

Our Ref: PF/9320
(Please reply to Banbury office)

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14th June 2019

Adrian Duffield
Planning Head of Service
South Oxfordshire District Council
135 Eastern Avenue
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Milton
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Dear Mr Duffield

**TOWN AND COUNTRY PLANNING ACT 1990
SOUTH OXFORDSHIRE LOCAL PLAN SUBMISSION VERSION (2034)
REPORT TO SCRUTINY COMMITTEE 19TH JUNE 2019**

On behalf of Summix Ltd, Pye Homes Ltd and Bellway Homes Ltd, we write having reviewed, with Leading Counsel, the agenda to the Council's Scrutiny Committee for 19th June 2019, which has been issued with the principal purpose of providing a report on the emerging South Oxfordshire Local Plan. However, the officer's report is not provided and is indicated 'to follow'.

Please can you advise when the report will be available?

As you know, we have been very concerned about the way in which the Plan is being progressed and recent events at South Oxfordshire have not assuaged these concerns.

One particular matter that I wish to raise and bring to the attention of Scrutiny Committee relates to the undue pressure that seems to be being directed at the Council from fellow Oxford Growth Board members. For example, on 20th May Ian Hudspeth, the leader of Oxfordshire County Council, was reported as saying "we have got to wait and see what the councils say. It is entirely up to them but having £60m for affordable homes is a major issue to the councils. Losing that would be very upsetting for everyone. Everyone needs to be very careful about what they do and the consequences."

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A review of the Growth Deal obligation in so far as South Oxfordshire is concerned is that the local plan needed to have been submitted by 29th March 2019. This was achieved. This requirement does not mean that the plan as submitted should necessarily be adopted on that basis. The soundness of the plan needs to be tested at the Examination.

As you know we believe the plan is not sound for the reasons stated in our comprehensive representations but I highlight the fact that the approach to the release of green belt is entirely unsatisfactory and the significant over-provision of housing is not justified.

There are two new matters that I would be grateful if you can bring to the attention of Scrutiny Committee.

Firstly, the Inspectors' initial questions and comments on Oxford City Local Plan Examination (29th May 2019 – copy attached), refer to, under item 1 to the housing calculation wherein it is stated that:

It is also noted that the overall housing requirement figure of 1,400 dpa represents a notably greater market signals uplift from the 2014-based demographic starting point than from the 2011-based starting point in the 2014 SHMA. For example, the OAN Update by GL Hearn notes that the same percentage uplift of 85% applied to the revised demographic starting point derived from the 2014 household projections would give a requirement of 1,004 dpa rather than 1,400 dpa.

This is an issue which could have a bearing on the level of unmet need which would have to be accommodated by neighbouring local authorities, and could potentially affect the amount of land released from the Green Belt as well as the development of greenfield sites. The Council are invited to comment.

This is an important matter that calls into question the scale of unmet need in Oxford City, and indicates strongly that SODC should be very cautious about continuing to promote the significant level of over provision of housing in the submitted plan, which in turn is used as the justification for the excessive level of green belt release.

As you are fully aware, the same two Inspectors will conduct the SODC Local Plan Examination.

Secondly, I attach a copy of a letter dated 11th June 2019 from the Inspectors conducting the Uttlesford Local Plan Examination.

The situation is similar to that of South Oxfordshire whereby the Plan was submitted in January 2019 by a previous administration. The Inspector notes that following the May elections “most of the elected Councillors, including the Leader of the Council, are described as ‘Residents for Uttlesford’”, and has noted that the ‘Residents for Uttlesford’ group raised several significant concerns about the plan in their representations, and considered the plan is not justified or effective and is unsound. The Inspector considers “These are fundamental objections that go to the heart of the Plan’s strategy and which question whether the plan is supported by an adequate, up-to-date and relevant evidence base”.

The Inspectors notes that the LPA should submit a plan that it considers to be sound, and questions, given the previous objections from the ‘Residents for Uttlesford’ group, whether the Council still supports the Local Plan. The Inspector has therefore invited the Council to confirm their position on the Plan, and advised them to withdraw the Plan if the elected Council no longer supports the submitted plan.

