option has been identified to split this site along Cooters End Lane as a clear and defensible boundary to include only the south east part for housing with possible reductions in housing capacity”.*

This option was initially adopted, with PPC at its meeting on 3 July 2014 resolving to adopt the “sites package” put forward at paragraph 2.5 of the July 2014 Strategy Report which proposed “*Harpenden urban extension Green Belt release*” on “*SKM site but reduced in scale with north eastern boundary on Cooters End Lane*”.

7. The draft plan which was taken to consultation in the Autumn of 2014 contained a paragraph 6.75, which stated:

*“The extent of this site will be determined with reference to the potential of Cooters End Lane to serve as a clear and defensible Green Belt boundary”.*

This paragraph recognised that the boundary of the site as identified by SKM was not a clear and defensible Green Belt boundary.

8. Paragraph 6.75 of the draft plan as set out above remained in all subsequent drafts until it was removed by PPC at its meeting on 13 October 2015 at which the plan was finalised, ostensibly by way of “*updating*” to reflect the “*SKM identified indicative boundary*”: See, at agenda item 8:

<http://stalbans.moderngov.co.uk/ieListDocuments.aspx?CId=459&MId=7821&Ver=4>

Despite the fact that, since July 2014, the Council had recognised that the Green Belt boundary indicated by SKM in the Green Belt Review Part 2 was not a “*clear and defensible Green Belt boundary*”, no reason was given for the removal of the option given by paragraph 6.75 of the draft plan, and no consideration was given to the consequences, referred to above, of adoption of a Green Belt boundary which represents no more than an imaginary line on a map or to the requirements of the NPPF in relation to Green Belt boundaries.

9. For these reasons, Policy SLP 13c is not **consistent with national policy**.

## H. Policy SLP 13c – NW Harpenden – Overestimation of Capacity

1. Policy SLP 13c recognises existing constraints at the NW Harpenden site, including
  - The listed building at Cooter’s End Farm
  - A small remnant woodland subject to TPO in the east corner of the site.

The policy requires the development at NW Harpenden to deliver, amongst other things:

- Approx. 500 dwellings
- Overall net density of 40 dwellings per hectare
- Recreation space and public open space
- Community facilities
- A primary school on a 2.5ha site.

It is impossible to achieve all these policy objectives simultaneously, in light of the recognised constraints.

2. NW Harpenden has a gross area of approximately 18 ha. (Green Belt Review Part 2, para. 7.6.8). However, this area includes the listed building and its (protected) curtilage. Removing that leaves a gross area of 17.1 ha.
3. The Council’s calculations assume 60% of a site will be available for housing, with the remaining 40% for infrastructure. Policy SLP 13c requires a net density of 40 dph – a density which is very high and quite out of line with the surrounding development in this edge-of-town location.
4. If we assume that the part of Cooter’s End Lane which runs through the site, the school, the public open space and the small remnant woodland are all accounted for in the 40% of the site set aside for infrastructure, that leaves only 10.26 ha available for housing. Even at the high density of 40 dph, that will only accommodate 410 homes, not 500.
5. Moreover, it appears that this assumption cannot safely be made. At **Enclosure 14** is part of the presentation given by the developers of NW Harpenden to the Council. The slide, headed “Accommodating Development Needs”, shows by the use of graphics the land uses represented by the “Option 1” and “Option 2” schemes proposed on the following slides. On the “Accommodating Development Needs” slide, the red dashed square represents an area of 18ha – the gross area of the NW Harpenden site. These graphics indicate that the Developers take the view that 2.5ha will be required for infrastructure and 3ha as a landscape buffer, a total of 5.5ha or 30% of the site. As the graphics show, that leaves insufficient area within the site for the school or public open space, which are either completely or partially outside the Broad Location as identified in the Green Belt Review. It seems unlikely, therefore, that a full 60% of the site will be available for housing if Policy SLP 13c is applied. If we remove from the 18ha site 0.9ha for the listed building, the amount of land which Policy SLP 13c requires



for the school (2.5ha), the amount which the Developers have allowed for public open space (2ha) and the 5.5ha the Developers assume for infrastructure and landscape buffer, there is left only a net area of 7.1ha, sufficient for only 284 dwellings at 40 dph.

