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To: Local Plan
Subject: RE: Hertsmere Local Plan - Site Allocations and Development Management Policies Plan (Published July 2015) for Submission to the Secretary of State - Representations on behalf of The Aldenham Foundation
Attachments: Aldenham School SA & DM policies reps 10-09-15.pdf
Importance: High

Dear Mr Silverman

Please find attached the representations of The Aldenham Foundation upon the above document.

Regards

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10th September 2015
Our Ref: SA4029

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By email to local.plan@hertsmere.gov.uk

Dear Mr Silverman

**HERTSMERE LOCAL PLAN - SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT
POLICIES PLAN (PUBLISHED JULY 2015) FOR SUBMISSION TO THE SECRETARY OF
STATE**

REPRESENTATIONS ON BEHALF OF THE ALDENHAM FOUNDATION

1. Introduction

- 1.1. We act on behalf of The Aldenham Foundation (referred to in this letter as "*the Foundation*") operator of Aldenham School, Aldenham Road, Elstree, WD6 3AJ and St Hilda's School of High Street, Bushey, Hertfordshire WD23 3DA in respect of town planning matters. The Foundation is a significant landowner and investor in the Borough, and therefore a key local stakeholder, which has long taken a keen interest in the process of evolving local development plans. For instance, the Foundation closely involved itself in the evolution of the Hertsmere Local Plan 2003 (HLP) and appeared at the public inquiry into the deposit draft. It is important to remember that schools are operating within a highly competitive market and thus, in addition to academic performance, the quality of the 'offer' is judged against the facilities offered by the competitors. In order to continue to compete at these high levels, the Foundation must maintain its investment in educational and other facilities (such as sports) of high quality. It is likely that further matters will arise, requiring planning applications in future and it is essential that the provisions of 'Development Plan' policy do not prevent, or inhibit, further investment into the Foundation's schools or buildings.

2. The Existing Position and the Hertsmere Local Plan

- 2.1. **Aldenham School** has been based at its current site since 1597, although no vestige of the original school remains, and the oldest buildings on the site date from the 1820s. Three buildings on the site are statutorily listed. Since the nineteenth century the School has evolved and changed as educational and other requirements have dictated. The change to full co-educational status, envisaged by Aldenham School's 'Development Strategy', has now been achieved, although the School is still adapting its premises to meet new demands imposed by various pieces of legislation, as well as the requirements for the provision of additional sports and activities. It is also considering its options for continuing to improve its provision for coaches and other transport.

- 2.2. The Foundation's extensive landholdings at Letchmore Heath are designated in the HLP as a "*Major Developed Site*" (MDS) in the Green Belt and it should have been the case that development within this area was treated as 'appropriate' under the terms of Annex C to PPG2. However, for the purposes of the HLP, the terms of Annex C only operated within the scope of tightly defined "*Envelopes of Appropriate Infilling*" (EAI) and significant concentrations of the operational area are outside the two EAI boundaries. These latter designations were entirely of Hertsmere's creation, rather than having any basis in PPG2, and in the case of the Aldenham Campus the first EAI includes some of the main buildings (but excludes the Main Car Park, Nursery and Pre-prep), whilst the second, discrete, EAI accommodates a strip of buildings fronting Aldenham Road and was added following the HLP Inspector's recommendation. The Inspector having recognised, as a "*fact of life*" (paragraph 107.2 of the HLP Inspector's Report) that the 'MDSs' pre-dated the Green Belt designation and went on to say that "*the potential for future development has to be acknowledged*".
- 2.3. Within the tight 'EAIs' there is little scope to add new buildings due to the highly built up nature of these parts of the Aldenham campus. The presence of listed structures also further limits the scope for infilling/replacement within the main EAI. Most of the proposed projects within the approved 'Development Strategy' were to be sited outside the EAIs because of these constraints. Although the School's Campus is entirely within the Green Belt, much of the area of core activity, which is the most heavily built up, is screened from the open countryside by strong belts of planting. Thus the site can accommodate further new development without compromise to the openness of the Green Belt and there is scope to add further built form without encroachment into the open countryside.
- 2.4. The Foundation has long been aware of the unduly constrained nature of its Aldenham School EAIs and of the difficulties that poses for running a modern efficient educational establishment. As far back as August 2007 when the Council first commenced a review of the Borough's MDS/EAI boundaries, allegedly with a view to dealing with the anomalies, the Foundation made representations that the boundaries must be practical, follow recognised definable features and include all of the operational area. Furthermore, within the Foundation's representations to previous consultation versions of this plan the Council's attention was drawn to the fundamental revision in the NPPF relating to proposals affecting previously developed Green Belt land. The Foundation notes that the Submission version of the SADM is still promoting the flawed EAI concept, albeit with the different name of "*Site Infill*" boundary. The two EAIs on the Aldenham School Campus are to be merged into one, and although there are proposed to be some slight additions to the scope of the boundary, the problem of accurate and realistic definition still remains. Sizeable elements of Aldenham School's Campus (such as all of the School's activities and buildings on the southern side of Aldenham Road) are still excluded from the proposed arbitrary boundary.
- 2.5. The **St Hilda's School** is also long established on its site (the School came to this site in 1928) and like Aldenham School has seen recent investment in improved sports facilities by the Foundation. It is possible that further development needs may come forward over the plan period. Although the site is in the urban area, and so does not have to contend with the issue of Green Belt, it is still crucial to ensure that the provisions of other development management policy do not conspire to constrain any further investment into the site.