Clearly therefore the option exists for the new leadership at SODC to withdraw the submitted plan. There is no substantive evidence that such action would prejudice the Growth Deal.

The opportunity therefore exists to review the green belt release option in the submitted Plan and instead provide for a long term socially and environmentally sustainable innovative development outside the green belt and AONB at Harrington.

I would be grateful if you can make the members of Scrutiny Committee aware of the above information so that it can be taken into consideration at their forthcoming meeting on 19th June 2019.

Yours sincerely



Greg Mitchell

Enc: Inspectors' initial questions and comments on Oxford City Local Plan Examination 29th May 2019
Letter from the Inspectors conducting the Uttlesford Local Plan Examination 11th June 2019.

Cc: Councillor Sue Cooper Leader SODC
Councillor Ian White Chair of Scrutiny Committee SODC
Mark Stone Chief Executive SODC
Holly Jones Planning Policy Manager SODC
Martin Kingston QC
Richard Brown (Summix Limited)
Graham Flint (Pye Homes)
Ashley Maltman (Pye Homes)
Fergus Thomas (Bellway Homes)
Justine Leach (LDA Design)
Charlotte Woods (Lexington)
Mitchell Barnes (Framptons)

Oxford Local Plan 2036

Inspectors' initial questions and comments

This note contains questions and comments on the more significant issues that have arisen during the earlier part of our examination of the submitted Plan, the representations, evidence base and background papers. We would be grateful if the Council could consider these points and provide us with their comments. In some instances we are recommending that the Council re-consider their approach, which means that certain policies may need to be deleted or re-written in the interests of a sound plan. In other cases it may be necessary to bring forward specific evidence that may already exist, or clarify issues for our benefit. We do not think it appropriate to set hearing dates at this stage because some of our comments below raise significant issues which will need careful consideration.

We have a number of more specific comments to make, but these will form part of a subsequent note.

1. Housing calculation

The Council's reasons for establishing housing need through an update to the SHMA, as opposed to the standard method, are noted. However, we would be grateful for the Council's comments on the following considerations.

Planning Practice Guidance states that there will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates – for example, where there are growth strategies for the area and where funding is in place to promote and facilitate additional growth (e.g. Housing Deals). The Oxfordshire Housing Deal Delivery Plan states that as the assessments of housing need in Oxfordshire Local Plans based on the 2014 Strategic Housing Market Assessment are higher than the Local Housing Need figures, they could be used, subject to an appropriate update, as a basis for any local plans that will be submitted for examination. This is clearly the basis on which the submitted Plan has been approached and which underpins the total requirement of 1,400 dpa, only a proportion of which can course be met within Oxford.

However, the Housing Deal Delivery Plan recognises the need for appropriate updates to the figures, and the NPPF says that if exceptional circumstances justify an alternative approach to the standard method,

they must still reflect current and future demographic trends and market signals. The Delivery Plan assumption that Oxford's housing need figure is 1,400 dpa has been taken and incorporated into the submitted Local Plan, but it appears to have as its basis the 2014 SHMA, itself based on 2011-based interim ONS population and 2011-based interim CLG household projections, and it was strongly influenced by the assessed affordable housing requirement which at the time would have required the provision of over 2,000 dpa to satisfy. These figures are now quite a few years old.

Oxford City - Objectively Assessed Need Update (GL Hearn, 2018) updates the relevant evidence in the light of 2014 household projections figures. Paragraphs 9.45 to 9.51 point to a prima facie figure for affordable housing need of 1,356 dpa at a site requirement of 50%, which is significantly lower than the affordable housing figure identified by the 2014 SHMA. In addition, elsewhere in the 2018 GL Hearn report it is noted that some of the households in need of affordable housing would release their current property if provided with suitable accommodation so there would be no need for an additional home, and that the OAN also includes newly forming households so there is double counting. The report notes therefore that the figure of 1,356 may overestimate the affordable housing need. This does not appear to be recognised either by the conclusions of the same report or by the submitted Plan (paragraph 3.7) which accepts the figure of 1,356 dpa without further adjustment. The overall point here is that the number of homes required to meet affordable housing need, though still very high, is significantly lower than the number in the 2014 SHMA which fed into the assumed figures in the Housing Deal Delivery Plan.