6. On any basis, it is clear that the Council has significantly overestimated the capacity of the NW Harpenden site, which cannot provide 500 homes even at the high density proposed and achieve all the other policy objectives required of it, including a school. Nevertheless, this is the basis on which the Sustainability Appraisal has been carried out.
7. The Inspector is asked to note that there is an error in the Developers' graphics, as neither makes allowance for retention of the listed building within the 18ha denoted by the red dashed square. The graphics therefore overstate the amount of housing which the site can accommodate, even on the assumptions which they have made.
8. The Developers have sought to avoid these difficulties by extending the proposed development to land outside the site identified by the Green Belt Review. But this is land which the Green Belt Review specifically advised was of higher landscape/visual sensitivity and should be retained in the Green Belt (the whole area lies in a Landscape Conservation Area): see table at page 64 of the Green Belt Review Part 2 and Figure 7.1. Furthermore, none of the land outside the Broad Location was scored against sustainability criteria for the purposes of the Evaluation Matrix. For example, a school on Ambrose Lane, as envisaged by the Developers' Option 2, would have very significant traffic and access consequences in these narrow country lanes, none of which were considered in the scoring process. It is not logically possible to use land outside of the Broad Location but to maintain the same scoring, or to claim the benefit of the Sustainability Appraisal, which is based on the SKM Broad Location.
9. Moreover, if NW Harpenden is reduced to the southern part of the site only, i.e. with the boundary at Cooters End Lane, with a view to forming a clear and defensible Green Belt boundary, then clearly Policy SLP 13c will be wholly unachievable. Not only will there be significantly fewer than 500 homes on the site, it is unlikely that the site will accommodate the primary school, public open space or community facilities which are considered necessary to ensure that it is a sufficiently sustainable location to justify removal from the Green Belt. Again, it is not logically possible to reduce the site in size, omit the school and still maintain that it must have the same sustainability credentials as if it could accommodate a school, public open space, recreation areas, etc.
10. The fact that NW Harpenden is too small to accommodate the number of homes proposed for it has been repeatedly drawn to the Council's attention, both through public questions to PPC (see **Appendix 1** below) and through consultation responses. However, because of the political imperative to take NW Harpenden out of the Green Belt, the Council simply refuses to acknowledge the obvious.

11. Consequently, Policy SLP 13c is not **effective** because it is impossible to achieve. It is also not **consistent with national policy**, which (at NPPF paragraph 154), requires “*clear policies on what will or will not be permitted and where*” (emphasis added). It is wholly unclear how the Council would react to a development proposal, based on Policy SLP 13c.
12. Furthermore, the policy is not **justified** if the Green Belt boundary is drawn at Cooters End Lane because the site’s sustainability has been assessed on the basis that whole area of the SKM site will be available and it is not **effective** because Policy SLP 13c cannot be achieved if the Green Belt boundary is drawn at Cooters End Lane.

#### **I. Policy SLP6 - Inappropriate Deferral of Strategic Issues**

1. Policy SLP6 leaves the location of a new secondary school for Harpenden over to the Detailed Local Plan and is therefore unsound.
2. HCC has repeatedly made clear to the Council, over a number of years, that it is imperative that a site be allocated for a new secondary school to cater for the Harpenden Secondary School Planning Area (which includes the villages around Harpenden). The need exists now, for the existing population of Harpenden and the surrounding area, regardless of the proposed new homes. The latest edition of HCC’s document, “Meeting the Rising Demand for School Places: September 2015” shows that in 2015/2016 there is an 11% deficit in secondary school places, forecast to rise to a peak of 39.5% (7.5FE) in 2019/20 and again to 39.2% (7.5FE) in 2022/23. A copy of this appears at Appendix B-55 in the Sustainability Appraisal. This is a pressing need and it is a need of strategic importance. A new school is likely to require the release of Green Belt.
3. NPPF paragraph 72 requires the Council to “*take a proactive, positive and collaborative approach*” to meeting the schooling needs of existing, as well as new, communities. In breach of this requirement, the Council has planned for new housing on the Green Belt in advance of allocating a site for a new school for the existing community. In doing so it has given Green Belt land such as NW Harpenden a “hope value” putting it financially out of reach of Hertfordshire County Council as a school site. The new school should have been planned before, or at least simultaneously with, new housing and not left over for a later DLP. It is wrong in principle to require school authorities to demonstrate “very special circumstances” to locate a school in Green Belt when the Council should have considered the strategic need for a school as part of its decisions on moving the Green Belt boundaries in the local plan. Had it done so, it might have made different decisions about the appropriate location of the school: by leaving over the decision to the SLP it has deprived itself of the opportunity to plan for the school on any of the Green Belt sites which it has allocated for housing.
4. For these reasons, Policy SLP6 is not **positively prepared** and is **contrary to national policy**.

