



John Byrne
Head of Planning
Aylesbury Vale District Council

Our Ref:

PINS/J0405/429/8

Date:

7 January 2014

Dear Mr Byrne,

Vale of Aylesbury Plan Strategy Examination:

- **Duty to co-operate**
- **Soundness in terms of the overall provision for housing and jobs**

1. Further to the initial hearing sessions held on 10, 12 and 13 December 2013 I set out below my conclusions in respect of the duty to co-operate (Matter 1) and soundness in terms of overall provision for housing and jobs (Matter 2) and explain the implications for the examination.

Background

2. The Council submitted the Vale of Aylesbury Plan Strategy (the Plan) for examination in August 2013, having previously published the Proposed Submission version of the Plan in May 2013.
3. Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) imposes a duty to co-operate in terms of the preparation of a development plan document as far as it relates to a strategic matter. The duty to co-operate came into effect in November 2011 and the Council does not dispute that it is required to meet it in relation to overall housing provision within the Plan, amongst other strategic matters. The duty requires the Council to have co-operated in maximising the effectiveness of the preparation of the Plan and in particular to have engaged constructively, actively and on an ongoing basis.
4. It is also of relevance that the National Planning Policy Framework (NPPF) was published in March 2012, over a year before the Proposed Submission version of the Plan was published and some seventeen months before the Plan was submitted for examination. The NPPF clearly sets out the approach that should be taken in terms of identifying and meeting needs for development including housing and emphasises the need for co-operation and collaboration, particularly where housing markets cross administrative boundaries and where local planning authorities may not be able to accommodate development requirements wholly within their own areas.
5. In the early stages of plan preparation, the Council commissioned work to consider the potential needs for housing and employment growth in the District. The Housing and Economic Growth Assessment (HEGA) was published in September 2011. This set out a number of scenarios for growth and informed the identification of initial

options for the overall scale of housing and employment to be planned for in the District. The HEGA focussed on the scale and distribution of growth within Aylesbury Vale; it did not specifically consider the potential development needs of other authorities or assess wider housing markets.

6. In light of the duty to co-operate and the publication of the NPPF, the Council commissioned the Strategic Housing Market Assessment: Validation Study (the Validation Study) in May 2012. The Validation Study (published in February 2013) undertook a review of the HEGA, defined a sub-regional housing market area (HMA) and identified potential housing requirements across it. The Validation Study considered that Aylesbury Vale is most appropriately regarded as being within the Luton and Milton Keynes HMA which also includes the local authority areas of Milton Keynes, Central Bedfordshire, Bedford and Luton.
7. Further work on demographic projections undertaken on behalf of the Council was published in April and May 2013. A supplementary report to the Validation Study was published in June 2013 to take account of updated information. This sets out the Council's up to date position in terms of potential housing needs and provision for each of the local authorities within the HMA.

Duty to co-operate

8. Whilst there are a number of cross-boundary issues requiring co-operation between the Council, other local authorities and relevant bodies, the overall provision for housing is of particular significance given the pattern of commuting and migration between Aylesbury Vale and other authorities, interrelationships in housing markets and the role that the District has had in accommodating growth on a sub-regional level.
9. The District boundary adjoins the urban area of Milton Keynes, which is likely to continue to be a major focus for housing and economic growth. The relationship between Aylesbury Vale and the growth of Milton Keynes has long been recognised as a key issue, in particular the potential for future growth of the urban area, partly or wholly within Aylesbury Vale. The need for joint working and effective co-operation on this matter is clearly set out in the recent Inspector's Report on the Milton Keynes Core Strategy (May 2013) and in the Core Strategy itself (Policy CS6) adopted in July 2013.
10. Based on the Validation Study, the Council acknowledges that Aylesbury Vale forms part of a wider HMA along with Milton Keynes, Central Bedfordshire, Bedford and Luton. It also accepts that there are interrelationships with other areas and is aware of concerns that due to environmental constraints, a number of authorities may not be able to accommodate all of their identified housing needs and may be looking to Aylesbury Vale to accommodate some additional growth.
11. The duty to co-operate is not a duty to agree. In addition, whilst consideration must be given to joint working and the production of joint local development documents, these are not specific requirements of compliance with the duty. The lack of jointly produced evidence and the fact that a number of other local authorities continue to have concerns in respect of the level of housing provision set out in the Plan are not in themselves reasons to conclude that the Council has failed to comply with the duty. It is the actions of the Council in terms of co-operating to maximise the effectiveness of the preparation of the Plan which are critical to my consideration of the matter.