It is also noted that the overall housing requirement figure of 1,400 dpa represents a notably greater market signals uplift from the 2014-based demographic starting point than from the 2011-based starting point in the 2014 SHMA. For example, the OAN Update by GL Hearn notes that the same percentage uplift of 85% applied to the revised demographic starting point derived from the 2014 household projections would give a requirement of 1,004 dpa rather than 1,400 dpa.

This is an issue which could have a bearing on the level of unmet need which would have to be accommodated by neighbouring local authorities, and could potentially affect the amount of land released from the Green Belt as well as the development of greenfield sites. The Council are invited to comment.

2. Timescales and wider planning

We note that the Oxfordshire Housing and Growth Deal Plan assumes that the capacity of Oxford is 10,000 dwellings, but this is a figure to 2031. The submitted Plan indicates a capacity of 8,620 to 2036. Please can the Council comment on the cause of the substantial difference in capacity, and the implications for that and the different plan end-dates on the planning of the wider Oxfordshire area.

3. Ascertaining development capacity

In the submitted Plan, none of the site policies are described as allocations and none have housing figures attached to them. Many of them set out alternative potential uses. It is therefore not possible to ascertain from the Plan the contribution each of these sites would make to overall housing provision in Oxford.

Policy H1 derives its housing figure of 8,620 dwellings for the period 2016 to 2036 from the sites in the Housing and Economic Land Availability Appraisal (HELAA), but that document makes it clear that it is a list of potential sites only, not all of which will come forward, and that it does not itself allocate sites. In itself, therefore, the HELAA cannot be relied upon to support the housing provision figure in the Plan.

Consequently we cannot find at this stage a sound evidential basis for ascertaining the soundness of the figure of 8,620 dwellings. The same applies to the capacity for student housing.

Moreover, whilst the HELAA contains a 5 year supply calculation, it is not possible having regard to the foregoing to assess whether the Plan will enable a rolling 5 year supply of housing to be provided from the time of the Plan's adoption. Any 5 year housing supply calculation will need to be based on a clear and realistic assessment of the capacity of the sites identified in the Plan and will need to take into account the definition of "deliverable" in the 2019 NPPF.

The Plan needs to set out realistic housing and student housing numbers, together with realistic numerical figures for other forms of development, for each of the site allocations. These should be clearly informed by engagement with key stakeholders (see below). This should feed into a housing trajectory and a housing land supply calculation for the first 5 years of the Plan. These are pieces of work that will be necessary to ensure the soundness of the Plan.

4. Ensuring effectiveness

This is an issue closely related to the capacity of the City to accommodate housing and student housing. The NPPF states that plans should be shaped by engagement with, among others, local organisations and businesses. Some of those making representations at Regulation 19 stage have alleged that a lack of direct engagement from the Council has resulted in the Plan not taking into account their site and business intentions, and that the site policies therefore contain unrealistic or inaccurate requirements. At this stage we are not in a position to judge whether this is the case, but many of these parties have substantial land holdings and this may have relevance to any assessment of the true capacity of the City to accommodate housing and other development, as well as the overall effectiveness of the Plan. Will the Council therefore provide us with details of how the Council engaged directly with key businesses and landowners during the process of drawing up the Plan's specific policy and land use requirements (as opposed to the more general work on the HELAA), how those discussions influenced those policies, and where the analysis can be found. These parties include, for example (and this is not exhaustive): The University of Oxford and the colleges; Oxford Brookes University; The Oxford Centre for Islamic Studies; BMW Mini; Oxford Health NHS Foundation Trust; Oxford University Hospital; Cowley Investments; other parties with substantial landholdings or key sites; and non-university further education institutions.

5. Affordable housing provision

Policy H2, which seeks contributions towards the provision of affordable housing on sites of 4 to 9 homes, is contrary to the NPPF and we are minded to recommend the deletion of this part of the policy to ensure consistency with the NPPF. The Council are invited to comment. The purpose of the national policy does not solely relate to the viability of smaller sites.