- 2.6. The provisions of complying with legislation relating to charitable status can also impose obligations upon the Foundation and this is a further reason for the need to retain flexibility in relation to the Foundation's future needs. One possible matter arising from such status is the future requirement for shared use of sports facilities with the wider community, and the resultant need to consider siting of new facilities to allow such access, as well as a reappraisal of parking arrangements.

3. The Draft Plan in the Context of National Planning Policy

- 3.1. **General comment** - One of the Government's stated reasons for producing the National Planning Policy Framework (NPPF) was to cut down upon the amount of planning policy in order to create usable concise documents which allow and promote genuine and meaningful participation by the wider community (see NPPF, paragraph 155). Since then the Government has issued copious amounts of policy in the National Planning Policy Guidance (NPPG) relating to a range of planning decision-making and plan-making topics, such as design, heritage, advertisements and flood risk, obviating the need for any additional local level policy, unless it is very specific to the locality. In this regard the NPPG states:

"...all Local Plans should be as focused, concise and accessible as possible. They should concentrate on the critical issues facing the area - including its development needs - and the strategy and opportunities for addressing them, paying careful attention to both deliverability and viability.....In drafting policies the local planning authority should avoid undue repetition, for example by using generic policies to set out principles that may be common to different types of development. There should be no need to reiterate policies that are already set out in the National Planning Policy Framework" (NPPG; Paragraph: 011 Reference ID: 12-011-20140306).

- 3.2. **The Need for Sustainable Growth** - the clear message from the Government in the NPPF is that planning must not simply be about scrutiny, but must support positive growth, making economic, environmental and social progress for this and future generations. The Ministerial Foreword to the NPPF is very clear that *"Development means growth"* and that *"Sustainable development is about positive growth"*, emphasising that *"Planning must be a creative exercise in finding ways to improve the places in which we live our lives"*. This reflects HM Treasury's commitment that *"the default answer to development is yes"* in its ongoing 'Plan for Growth', which was launched at the time of the Budget in 2012, reinforced in subsequent Budgets and now underpins the Framework.
- 3.3. At paragraph 14 of the NPPF the Government says that *"a presumption in favour of sustainable development"* is *"at the heart of the National Planning Policy Framework"*. This *"should be seen as a golden thread running through both plan-making and decision-taking"* and *"for plan-making this means that: local planning authorities should positively seek opportunities to meet the development needs of their area"*. Planning policy should not be a barrier to growth and business investment (NPPF, paragraphs such as 21 & 173).