## **V APPROPRIATE MODIFICATION**

1. If the Council has failed with its legal duties, including the Duty to Co-operate, the plan cannot be salvaged.
2. Even with respect to issues of soundness, HGBA's primary position is that the local plan is so badly flawed that it cannot sensibly be modified. A plan in which key and controversial issues about removal of land from Green Belt for housing are based on pre-determined political considerations rather than planning considerations is so far from being sound as to warrant complete rejection by the Inspector.
3. If, however, the Inspector is to proceed with modification of the plan then it can only be on the basis that the Green Belt boundaries should remain where they are. There is strong evidence of the overwhelming harm to the environmental aspects of sustainable development in the report on the Environmental Capacity of the District referred to in paragraph 2.22 of the plan. This concluded that it would be unwise to permit any further urban development on undeveloped land. As the Court said in *Calverton*, the NPPF does not require exceptional circumstances to justify damage to social and economic interests in order to protect the environment. In the circumstances of St Albans District and based on the evidence, there is no justification for the removal of any land from the Green Belt, and in particular no justification for the removal of any sites in Harpenden, large or small, from the Green Belt.

## APPENDIX 1: REFUSALS TO CORRECT FACTUAL ERRORS

A reasonable local planning authority, acting in good faith and having a genuine desire to achieve a justified and effective local plan, would consider comments from members of the public or others drawing attention to factual errors on which decisions had been made. If errors of any potential significance were identified, they would be publicly corrected and the information laid transparently before councillors so that they could properly consider whether the decision, based on erroneous evidence, should be revisited. This is not the way in which the Council behaves: rather it maintains doggedly, and against all the evidence, that there are no errors, and in particular no errors which might affect the choice of Green Belt sites for development. Two particularly striking examples of this behaviour are set out in this Appendix.

### A. Miscalculation of Site Capacity

1. As explained in IV.H above, the Council has overestimated the housing capacity of NW Harpenden.
2. This overestimation has its roots in a mistake made by officers in the July 2014 Strategy Report. This Report recommended a sites package (Option 1(a), shown on page 26) which showed NW Harpenden as providing 500 homes on “*SKM site but reduced in scale with north eastern boundary on Cooters End Lane*”.
3. This was an obvious calculation error: on no possible basis could a primary school and 500 homes be accommodated at a net density of 40 dph on the southern part of NW Harpenden, with the boundary on Cooter’s End Lane: please see the analysis in IVH above.
4. This calculation error was drawn to the Council’s attention through public questions to the PPC meeting of 10 September 2014: <http://stalbans.moderngov.co.uk/documents/s50013440/10%2009%2014%20September%20PPC%20Questions%20and%20answers%20V2.pdf>– see questions from Mr J Shreeves of Hunston Properties at Minute Annex page 1 and Joanne Whitehead at Minute Annex page 11.
5. Instead of thanking the questioners for their attention to detail, acknowledging the mistake and considering whether it was appropriate for NW Harpenden to remain in the sites package after all, the response of the Council’s officers was to insist that the calculation was right, by producing a slideshow which purported to demonstrate how 500 homes and a primary school could be fitted onto the southern part of NW Harpenden, with the boundary at Cooter’s End Lane. These slides may be found at page 21-25 of the Minute Annex for the meeting of 10 September 2014: <http://stalbans.moderngov.co.uk/documents/s50013441/10%20Sept%20PPC%20Public%20Qs%20slides%20and%20correspondence.pdf>.
6. The slides are complete nonsense. They purport to show four proposed schemes:

- (1) The first is described as “*Notional Scheme based on CEG promotion (537 dwellings)*” and is described on the slide at page 22 of the Minute Annex and the table at the top of page 23. The reference to “CEG promotion” was to a brochure produced by the developer with control of the southern part of NW Harpenden, Commercial Estates Group, which also controls substantial other land to the east. This notional scheme assumed that the 11.5 ha area to the south of Cooter’s End Lane would be used exclusively for housing, with strategic infrastructure located on 6.5 ha to the east of Ambrose Lane, in the Green Belt. It therefore assumed that the entirety of the infrastructure provision for the site would be provided off-site, on land to be retained in the Green Belt, including a school (which would be inappropriate development for the Green Belt). Quite apart from the dubious planning merits of locating all the housing on one site and the infrastructure on the other, none of this additional land had been scored as part of the Evaluation Matrix or considered by the Sustainability Appraisal Working Note which accompanied the July 2014 Strategy Report: its sustainability credentials could not, therefore, be supported by either assessment. Furthermore, the proposal failed to comply with Policy SLP 13c by requiring housing to be developed at significantly higher than 40 dph.
- (2) The second notional scheme is described in the table at the bottom of page 23 of the Minute Annex and is described as “*Draft SLP possible alternative based on SKM, but with Green Belt boundary on Cooters End Lane*”. This purports to demonstrate that 460 homes could be fitted onto the southern part of the site. However, the table is seriously misleading, as it gives the total area of the southern field as 18ha, whereas this is the gross area of the whole of the NW Harpenden Broad Location as identified by the Green Belt Review, including the listed building. NW Harpenden Southern Field, as the public questioners rightly pointed out, is only 11.5ha in size.
- (3) The third notional scheme is shown in the table at the top of page 24 of the Minute Annex and is described as “*SKM initial proposal*”. This correctly shows the whole of the site identified by the Green Belt Review as 18ha, and calculates that 440 houses could be provided at 40 dph. As this scheme uses all of the NW Harpenden Broad Location, it hardly justifies the assertion that 500 homes and a school could be accommodated on just the southern part, with the boundary drawn at Cooter’s End Lane. Moreover, it makes no allowance for retention of the listed building.
- (4) The last notional scheme is shown in the table at the bottom of page 24 of the Minute Annex and is described as “*Notional scheme 1) based on whole SKM site plus CEG promotion using additional land they own to NE of SKM site for open uses*”. This proposal assumed that the whole of the Broad Location would be used for housing, with all infrastructure placed on land outside it. It is a combination of schemes 1 and 3 and suffers from all the deficiencies of both.

7. The slideshow was relied upon by officers again in response to public questions to the PPC meeting of 24 September 2014: <http://stalbands.moderngov.co.uk/documents/s50013642/24%2009%2014%20PPC%20Public%20QA.pdf> – see question from David Rankin, Minute Annex pages 7-9 and response at pages 12-18.
8. By responding in this way to legitimate public questions, the Council irretrievably dug itself into a position that meant it could not recognise that Policy SLP 13c was impossible to achieve because it had underestimated the housing capacity of the site – to do so would be to acknowledge that the answers which had been given to public questions were wrong, as well as to risk a re-ranking of the Green Belt sites in a way not suited to the politically-required outcome. Consequently when the Harpenden Green Belt Association and Joanne Whitehead, in their responses to the 2014 consultation, drew attention to this fact, these consultation responses were not even reported to PPC, let alone addressed.