In addition, it is not clear why affordable housing contributions are sought in respect of student accommodation provided by the academic institutions on their own land, or from specialist accommodation such as Extra Care housing. Please can the Council set out the reason for their approach and their assessment of the policy's consequences for these uses.

6. Positive planning

The 2019 NPPF states that plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change. Each of the submitted Plan's site specific policies either state "Planning permission will not be granted for any other uses" or "Planning permission will only be granted for.." Whilst it is noted that these expressions featured in previous plans in the City, they do not allow for any flexibility in approach to meet changing needs which would appear to be contrary to national policy in the 2019 NPPF. In consequence we are minded to recommend deletion of these statements. The Council are invited to comment.

7. Policies that make distinctions on the basis of the nature of the applicant

The plan allows for the expansion of the two universities together with Nuffield College but Policy E3 specifically prevents any new or additional academic or administrative floorspace for private colleges other than in very restrictive terms. This appears contrary to national policy in the NPPF, both in terms of its economic objective to support growth and in respect of its plan-making objective to seek opportunities to meet the development needs of their area. Moreover, by providing a framework for making planning decisions on the basis of the applicant instead of the development, it appears to apply the planning system in an unfair manner and has the potential to raise equalities concerns. If the objective is to protect housing, employment floorspace and community facilities, other strong policies exist. Policy E3 appears not to be a positively-prepared policy and we are minded to recommend its deletion or significant alteration to ensure the plan is sound. The Council are invited to comment.

By specifically applying Policy V7 to state schools the Plan appears to take the same approach towards favouring one applicant over another; in any case the existence of different types of school make it difficult to make such a distinction. We are minded to recommend the deletion of the word "state". The Council are invited to comment.

8. Car parking

A number of the policies seek a reduction in, or minimisation of, on-site parking on existing sites in order to allow further development to be

permitted. However, this approach affects existing site operations and circumstances rather than being related to the impact of the proposed development and it appears not to have proper regard to the current needs of the site occupier. It therefore does not seem to be fairly and reasonably related to the proposed development, contrary to the requirements for planning obligations set out in the CIL Regulations. In addition the policy could have significant implications for parking in the surrounding area and it is not clear whether these have been taken into account. We are therefore minded to recommend deletion of this clause from the relevant policies. The Council are invited to comment.

9. Academic facilities and student accommodation

Policy H9 only allows the expansion of academic, research and administrative accommodation at the University of Oxford and Oxford Brookes University if the number of students living in non-university provided accommodation does not exceed certain thresholds. Whilst this approach may have been a feature of previous plans, it has the potential to prevent the further development of important academic, research and administrative activities which are unconnected to student numbers. Such development is important for economic growth and the health of the local and national economy. Where such growth is unrelated to the number of students, the policy would appear not to be fairly and reasonably related to the development and any related obligation would appear contrary to the requirements of the CIL Regulations.

It is also noted that the locational requirements for student accommodation in Policy H8 are restrictive, and in the case of Oxford Brookes University the Plan provides limited opportunities for additional student accommodation which would mean that the thresholds could impose a significant constraint. Finally, the justification for and impact of Policy H9's proposed reduction in the thresholds in 2022 are not clear.

The Council are invited to reconsider their approach towards academic, research and administrative development and towards the provision of student housing and its impact on the overall housing market.

10. Employment sites

Making the intensification, modernisation and regeneration of employment sites conditional on more employment floorspace and jobs per hectare would appear to disregard the business needs of the operator and the need to improve efficiency and invest in capital. There is also the question of its enforceability. It would therefore appear not to be a

positively-prepared or effective policy and appears contrary to the economic objective of the NPPF to support growth, innovation and improved productivity. We are minded to recommend the deletion of this element of the policy. The Council are invited to comment.

11. Securing opportunities for local employment

Policy E4 is not in accordance with the NPPF in that it imposes unnecessary and unjustified restrictions on the operation of businesses. In particular wage rates, employment policy, the nature of a business's supply chain and the procurement of materials are matters for the businesses concerned, are regulated by national legislation, and are not planning matters. We are therefore minded to recommend deletion of Policy E4. The Council are invited to comment.

