

Welwyn Hatfield Borough Council Examination in Public 21/09/17

Short Statement regarding the Duty to Cooperate on behalf of St Albans District Council

St Albans District Council recognises the considerable challenge of plan-making for all authorities at this time and overall wishes Welwyn & Hatfield Borough Council the best of luck in moving forward in due course

However, St Albans considers that Welwyn & Hatfield has not met the Duty to Cooperate. The reasons why are set out in our representations.

I should just add that St Albans has reviewed its representations since they were submitted on 21 October 2016, in light of our own Strategic Local Plan's failure to pass the Duty to Cooperate test. St Albans challenged the Inspector's decision in the High Court, was given permission to be heard, but the Judicial Review was dismissed.

Briefly, this process has highlighted the importance of compliance with the strict terms of Section 33A of the Planning and Compulsory Purchase Act 2004. This includes, in material part, "maximising the effectiveness with which the activities within subsection (3) are undertaken...to engage constructively, actively and on an ongoing basis..."

Further, the High Court has made clear in paragraph 38 of Sir Ross Cranston's Judgement of 13 July 2017:

"38. What is required of a planning inspector in examining whether a local planning authority has performed its section 33A duty was spelt out by Paterson J in *R (on the application of Central Bedfordshire Council) v Secretary of State for Communities and Local Government* [2015] EWHC 2167 (Admin):

"[50] To come to a planning judgement on a duty to co-operate involves not a mechanistic acceptance of all documents submitted by the plan-making authority but a rigorous examination of those documents and the evidence received so as to enable an Inspector to reach a planning judgment on whether there has been an active and ongoing process of cooperation. The key phrase in my judgment is "active and ongoing". By reason of finding there were gaps as the Inspector has set out, he was not satisfied that the process had been either active or ongoing".

Having reviewed its representations in the light of our own experiences, to which Welwyn & Hatfield were an involved and interested party, this Council considers that its representations stand.

Lastly, in terms of outcomes, bearing in mind the proposed Symondshyde village would stand approximately 280m from the boundary with St Albans District, I draw attention to the 'gap' between Welwyn & Hatfield making St Albans aware of the Gascoyne Cecil Estates submissions regarding Symondshyde at a bilateral Duty to Cooperate meeting on 1 February 2016 – as one of many site submissions - and Welwyn & Hatfield statutorily notifying St Albans of their Regulation 19 Local Plan Publication on 30 August 2016. During this period there were no substantive Duty to Cooperate discussions regarding the matters set out as our 'supporting points' to our Duty to Cooperate objection.