**B. Erroneous measurements of distance**

1. The Evaluation Matrix Methodology was agreed at PPC's meeting on 4 March 2014. Section 5 of the approved methodology included the following:
  - “5.7 *Focusing development and employment upon sustainable locations reduces the need to travel by private car and ensures that residents have good access to services. The location of sites in relation to services and facilities will be assessed here.*
  - Between half a mile (approx. 800 metres) and 3 miles (approx. 4.8km) cycling provides the highest level of accessibility. Below half a mile, walking may be quicker or more convenient, whereas above 3 miles, bus use becomes more relevant.*
  - 5.8 *Indicative distances to a variety of uses will be used where applicable. Distance assessments will measure approximate routes on the ground rather than “as the crow flies”.*”
2. The draft Evaluation Matrix did not adopt the agreed methodology as regards measurement of distances. As regards Sites S5 (NW Harpenden) and S6 (NE Harpenden) at least, which are those we have scrutinised most carefully, officers had lifted distance measurements from the Green Belt Review Part 2 where these were available. However, the Green Belt Review Part 2 (see for example paragraph 7.3.1) made clear that it measured distances as “*the direct and shortest distance between the edge of the sub-area and local service /facility*”. Thus, contrary to the agreed methodology, the Green Belt Review gave measurements of distance “as the crow flies” rather than “on the ground”. Where distances to facilities were not given in the Green Belt Review, it appears that officers did measure distances on the ground, but, like the Green Belt Review, they always measured them from the nearest edge of the site rather than from a single central location.

3. HGBA's submission on the draft at **Enclosure 8** prominently drew attention to the inaccuracies of the draft matrix in this respect, as did other submissions.
4. The final Evaluation Matrix received on 3 July 2014 nevertheless replicated all the erroneous measurements of the draft. Further, the Sustainability Appraisal draft Working Note produced to this meeting was also compiled by reference to the erroneous measurements.
5. Moreover, an explanatory note was added to the final Evaluation Matrix which had not appeared on the draft, as follows: (page 26 of the report)

“All distance measurements are approximate. It is noted that measurements can differ depending on whether vehicular, walk or cycle routes are used and also on location of the start point within the identified sites. Generally walking routes and a central start point within the sites are used. For the purposes of the evaluation conclusions this overall approach allows sensible conclusions to be drawn” (emphasis added)

Since this note had not been present on the draft, the inference must be that it was added to the final matrix in order to refute the suggestion made in the various submissions that officers had incorrectly measured the distances in the draft matrix and to assert the correctness of those given in the final one.

6. Neither the assertion that “walking routes” (i.e. distances walked on the ground) had been measured, nor the assertion that a central point within the sites had been used for the start of the measurement, was true. Officers cannot reasonably have believed that this note was accurate. The note asserted two things which were both the opposite of the methodology in fact adopted, in circumstances where several submissions to them had pointed this out.
7. At the meeting on 3 July 2014, Richard Thomas, Chair of HGBA, raised a specific question under the Public Questions Protocol on the issue (see <http://stalbans.moderngov.co.uk/documents/s50012504/3%20July%20Public%20Questions.pdf> at Minute Annex page 15-16

“The Harpenden Green Belt Association has pointed out to SADC that there were serious errors in the measurement of distances given in the draft evaluation of Green Belt sites: in particular that, contrary to the methodology agreed by the PPC on 4 March 2014, distances are not “on the ground routes” but are “as the crow flies” and also that they have not been measured consistently from a single point on the sites but always from the edge of the site closest to the relevant facility.

The final version of the evaluation in Appendix 5 (page 26) claims that “generally walking routes and a central start point within the sites are used” for measurement. This is not true - the distances given in the final version are exactly the same as in the draft, replicating all the errors, and in each case substantially understating the relevant distance.

These errors are compounded because some of the erroneous distances have been relied on by the consultants in the draft Sustainability Appraisal and Strategic Environmental Assessment at Agenda Item 10.

It is obvious that inaccurate measurement of distances between sites and local facilities will lead to unreliable assessments of the sustainability of development on those sites.

How do officers propose to justify asking Councillors to make important decisions based on faulty information?"