12. Sustainable design and construction

The evidence base supporting the restrictive carbon emissions requirements in Policy RE1 and the more restrictive requirements from 2026 is not clear. Can the Council point us to the evidence base that supports these specific percentage figures and any feasibility and impact assessment they have carried out to demonstrate the effect of these targets on the Plan's development objectives and targets?

The requirement for developments to install energy metering and monitoring equipment in private non-residential premises for the Council's energy monitoring purposes would appear to be a breach of privacy and we are minded to recommend the deletion of this element of the policy. The Council are invited to comment.

Jonathan Bore

Nick Fagan

Inspectors

29 May 2019

Uttlesford District Council Local Plan Examination
Inspector Louise Crosby MA MRTPI
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11 June 2019

Mr. Stephen Miles
Planning Policy Team Leader
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Dear Mr. Miles,

Following the local elections in May 2019, we are aware that most of the elected Councillors, including the Leader of the Council, are described as 'Residents for Uttlesford' on the Council's website.

The Local Plan currently being examined was submitted for examination on 18 January 2019, by a previous administration. We note that a local organisation called 'Residents for Uttlesford' made representations about the plan and have requested to speak at most forthcoming hearing sessions.

'Residents for Uttlesford's' representations raised several significant concerns about the plan. These include, a detailed objection to the sustainability appraisal. Other representations say that the plan is not justified or effective and is unsound in relation to the delivery of infrastructure, lack of provision of green infrastructure, lack of economic strategy, the lack of cognisance of the Stansted Airport Expansion, lack of financial modelling for the new settlements, lack of evidence to support the spatial strategy, inadequate transport study, missing air quality assessment, objection to a site in Saffron Walden and conflict with the NPPF on a number of counts.

These are fundamental objections that go to the heart of the Plan's strategy and which question whether the plan is supported by an adequate, up-to-date and relevant evidence base.

At the hearing sessions we will seek clarification from those speaking for 'Residents for Uttlesford' about whether they are representing the Council or a local community group. Also, if any Councillors for 'Residents for Uttlesford' are appearing we will ask if they are speaking as representatives of the Council or otherwise.

As you will know the Act requires the Council to submit a plan which it thinks is ready for examination. The clear implication of this is that the LPA should only submit a plan it considers to be sound. The role of the Inspectors is to assess whether that plan is sound and, if requested by the LPA, to recommend any changes (main modifications) necessary to make that plan sound if. There is no other way in which a submitted plan can be changed. Consequently, the expectation is that the Council will go into the examination supporting the plan it has submitted. The examination is not intended to allow a LPA to initiate major changes to its own plan or to finalise its preparation.

This is set out in the Procedural Practice as follows:

'there is a very strong expectation that further LPA-led changes will not be necessary, and this is a key premise for delivering an efficient examination timetable. Provision for changes after the submission is to cater for the unexpected. It is not intended to allow the LPA to complete or finalise the preparation of the plan. Main modifications after submission will only be considered where they are necessary to make the plans sound and/or legally compliant... This also applies to any changes of approach to policy (including site allocation) instigated by a LPA' (paragraph 1.3)

'.. a LPA's change of approach could not be accommodated unless the policy/site as submitted is, in the Inspector's view, unsound or not legally compliant and the proposed change initiated by the LPA would make the plan sound/legally compliant' (paragraph 5.20)

It is important to note that at this early stage of the examination we have not reached any conclusions on whether the plan is sound or whether any main modifications might be required. Accordingly, it is not possible for us to say now whether, or not, we agree with any of the concerns about the soundness of the plan which have been raised by 'Residents for Uttlesford'. Given the plan cannot be changed unless we find some aspect of it unsound, there is no certainty that changes suggested by any party, including the LPA, could be recommended by us.

Consequently, at the start of the first hearing session, we will ask the Council to confirm whether it continues to think that it has submitted a plan which is sound and ready for examination and therefore, whether it still supports it. Alternatively, if the Council no longer supports key

aspects of the plan it has submitted, the appropriate action would be to consider withdrawing that plan from examination.

We would be grateful if the Council could confirm its position in writing by no later than by the close of play on 27 June so that the Inspectors and all participants are aware of the Council's stance.

Louise Crosby and Elaine Worthington

Examining Inspectors