- 3.4. The NPPF emphasises the role that the planning system has to play in delivering the three dimensions of sustainable development: ‘economic’, ‘social’ and ‘environmental’ (NPPF, paragraph 7). A presumption in favour of sustainable development is at the heart of the NPPF and on the matter of policy formulation it states that for plan-making:
- *“local planning authorities should positively seek opportunities to meet the development needs of their area”*; and
 - *“Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change”*(paragraph 14).
- 3.5. *“All plans should be based on and reflect the presumption in favour of sustainable development”* (NPPF, paragraph 15) and should follow a set of core planning principles set out in the NPPF at paragraph 17. According to paragraph 17, plans should: be *“succinct setting out a positive vision for the future of the area”* and should provide a practical framework *“within which decisions on planning applications can be made with a high degree of predictability and efficiency”*. The Government is clear that there should be a positive attitude to *“proactively drive and support sustainable economic development”* and to *“respond positively to wider opportunities for growth”*. Plans should *“take account of market signals”* and the needs of business communities.
- 3.6. In respect of delivering the economic dimension of sustainable development, plans must include ***“1. Building a strong, competitive economy”***. The Government requires that *“Planning should operate to encourage and not act as an impediment to sustainable growth”* and *“significant weight should be placed on the need to support economic growth through the planning system”*. Local Planning Authorities *“should plan proactively to meet the development needs of business”* and *“Investment in business should not be over-burdened by the combined requirements of planning policy expectations”*. In drawing up Local Plans, local planning authorities should set out a clear economic vision and strategy which *“positively and proactively”* encourages sustainable economic growth; and should *“support existing business sectors, taking account of whether they are expanding or contracting”*. The NPPF also confirms that *“Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances”*. (NPPF, paragraphs 19, 20, & 21).
- 3.7. Development plans also have a role to play in ***“3. Supporting a prosperous local economy”***. Policies should support economic growth in rural areas in order to create jobs and prosperity *“by taking a positive approach to sustainable new development”* including *“supporting the growth of all types of business and enterprise”* through conversions and new buildings and supporting the retention and development of local services and facilities in villages (NPPG, paragraph 28). Although the use of sustainable modes of travel is generally prioritised in the NPPF, paragraphs 29 & 34 recognise that this is not always achievable, particularly in those sites outside the urban area where public transport may not be available and walking/cycling may not be safe options either.
- 3.8. As well as promoting the ‘economic’ role of sustainable development and encouraging investment, in particular so that heritage assets are conserved and put to viable use (part of planning’s ‘environmental role’ – see NPPF at Chapter 12 *“Conserving and enhancing the historic environment”*), the NPPF’s ‘social’ dimension should also be considered.

- 3.9. The NPPF places a strong emphasis upon the improvement of educational provision and at paragraph 72 of the NPPF it is stated *"Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education"*. Furthermore, *"great weight"* is to be given *"to the need to create, expand or alter schools"* and Councils should *"work with schools promoters to identify and resolve key planning issues before applications are submitted"*. The need to work proactively with local stakeholders to facilitate investment also appears throughout the NPPF.
- 3.10. LPAs are expected to utilise national standards for a building's sustainability and although it is permissible to have local requirements these *"will need to be based on robust and credible evidence and pay careful attention to viability"*. *"Plan makers should consider the range of costs on development....Their cumulative cost should not cause development types or strategic sites to be unviable. Emerging policy requirements may need to be adjusted to ensure that the plan is able to deliver sustainable development"*(NPPG, Reference IDs: 6-009-20150327 & 10-007-20140306).
- 3.11. **Green Belt** - Although, according to the NPPF *"the Government attaches great importance to Green Belts"* and most forms of development remain 'inappropriate', the manner for dealing with 'previously developed land' has changed completely from PPG2, which formerly set out the policy on the matter. PPG2's more flexible approach towards development upon land defined as a 'Major Developed Site' (MDS) in a development plan, has been extended, by paragraph 89, to any previously developed sites that are in the Green Belt, regardless of whether it is specifically defined as an MDS, or not. Under the terms of paragraph 89 *"partial or complete redevelopment of previously developed land (brownfield land)"* is not inappropriate in the Green Belt. To be compliant with the NPPF this pragmatic and flexible approach must now be recognised in Hertsmere's 'Development Plan' policy.
- 3.12. **The tests of soundness** - In *"Examining Local Plans"* the NPPF re-emphasises the requirement for a Development Plan to be *"sound"* when it is submitted for Examination and that in order to be so it must be *"Positively prepared, Justified, Effective and Consistent with National Policy"* (paragraph 182). The current draft of the SADM plan is likely to fail in respect of all four and we set out below some of the areas that need to be addressed.

4. The Foundation's Representations Upon the 'Soundness' of the Submitted Plan

- 4.1. **General Comment** - It will be recalled that in order for the Inspector to find what was considered to be a deficient plan 'sound', the Council committed itself to an early review of the Core Strategy, within three years of its adoption. The plan was eventually adopted on 16th January 2013 and so that review should be well on the way to completion by now. As it is, there has not been any formal consultation at all regarding the Core Strategy review and the Council is considerably far off from achieving this. The best guess for progress seemingly being *"it is not anticipated that a first draft of a revised Core Strategy will be available for public consultation until 2016 at the earliest with adoption of a revised Core Strategy not expected until at least 2018/19, given the strategic issues which it is likely to have to address"* (see Full Council report of 8th July 2015 at paragraph 4.2) Bearing in mind this acknowledgement, it is premature to bring forward a detailed site allocations document in the absence of any up-to-date wider strategy.