The answer given (by reference to an answer given earlier to another question) was:

"The reports currently presented include any correction of errors pointed out in the various submissions received. It is possible some minor errors remain, but they will not invalidate conclusions reached about the relative performance of the sites against the evaluation criteria...Substantial efforts are made to attain a high degree of accuracy, including through public scrutiny at these public PPC meetings." (emphasis added)

The statement that "*the reports currently presented include any correction of errors pointed out in the various submissions received*" was demonstrably untrue and the reference to attaining a "*high degree of accuracy through public scrutiny*" was ironic, in the circumstances.

8. At the PPC meeting on 10 September 2014, the Chairman of the PPC put a question through the Public Questions Protocol about the allegation that distances had not been correctly measured (see <http://stalbans.moderngov.co.uk/documents/s50013440/10%2009%2014%20September%20PPC%20Questions%20and%20answers%20V2.pdf> at Minute Annex pages 12-13). Officers gave the response:

"On measurement of distances, the figures were included as estimates of travel distances, as agreed by PPC. They are sufficient to draw the conclusions needed, where the overall proximity of sites to facilities and services has to be judged. Distances and conclusions drawn were checked at the point that submissions were received. An explanatory note on this issue was added to the evaluation report."

Officers accept that greater accuracy and possibly more representative distances are possible and might help understanding for all. Therefore the Council is now preparing a supplementary paper that re-measures all the key distances and records the basis and rationale in further detail (due to come to the October PPC). However it is important to say that it is not expected that this re-measurement would affect the overall conclusions drawn through the evaluation. Nevertheless, this additional information and any possible changes to the evaluation conclusions will be open for comment and debate in the proposed consultation." (emphasis added)

This response to a Public Question

- (1) wrongly implied that the figures in the matrix were included "*as agreed by PPC*". In fact the methodology adopted by the officers was not the methodology agreed by PPC;



- (2) stated that “distances and conclusions drawn were checked at the point that submissions were received” which was demonstrably not the case; and
- (3) reasserted the accuracy of the explanatory note added to the final evaluation report, which was, in fact, wholly inaccurate.

Officers’ decision to announce that the re-measurement was not expected to affect the overall conclusion, given the controversial history, gives rise to the strong perception that they were pre-judging the issue because they were determined not to admit that they had been wrong and lose face in the process.

9. In October 2014, officers prepared a report which purports to be an update to the report given to PPC on 3 July 2014. It contains a new Appendix 7, which remeasures some (but not many) of the distances shown in the final matrix. Those new distances have been carried into the body of the report and are shown in italics. The October 2014 report:

- continues with errors in its measurements of distances and likely routes taken. For example, the routes measured from the NW and NE Harpenden sites to the Harpenden Railway Station patently fall short of the actual station itself. At one point, access is identified via a route that appears physically impossible, passing through an existing dwelling;
- still does not use the methodology agreed by PPC in March 2014. Instead of using the Council’s own sophisticated interactive mapping system <http://gis.stalbans.gov.uk/wmlcustomerservice/>, which has a facility to measure both distance and area accurately, and applying the proposed walking times set out in the March paper, officers used “google maps”, which has much more optimistic walking times and does not take account of topography.

10. Nevertheless, despite its deficiencies, the October 2014 report does demonstrate that the original draft matrix produced in May 2014, and the final version produced in July 2014, were seriously erroneous and that the public questions should never have been answered as they were. For example, Appendix 7 now states that NW Harpenden (Site S5) is 1 km from the closest primary school, if the distance is measured from the edge of the site, and 1.23km if measured from the central point chosen by the officers – in comparison with the 400m given to the nearest primary school in the original matrix: i.e. the distance as now given is **over 3 times** longer than the original.

11. The October 2014 Report contains a Note on its first page:

“Note:

This report was originally published for consideration by the Council’s Planning Policy Committee in July 2014. This final version of the report includes minor amendments and updates as discussed by the Committee. The main changes are

inclusion of a new Appendix (7) and associated amendments. Other substantive changes are indicated in the text with the annotation 'October 2014'." (emphasis added)

This note misleadingly implies that the October 2014 Report or the information in it has been "discussed by the Committee". It has not. Even though officers told the Chairman on 10 September 2014 that a "supplemental report" would be brought to the PPC's meeting on 7 October 2014, it was not: <http://stalbans.moderngov.co.uk/ieListDocuments.aspx?CId=459&MId=7542&Ver=4>, nor has it ever been placed before any subsequent PPC meeting.

