

VALE OF THE WHITE HORSE LOCAL PLAN EXAMINATION MATTER 1 – DUTY TO COOPERATE AND OTHER LEGAL REQUIREMENTS

1.1 Has the Council satisfactorily discharged its Duty to Cooperate to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters, including in particular minerals and waste and housing? (See also Matter 4).

The Council has discharged the duty to cooperate to some extent by participating in the Joint SHMA and reflecting the favoured scenario for the OAN in its local plan. However, the duty to cooperate has not been met in terms of providing an effective and deliverable solution to the problem of Oxford City's unmet housing need.

The HBF has two principal concerns about the Vale of White Horse Council's Local Plan Part 1. These are:

- a) the mechanics governing the future joint working to resolve the issue of the unmet housing needs of Oxfordshire – which is principally the unmet need emanating from Oxford City – and when this strategic problem will be addressed; and
- b) the lack of certainty as to whether the Council will provide sufficient land, and in time, to accommodate its own objectively assessed housing need (OAN) before 2031.

The HBF supports the use of the mid-point scenario in the Oxfordshire HMA SHMA 2014 as an appropriate basis for the OAN. The HBF supports the Vale of White Horse Council's (VWHC) approach in this respect. This is consistent with the verdict reached at the Cherwell Local Plan examination (the plan is now adopted). We consider that the Vale's decision to reflect the recommended scenario in the SHMA 2104 is constructive. This decision is strongly indicative of effective cross-boundary working on the strategic matter of housing.

However, weighed against this, the HBF is concerned that the mechanics governing the process of addressing Oxford City's shortfall. This is still ambiguous. This indicates that the duty to cooperate has not been entirely effective in planning for housing. The NPPG advises that cooperation should produce effective and deliverable policies on strategic cross boundary matters (paragraph 1).

Core Policy 2 signals an intention to review the Local Plan, but there is no indication when. Because the Council cannot be compelled to review its local plan, the problem of the shortfall cannot be avoided by promising of a review. Local Plans may be aspirational, but they also need to be realistic.

There is a risk that the unmet need will not be addressed by this generation of Oxfordshire plans running up to 2031. Consequently, the needs of a generation of households, probably many under 40, struggling to find accommodation, will not be addressed by the Oxfordshire authorities until after 2031, if at all. There is a risk of

neglecting the needs of some 17,000 to 18,000 households who cannot be provided for by Oxford City's plan.

The NPPF attaches great weight to meeting the OAN in full and it argues for cooperation where individual authorities cannot meet their own needs within their own administrative boundaries. While we acknowledge VWH Council's desire to have a plan in place the scale of the housing problem in Oxford City and the related problems this will have for economic growth (e.g. the City Deal), means that it is unjustified for the Oxfordshire plans to ignore the scale of the unmet need.

In paragraph 3.19 of Topic Paper 1 states that the VWHC is committed to an early review of the Local Plan. Core Policy 2, however, provides no date as to when this might happen. In this respect, the policy is as non-committal as the wording in Cherwell's Local Plan Part 1 (see page 20) which was adopted on

We note in the third paragraph of Core Policy 2 that the Council is claiming that it (as well as the other hinterland councils) is unable to address the shortfall in Oxford City because the precise size of the unmet need is still to be determined. The Council is therefore arguing that until the precise size of the unmet need is determined it is impossible to devise a strategic plan for Oxfordshire. This is a very weak justification. It is a poor argument because: a) the need has been determined through the Oxfordshire SHMA 2014; and b) Oxfordshire has undertaken an assessment of its capacity through the *Oxford's Housing Land Availability and Unmet Need Assessment*, December 2014. This has quantified Oxford City's capacity as closely as can be reasonably be expected at this stage. There may be some potential additional capacity related to raising densities but this is unlikely to make a decisive inroad into the unmet need – it is a matter of squeezing out a few hundred dwellings rather than thousands. What the VWHC and the other Oxfordshire hinterland authorities are really arguing is that until the question of whether the unmet housing need in Oxford City is a few hundred more or less than has been assessed this is sufficient reason to delay confronting the problem through this round of plan-making. So a quibble over a few hundred dwellings assumes much greater importance than an established shortfall of 18,000 thousand dwellings.