12. There is no Strategic Housing Market Assessment (SHMA) or other assessment of housing needs produced jointly with other authorities. The Validation Study and supplementary report which considered housing needs across the wider HMA were commissioned and produced solely on behalf of the Council. The conclusion that a joint SHMA or equivalent document was not a realistic proposition appears to have been reached on the basis of discussions with officers of the other authorities concerned. Other authorities were not formally approached to undertake joint work on housing needs and provision.
13. Quite correctly, in light of the duty to co-operate and the publication of the NPPF, the Council acknowledged that the housing needs of the wider HMA should be identified and that further work to supplement the HEGA was necessary. Given the context of the strategic issues relating to housing provision, this was clearly a fundamental element of effective plan preparation requiring constructive, active and ongoing engagement with other relevant authorities.
14. The Council point to a number of meetings and discussions with adjoining authorities¹ during the preparation of the Validation Study. However, these authorities were not actively involved in establishing the scope of the Validation Study. Indeed, the Council confirmed at the hearing session that there was no written brief for the Validation Study and it was commissioned on the basis of verbal instructions. Whilst the objectives of the Validation Study are set out in paragraph 1.10, it is not clear what level and form of engagement with other authorities was intended.
15. There are various references to consultation with other authorities within the Validation Study. The adjoining authorities present at the hearing session considered their involvement in the Validation Study to be essentially that of consultees. They did not consider that they had been actively or directly involved in its preparation. Although adjoining authorities were sent the draft of the Validation Study in January 2013, no request for formal endorsement from these other authorities was made.
16. In the case of Bedford Borough Council, there does not appear to have been any direct contact from the Council or its consultants during the preparation of the Validation Study. For Luton Borough Council, consultation consisted of a telephone call on 27 November 2012. Neither Bedford nor Luton Borough Councils were sent the draft of the Validation Study. The two authorities in question do not adjoin Aylesbury Vale and the linkages in terms of commuting, migration and housing markets are less than for adjoining authorities. In neither case has the authority identified a specific unmet housing need that they consider should be met in Aylesbury Vale. However, it may be that the pattern of migration and housing markets could change over time, particularly given the significant issues in terms of the ability of Luton Borough to accommodate its own growth. In any event, they both form part of the Luton and Milton Keynes HMA and the Validation Study draws clear and specific conclusions in relation to their housing needs.
17. Adding to this concern is the fact that neither Bedford nor Luton Borough Councils were consulted on the Proposed Submission version of the Plan in May 2013.
18. The timing of the Validation Study in relation to the Council's decisions on overall housing provision is also of relevance. Following earlier consideration by the Cabinet meeting of 15 May 2012, the level of housing provision of 6,000 houses (in total approximately 13,500 including existing commitments) was agreed by the Cabinet at its meeting on 14 August 2012. At its meeting on 17 October 2012, the Council

¹ Also South Bucks District Council

agreed to the submission of the Plan following necessary publicity, on the basis of providing for a total of 13,500 houses, including existing commitments.

19. Whilst it was agreed that amendments to the Plan could potentially be made by the Head of Planning, these appear to relate to the timing of the revocation of the South East Plan and the potential need for revisions to explanatory text and supporting material along with minor presentational amendments. There is no indication in the Council's decision or the supporting papers that substantive changes to the policies or overall strategy for growth would be contemplated at that stage. Specifically, there is no mention of the potential for overall housing provision to be reconsidered in the light of continuing engagement with other authorities. The Council had already taken significant steps to determine its preferred level of housing provision at or around the time of commissioning the Validation Study. Its position on the matter had been clearly established whilst the Validation Study was still in preparation and the Council's decision to submit the Plan on the basis of overall provision for 13,500 houses was made before adjoining authorities were consulted on the draft Validation Study and before the final report was published. The conclusions of the Validation Study were drawn in the context that the Proposed Submission version of the Plan was making provision for 13,500 houses (Paragraph 7.16).
20. The extent to which engagement, particular of the limited form undertaken, could have genuinely influenced the overall level of housing provision appears to have been minimal. The response of other authorities to the Validation Study needs to be seen in this context along with their understanding of their role in the process. There is no record of any substantive engagement with other authorities in relation to the Updated Demographic Projections Reports of April and May 2013, or the supplementary report to the Validation Study of June 2013.
21. As I have noted above, the duty to co-operate does not place an obligation on the Council to have agreed with other authorities in terms of the overall level of housing to be planned for in Aylesbury Vale or how any unmet needs from other authorities will be met. However, the nature of representations from other authorities is an indication as to what extent engagement has been constructive in resolving strategic issues. Of the four other authorities within the HMA, only two, Milton Keynes and Central Bedfordshire Councils were invited to make representations on the Proposed Submission version of the Plan. Central Bedfordshire Council are supportive of the overall provision for housing. However, Milton Keynes Council expresses concern as to the balance between the provision for houses and jobs. It considers that the relationship between Aylesbury Vale and Milton Keynes, and specifically the potential need for the growth of the urban area of Milton Keynes into Aylesbury Vale has not been adequately addressed. It highlights the need for joint working on this issue and raises concerns as to the extent of engagement earlier in the process and the effectiveness of the consultation process.
22. Luton Borough Council has subsequently raised concerns regarding the potential scale of its housing needs and the inability to accommodate such levels of growth within its own boundaries. It has identified a potential level of housing need well in excess of the figure set out in the supplementary report to the Validation Study. Whilst accepting that links with Aylesbury Vale are less than those with other authorities, Luton Borough Council considers that given the potential scale of unmet housing need, it may be that some of it will need to be accommodated beyond adjoining authorities, including in Aylesbury Vale. Luton Borough Council wrote to the Council in June 2013, setting out these concerns and suggesting a member meeting and a jointly commissioned SHMA. Such a meeting has not taken place and the offer of commissioning a joint SHMA has not been taken up. Although at a late stage in the

process, the Council had the opportunity to reconsider submitting the Plan in the light of this request.

