Dear Mr Clark,

**VALP SOUNDNESS ISSUE FROM SITE POLICY D-AGT3**

1) During the discussion on Matter 15c, the valid point was made that our contention regarding the unsoundness of the VALP over sequential testing for flood risk could only be confirmed through examining the actual evidence. You will recall our prime argument that there is no evidence that any alternatives have been tested, contrary to NPPF requirements.

It is clear that at 9.271 of the Committee Report of application 16/01040 (26.10.2017) that officers conclude the Sequential Test is passed. At 9.272 of that report it states “that there are no other alternative sites where the development could feasibly be provided in order to fulfil the strategic requirements of the Aylesbury Transport Strategy.”

In seeking to understand whether those statements in the Officer Report are justified it is important to return to the primary evidence. We put before you the primary evidence in the attached three Sequential Test documents:

- PBA Sequential Test Report – March 2016 (Appendix H of the 2016 FRA)
- Technical Note : Addendum to 2016 March FRA – 24th March 2017
- Updated Water Compatible Sequential Test – September 2018

The latter two documents only relate to the Sequential test for the Water Compatible elements. We also attach and have reviewed the Flood Risk Assessment of March 2016. A summary of these documents is provided in Appendix One.

2) It appears to be common ground that no evidence of wider testing or consideration of alternative routes looking at D-AGT3 as a whole has been presented as part of the VALP process. We believe this in itself is contrary to NPPF when the ELR(S) is considered an “Essential” part of the plan. This now appears to leave the validity of the Sequential testing for the VALP reliant on evidence from the “Woodlands” (16/01040/AOP) planning application which is subject to a different consenting regime. Currently this application is not approved.

Examining the primary evidence in the Woodlands application:

3) The Sequential Test for the ELR (S) in the Woodlands application (16/01040) does not consider alternative sites or routes which clearly are already available as part of the HELAA process. The search for alternative “available” sites solely consists of a search of two “Land For Sale” websites: Estates Gazette on January 19th 2016 and Prime Location 2nd March 2016. Thus the Sequential Test concludes there is no site available for sale that can link to the “North connection point”. At 2.4.1 of the Sequential Test of 2016 it states: “The Prime Location search (02/03/2016) did not identify any Farms or Land available for sale in the search area.” [Emphasis added].

4) At the time of this search of “for sale” sites other sites were available as part of the HELAA process. Sites at AGT 3 are identified in the first HELAA of 2015 and the complete
AGT3 site is clearly established in the May 2016 HELAA (see below extract from 2016 HELAA), some 18 months before any consideration of the planning application was brought forward to Committee. These sites are clearly available although not for sale as they form part of the HELAA. They are being promoted by land agents, owners and or developers and would have been properly assessed as part of the HELAA process.

5) The NPPF is clear on this point at paragraph 101 where it states “...development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding”. There are reasonably available sites are apparent and should have been assessed – they were not.

6) Irrespective of when the council and developer should have known “reasonably available sites’ were identified, as the ELR(S) is deemed Essential Infrastructure it is therefore able to be subject to Compulsory purchase whether those sites were “available” or not.

7) Further, there were plenty of opportunities for the Council and those promoting the scheme to look at these alternative sites and update the Sequential Test accordingly. Two updated Sequential Test reports were submitted after the May 2016 HELAA and indeed the final iteration of the HELAA in January 2017. One was published on 24th March 2017 and another on 27th September 2017. On inspection of these documents it is clear that they were almost exclusively relating to Water Compatible elements of the development and not the ELR(S) route which clearly remained without review. (see below summary and attached full reports)
Conclusion

The Council in their officer report to Committee for the Woodlands application accept the results of the Sequential Test. This acceptance does not in any way look at the primary evidence from the Sequential Test and does not consider other sites are available but simply not tested.

Even a cursory glance through the Sequential Test report, including the Exception Test element, shows that it did not consider any alternative routes to connect the North and South points. It failed to look at other available sites as identified in the HELAA; it failed to consider Compulsory Purchase and it failed to be update the Sequential test in relation to the ELR(S) despite have numerous opportunities to do so.

There was time for an updated Sequential Test and to consider alternative routes based on looking at what in actual fact were always available sites.

We believe this now clearly shows that no alternative routes for the alignment of the ELR(S) were considered even as part of a separate application. Therefore there is no evidence in front of the inspector that AGT3 has been objectively assessed based on consideration of reasonable alternatives, which renders this element of the plan unsound. It is also inconsistent with National Policy.

APPENDIX ONE

Initial Assessment
The initial assessment is 16_01040_AOP-ES_APPENDIX_I-1_FLOOD_RISK_ASSESSMENT_PT1-1522171 prepared by PBA for Buckinghamshire Advantage dated March 2016

Sections 4.3 and 4.4 describe the sequential and exception testing carried out, and Section 5 describes the proposed flood mitigation measures. You will see from all the diagrams (e.g. Figures 5.1, 5.3, 5.5) that one single route for the ELR(S) is shown throughout, and in some detail. There is no mention that potential alternative routes have been considered or tested. In fact, the word “alternative” only occurs once in the entire document, on the topic of sports facilities.

Addendum to Initial Assessment
This is the ES ADDENDUM - APPENDIX B FLOOD RISK ASSESSMENT AND SEQUENTIAL TEST PART 1, a Technical Note prepared by PBA dated 24 March 2017.

Sequential Testing is covered in Section 5. It was conducted only for water-compatible development, namely formal play space and open space. It therefore says nothing about alternatives to the specified ELR(S) route.
Final update
The previous report was updated by PBA in September 2017, as 16_01040_AOP-FRA_-_UPDATED_SEQUENTIAL_TEST-1770282. This again related only to water-compatible development, i.e., formal play space and open space. The claim (Exec Summary para 3) that the initial assessment had demonstrated the lack of reasonably available sites with lower flood risk is not justified by evidence, as shown above.

Yours sincerely,

G P White (Dr)

Secretary, Hampden Fields Action Group