The quibble is a petty one. Oxford City has undertaken a detailed assessment of its capacity. On the basis of the Mid-point in the 2014 SHMA (the agreed measure of the OAN) the shortfall is 17,700 dwellings (*Oxford's Housing Land Availability and Unmet Need Assessment*, December 2014, page 54). Quibbling over whether it might be possible for Oxford City to accommodate a few hundred more dwellings speaks volumes about the lack of a genuine commitment by the hinterland Oxfordshire authorities to plan for the housing needs of Oxford City.

We note that the NPPG states that:

“if a local planning authority preparing a Local Plan provides robust evidence of an unmet requirement, such as unmet housing need, identified in a SHMA, other local planning authorities in the housing market will be required to consider the implications, including the need to review their housing policies.”

(Paragraph 020 ID: 9-020)

These circumstances apply here. There is now sufficient information available to the Oxfordshire authorities about the scale of Oxford City's unmet need. The inspector considering Cherwell's local plan commented that Cherwell's local plan "is likely to require an early review once the established process for considering the full strategic planning implications of the 2014 SHMA, including for any unmet needs in Oxford City, has been fully considered jointly by all the Oxfordshire Council."

We contend that this evidence is now available. This should trigger a reconsideration of the planning strategy for Oxfordshire. New plans for the four surrounding authorities should be prepared. VWHC, alongside South Oxfordshire and West Oxfordshire – the three authorities who have yet to adopt NPPF-based plans – should take note and prepare revised plans to each take a portion of Oxford City's shortfall. Cherwell Council which has a recently adopted plan can follow-up with a revised plan and present this for examination in a few years' time (as the inspector said would need to happen). We agree that it is best not to do this in isolation, as Core Policy 2 states, but because there are three plans that have yet to be examined and adopted this is the opportune moment for the three councils without adopted plans to address the Oxford City problem in this round of plan-making.

We note the Statement of Cooperation. This is helpful as a statement of the intention of the authorities to continue to work together. However, the Statement falls short of satisfying the requirement of legislation that cooperation is constructive. It also falls short of the requirement in the NPPF that cooperation is 'effective', and provides the 'concrete actions and outcomes' to which the NPPG refers. Moreover, cooperation to address the unmet housing need ought to have occurred prior to the submission of the Vale's plan. The 2014 SHMA is the only tangible output to date. Effective cooperation could only be demonstrated if the VWHC's local plan had shown how it would contribute to the resolving the Oxford City problem. It could only demonstrate this by providing for a proportion of Oxford City's unmet housing needs.

We acknowledge the desirability of having a local plan in place. This is important to provide for some of Oxfordshire's housing needs including those relating to the Vale. An adopted plan will also help with the development of the Science Vale Enterprise Zone among other things (as paragraph 5.15 of Topic Paper 4: Housing observes). We consider that the plan can be made sound by including a reference to a specific date by when the review should be concluded. This should be no later than 2021 so that new plans are ready for 2021 that will address Oxford City's needs. The problem of Oxford City's unmet need cannot be allowed to drift. The inclusion of this date would have the effect of binding all the Oxfordshire authorities to this common review date.

1.3 Is it appropriate for the plan to include only Strategic Policies and Site Allocations and for detailed planning policies and non-site strategic site allocations to be devolved to a Part 2 Local Plan document? Is there a clear justification for this and does it accord with national policy?

The Council's approach is unsound because it is contrary to national policy.

It is not unknown for the Local Plan to consist of two parts. A number of local planning authorities have chosen this route including Cherwell. The NPPF does not explicitly state that this is the incorrect approach but a reading of the NPPF does tend to suggest that the authors of the NPPF envisaged that only a single Local Plan would be produced. However, if it is judged to be acceptable to prepare a Part 2 plan, the primary strategic part 1 plan must still address the requirements of the NPPF at paragraph 47.

Paragraph 47 of the NPPF requires local planning authorities to identify a five year housing land supply made up of specific deliverable sites and then identify a supply of specific sites or broad locations for growth for years 6-10 and, where possible, for years 11-15.