- 4.2. As a secondary matter, the drive to rush forward with the current submission document has led to the majority of the consultation period taking place in the summer holiday period, which may have precluded a significant element of public engagement. This would particularly impact upon the education sector, where decision-making bodies of senior staff and Governors may not be able to convene in time to consider their response.
- 4.3. The new Plan should not duplicate or repeat those policies already in the NPPF and should not cover matters already dealt with in other legislation. Steps should also be taken to reduce the number of policies and extraneous verbiage throughout the Submission document. When taken with the existing Core Strategy the current document is much too long, in many cases its policies repeat statements already made elsewhere, or merely make self-evident platitudinous statements (about preventing harmful development). For instance if **SADM30** is adopted there would be two 'Development Plan' policies concerned with heritage assets, both of which assert that applications that are harmful to the historic environment will not be supported. Furthermore neither policy, that of the adopted Core Strategy or that in the submission draft, adds anything 'Hertsmere-specific' over and above the national policy already available to applicants within the NPPF and NPPG.
- 4.4. This matter was drawn to the Council's attention in the representations submitted upon the consultation draft and the Foundation again points out that renumbered Policies **SADM11** "*Biodiversity and Habitats*"; **SADM14 & 15** "*The Water Environment*" & "*Flood Risk*" respectively, **SADM22** "*Hazardous Substances*" & **SADM31** "*Design Principles*" are just a few examples where nothing local is added to the national position and that removing such unnecessary policies ought to reduce the risk of the Plan being found 'unsound'. It is unwise to enshrine changeable standards into planning policy documents as they may no longer be current, or up to date by the time of adoption. This is particularly the case with using the standards of other bodies, such as BRE (see for instance Policy **SADM18** "*Water Supply and Waste Water*"). Such matters are better left as a consideration for the Building Regulations that apply as at time of implementation. SADM18's requirement that all non-residential development to meet the terms of BREEAM 'excellent' rating could impose a considerable strain upon deliverability. There is no evidence to suggest that the Council has considered the cumulative impact of such demands upon viability as the both the NPPF and NPPG require.
- 4.5. **Policies on the Green Belt** - Notwithstanding the fact that the NPPF has a comprehensive chapter upon the matter of Green Belt and the adopted Core Strategy also has a Green Belt policy, yet more policies about the Green Belt are being promoted in the current submission document. There is no need for more policy, particularly that which only "*reflects the principles of the NPPF*" (see paragraph 4.77 of the Submission document's Reasoned Justification), concerning the Green Belt, as again there is nothing specific to Hertsmere. The method of dealing with Green Belt review is muddled, with two large previously developed sites being returned to the Green Belt for unstated reasons (paragraph 4.82), whilst further on paragraph 4.85 acknowledges that some of the infilling envelope boundaries will have to be amended in future. This ad hoc manner is not the approach expected by the NPPF to the delineation of Green Belt boundaries.