12. The failure to place the October 2014 Report before PPC, despite the apparent terms of the Note, has the consequence that:

- the October 2014 report has never been properly subjected to councillor or public scrutiny;
- councillors have not had the opportunity to consider whether the amendments are "minor" or warrant a more substantive change in the scoring in the evaluation matrix; and
- the decision to publish the local plan in its current form was not based on the October 2014 Report but on the incorrect July 2014 Strategy Report. PPC were expressly asked on 17 November 2015 to recommend the plan to Cabinet and Council based on the "total evidence base" which included "the Development Site and Strategy Options Evaluation" (see <http://stalbans.moderngov.co.uk/ieListDocuments.aspx?CId=459&MId=7821&Ver=4> at Minute item 8. As the only "Development Site and Strategy Options Evaluation" which had been presented to PPC was the July 2014 Strategy Report, it was on the basis of that report that the November 2015 resolution was made.

13. The clear inference is that Officers have not wanted the October 2014 report to be subjected to proper councillor and public scrutiny because it reveals that:

- (1) the original distance measurements were wrong; and
- (2) the answers given to public questions were false.

However, their failure to put the October 2014 Report before PPC has had the consequence that councillors have been allowed to approve and publish the draft local plan based on a report, that of July 2014, which officers know to contain errors. There has been no public

correction of, or apology for, the incorrect statements made to PPC in the final matrix or through public questions.

**APPENDIX 2: WALKING DISTANCES FROM NW HARPENDEN – MEASURED AND TIMED**

<b>NW Harpenden to:</b>	July 2014 Evaluation Matrix	Oct 2014 Evaluation Matrix	HGBA measured, using “Magic” mapping (from Cooters End Farm, using most likely walking route)
Coldharbour Ind Estate	1.5km	-	2km
Southdown Ind Estate	2.2km	-	3.1km
Wood End Primary School	400m	1.23km	1.4km
Roundwood Primary/Roundwood Park School	600m	1.23km	1.6km
Rothamsted Park	1.2km	-	2.2km
Town Centre (War memorial)	1km	1.73km	1.8km
The Elms GP	1.2km	-	2km
Harpenden Sports Centre	1.4km	-	2.3km
Front of Railway Station (ticket office)	1.5km	1.93km	2.3km

<b>NW Harpenden to:</b>	Oct 2014 Evaluation Matrix (using “google maps” from edge of site)	HGBA timed actual walking (from Cooters End Farm, using most likely walking route)
Coldharbour Ind Estate	17 mins	22 mins
Southdown Ind Estate	-	37 mins
Wood End Primary School	13 mins	18 mins
Roundwood Primary/Roundwood Park School	13 mins/11 mins	22 mins
Rothamsted Park	-	25 mins
Town Centre (War memorial)	17 mins	21 mins
The Elms GP	-	18 mins
Harpenden Sports Centre	-	26 mins
Front of Railway Station (ticket office)	21 mins	28 mins

## ENCLOSURES

1. **HGBA response to Reg 18 consultation, Autumn 2014**
2. **Harpenden Town Council response to Reg 18 consultation, Autumn 2014**
3. **Extract from Reg 18 consultation draft plan showing expected sources of housing**
4. **Freedom of Information Act response**
5. **Herts County Council response to Reg 18 consultation, Autumn 2014**
6. **Highways Agency response to Reg 18 consultation, Autumn 2014**
7. **Emails with Herts County Council re traffic modelling**
8. **HGBA comments on Draft Evaluation Matrix**
9. **Harpenden Town Council comments on Draft Evaluation Matrix (without appendices)**
10. **SHLAA 2009, Appendix 14**
11. **Herts County Council response to 2009 consultation**
12. **Extract from traffic report re NW Harpenden as school site**
13. **Google maps satellite photograph**
14. **Extract from Developers' presentation for NW Harpenden**