The Vale's Local Plan does not do this. It does not identify either specific sites or even broad locations for 1,900 dwellings. The Council does not know where these 1,900 homes may come from. Arguing that these 1,900 dwellings will be provided "through the Local Plan Part 2 or Neighbourhood Development Plans or through the Development Management Process" evades a specific requirement of national planning policy that the Local Plan provides a spatial strategy. This question cannot be delegated to a subsidiary local plan because time is running out.

It is also important to recognise that there are commitments totalling 3,169 dwellings. If some of these commitments fail to translate into completions then more sites may need to be identified to deliver the housing requirement. The HBF considers that a 10% non-implementation allowance should be factored-in.

To rectify this shortcoming with the plan we recommend that the Council allocates housing figures to the larger and smaller villages in the Faringdon & Oxford Fringe, South East Vale and Western Vale sub-areas. This will provide direction for the preparation of Neighbourhood Plans. The Neighbourhood Plans can then be prepared showing how they will deliver these figures and more if they are so inclined. This is what the NPPF requires (paragraph 184). In the meantime the Council should identify suitable sites in the larger and smaller villages through a SHLAA review. If the Neighbourhood Plans are not produced within five years from the date the plan is adopted showing how the minimum housing figures will be delivered (it cannot be later than five years as the plan ends in 2031 and time is needed to apply, discharge conditions and build-out) then applications in these villages should be considered favourably in accordance with paragraph 14 of the NPPF.

The test as to whether the Council's approach is a sound one must be whether it is realistic to rely on a Part 2 local plan being produced in time. Plans may be aspirational but they must also be realistic. There is a risk that a document produced, examined and adopted in two years' time (it is unlikely to be adopted sooner than this) will be too late to be effective. This will militate against effective delivery of the housing requirement. Furthermore, if the Part 2 plan introduces policies that burden development then this adds to the risk of the Council failing to deliver its housing

requirement. There are too few years left in the life of the plan for the Council to review and adopt a different strategy.

Furthermore, the Council is unable to guarantee that the Part 2 plan will allocate land for the 1,900 shortfall. This is only one of three options that Core Policy 4 says might be utilised to provide for these dwellings.

If the Part 2 plan opts for the Neighbourhood Planning process then the risk of under-delivery increases owing to the time it will take for Neighbourhood Plans to be prepared, examined, go to referendum, adopted, begin to be implemented, sites to gain planning permission, and built out – and all by 2031. What is more, as we stated in our representations, communities producing Neighbourhood Plans may decide not to allocate land for housing at all. They would not be obliged to provide any housing especially if the local plan provides no indicative housing figure.

If the Council relies on the Development Management process it is difficult to see how decisions could be made about the suitability of applications made in respect of housing sites in the villages as the Part 1 plan contains no steer as to the number of homes that should be allowed. We note also the references in Core Policy 3 that the larger and smaller villages will only allow for 'local needs'. Deciding what might constitute a 'local need' can be very ambiguous and we fear that this could be used as an instrument to block development. In terms of the smaller villages we are also worried that the phrase *'development should be modest and proportionate in scale and primarily be to meet local needs'* is both vague and imprecise and is open to interpretation in a variety of ways. Similar conditional phrases appear in Core Policy 4. This will serve to block development via the Development Management process. Paragraph 15 of the NPPF requires that all plans should provide clear policies that will guide how the presumption should be applied locally. Core Policy 3 does not provide this clarity.

The drafting of Core Policy 3, therefore, is not conducive to delivering the 1,900 dwellings that are not identified in this plan. The wording of Core Policy 3 detracts from the effectiveness of Core Policy 4.

It should be noted that once the Part 1 plan is adopted there will only be fifteen years of the plan left to run. Fifteen years is not long to deliver the balance of the housing requirement (which is about 14,000 dwellings) and also achieve the other objectives of the plan, some of which, like employment, are contingent upon housing delivery (by proving an adequate labour supply). Given the importance that the NPPF attaches to having plans that set clear policies on what will or will not be permitted and where (paragraph 154) and which provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency (paragraph 17), we do not consider the council's approach to be a soundly based one. The plan must at least allocate housing numbers to the large and small villages. This would provide the necessary structure for the Neighbourhood Planning process or the Development Management process.

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