- 4.6. Policy **SADM23** is not a policy and, we suspect as a result of poor editing, appears to apply to itself (this is perhaps a symptom of the lack of rigour in the approach to producing this document when assessing the representations made to the previous draft). If this was a policy it would be ‘unsound’.
- 4.7. Policy **SADM27** (*“Development Standards in the Green Belt”*), either duplicates the NPPF, or worse, attempts its own reinterpretation of Government Green Belt policy in order to ‘judge’ the impact of proposals *“against local circumstances”* (paragraph 4.94 of the Reasoned Justification). This will lead to confusion, as none of the considerations within SADM27 can be considered to be circumstances that are purely specific to Hertsmere. Aldenham School is a long existing substantially developed site, whose Campus happens to be in a Green Belt location. Were the Foundation to bring forward a proposal for new investment it should be tested against the policy at paragraph 89 of the NPPF. Such development is no longer necessarily considered to be inappropriate, as much depends upon the nature of the specific proposal. There is no longer any need for Policy **SADM25** to designate *“Key Green Belt Sites”* (which also has the benefit of removing the consequent difficulty in defining rational boundaries), and promote their development over and above any other developed land in the Green Belt. Both of these Policies are contrary to National policy and therefore deleted, as they are ‘unsound’.
- 4.8. Many aspects of Policy **SADM28** (*“Diversification and Development supporting the Rural Economy”*) could well be overtaken by the recent changes to the General Permitted Development Order relating to the use of agricultural buildings (the requirement in this policy to protect land of Grade 3a is difficult for either the Council or applicants to assess, as there is no definitive available reference source for differentiating between the 3a & 3b categories). As a result the draft policy is ‘unsound’.
- 4.9. **Other Development Control Policies** - In stating that *“planning permission will be refused for development which would result in the loss, or likely loss, of”* certain trees (particularly the highly subjective statement referring to *“high quality trees and/or hedgerows that make a valuable contribution to the amenity of the area in which they are located”*), draft Policy **SADM13** (*“Trees, Landscaping and Development”*) does not accord with the NPPF, in that it is not ‘justified’ by any proper evidence and is not *“positively prepared”*. It is therefore ‘unsound’ and should be deleted.
- 4.10. Like Policy CS19 of the Core Strategy, Policy **SADM33** deals with *“Key Community Facilities”* (which specifically includes schools). The NPPF says that the Government gives *“great weight to the need to create, expand or alter schools”*; whereas the Submission document’s support for the educational sector is heavily qualified. Proposals for new or enhanced facilities may be permissible provided that they address a number of criteria. They must *“principally serve a local community; or meet a wider, unmet need which cannot be accommodated elsewhere...they are or can be made accessible by public transport, walking and cycling; [and] where appropriate, they are designed to be able to accommodate a range of community uses and users...”*. It is not justified with any evidence why these additional caveats need to be in place within Hertsmere. This proposed policy also introduces a number of terms that will require further definition, if it is to provide the certainty that the ‘Foreword’ to the Plan purports to give.

- 4.11. There will be many cases in the Borough where as a result of past history that a ‘community facility’ is patronised by those from outside the *“local community”* (wherever that may be) and because of their historic location there is no accessibility, or any possibility of providing such access, by modes of transport other than private vehicles. In the case of the Aldenham Campus there is no bus or rail service in the immediate vicinity and the nature of the local roads militate against cycling or walking.
- 4.12. This, however, does not mean that the owners of such facilities should not receive the Council’s fullest support when seeking to enhance the quality of the provision, as well as keep a heritage asset in viable use. As written this policy is ‘unsound’, as are those provisions of Policy **SADM41** *“Highway and Access Criteria for New Development”*, which will also frustrate investment into any site which cannot provide for accessibility by a range of transport modes.
- 4.13. Policy **SADM16** (*“Sustainable Drainage Systems”*) is unduly onerous in expecting all proposals over a certain size to provide sustainable drainage measures regardless of necessity and then enter into commitments to make *“arrangements for future maintenance and management”*. This unreasonable demand has not been costed and could therefore prejudice investment. The policy is therefore ‘unsound’ and should be deleted.

5. Concluding Remarks

- 5.1. The Foundation is an important stakeholder and investor in the locality, as well as the custodian of important heritage assets, which need to be kept in viable use. The Foundation’s development needs should be recognised in, and facilitated by, planning policy. The Development Plan should acknowledge that certain Green Belt institutions have particular needs, but fulfilling those needs does not compromise Green Belt objectives.
- 5.2. As was said in the Foundation’s previous consultation responses, the type of document being progressed is likely to be found ‘unsound’ by the Inspector, as the Council has failed to address its many deficiencies.
- 5.3. The purpose of a development plan, indeed the whole basis of forward planning, is to provide certainty to investors, developers and the public about where and what development will take place over the plan period. The Council accepts this in the ‘Foreword’ to the plan (and again at paragraph 1.12), but this is not carried through into the policies. This Council’s approach does not reflect the NPPF requirements to be ‘Positively prepared’; ‘Justified’, Effective’ and ‘Consistent with National Policy’.
- 5.4. The current Submission draft:
- is not *“based on a strategy which seeks to meet objectively assessed development and infrastructure”*;
 - is not based upon *“proportionate evidence”*;
 - will not be deliverable; and
 - will not *“enable the delivery of sustainable development in accordance with the policies in the Framework”*.

- 5.5. Accordingly, the Submission document is the antithesis of forward planning; and, as was the case with the Core Strategy submitted for examination in 2011, the current plan is 'unsound'.
- 5.6. The Foundation trusts that you will find these comments helpful and shall be grateful if you will keep it informed of progress on all matters concerning the Site Allocations & Development Management Plan.

Yours sincerely



Michael Fearn of Shireconsulting
On behalf of THE ALDENHAM FOUNDATION