23. A number of other authorities beyond the HMA raise concerns in respect of the overall provision for housing and the implications for their areas². There are particular concerns in the case of Dacorum, Chiltern, Wycombe and South Bucks that the Plan does not give sufficient recognition to the interrelationships with Aylesbury Vale, constraints within these other areas and the potential need for Aylesbury Vale to accommodate some unmet housing needs.
24. The Council points to the practical difficulties in working jointly with numerous other authorities in identifying housing needs across authority boundaries and planning to ensure that these are met, given the different stages of plan preparation and evidence gathering. It also highlights the fact that other authorities were not in a position to demonstrate alternative clear and specific evidence regarding housing needs or quantify the level of potential unmet housing need. The Council emphasises the benefits of progressing the Plan to adoption rather than delaying the process to allow evidence in relation to the housing needs of other authorities to be gathered.
25. I note that discussions have taken place recently with the other authorities in Buckinghamshire and a shared framework relating to the alignment of Local Plan timetables and co-ordination of evidence was produced in November 2013. The Council have also sought to build in a contingency approach to the Plan to enable it to respond should unmet housing needs be identified by other authorities. I deal with the effectiveness of such a contingency approach in relation to soundness below. However, in my view, both of these actions represent a recognition by the Council of the need for co-ordination of evidence gathering and plan preparation and the potential for unmet needs from other authorities to be accommodated in Aylesbury Vale.
26. The key question is that of timing and the choice between having an adopted plan as soon as possible or a plan that at the point of adoption, effectively resolves strategic housing issues following genuine co-operation and collaboration with other authorities based on constructive, active and ongoing engagement.
27. As it stands there are significant issues in terms of potential unmet needs from other authorities and how they will be accommodated. There are particular issues concerning the relationship of Aylesbury Vale to Milton Keynes and its future growth. These issues have been left unresolved. The Council has been aware of these issues from early in the plan preparation process, if not before. There has been a substantial period of time since the duty to co-operate came into force and the NPPF was published. Whilst noting the lack of specific evidence on potential unmet needs from other authorities and accepting that collaboration and joint working is a two way process, it is the Council's duty, as the authority submitting the Plan for examination, to have sought to address these issues through constructive, active and ongoing engagement.
28. On the basis of the above assessment I consider that the Council has not engaged constructively, actively and on an ongoing basis and that this has undermined the effectiveness of plan preparation in dealing with key strategic issues. It is with regret therefore that I must conclude that the Council has not complied with the duty to co-operate.

² Chiltern District Council, Wycombe District Council, South Bucks District Council, Dacorum Borough Council, Hertfordshire County Council, South Northamptonshire Council and the West Northamptonshire Joint Planning Unit.

Soundness in terms of the overall provision for housing and jobs

29. Notwithstanding the above, I consider it appropriate to also set out my findings in respect of soundness, insofar as it relates to the overall provision for housing and jobs given that I held initial hearing sessions on the matter.
30. In order to be considered sound the Plan must be positively prepared, justified, effective and consistent with national policy. Paragraph 182 of the NPPF explains that it should be based on a strategy which seeks to meet objectively assessed development and infrastructure needs, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. It should be the most appropriate strategy when considered against reasonable alternatives, be deliverable and based on effective joint working on cross-boundary strategic priorities. It should enable the delivery of sustainable development.
31. In terms of housing, local planning authorities should use their evidence base to ensure that the local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies in the NPPF (Paragraph 47). The need for joint working and collaboration where there are cross-boundary issues and where development requirements cannot wholly be met within individual local authority areas is emphasised (Paragraphs 178-181).
32. In respect of overall housing provision, the Council initially consulted on options ranging from 12,000 to 21,000 additional houses between 2011 and 2031 (including commitments). These options were based on the scenarios for growth identified in the HEGA. The HEGA itself did not recommend a particular level of growth. As noted above, the Council had already taken significant steps to determine its preferred level of housing provision at or around the time of commissioning the Validation Study and its position on the matter had been clearly established whilst the Validation Study was still in preparation. The Validation Study, demographic projections of April and May 2013 and the supplementary report to the Validation Study were all produced against the background of the Council's decision in respect of housing and jobs growth.
33. The proposed level of housing growth is close to the bottom of the overall range of options initially consulted upon. The Council confirmed that it considered each of the options to be a credible assessment of housing needs and reflected reasonable alternatives. It also confirmed that there are no fundamental environmental or infrastructure constraints to higher levels of growth within the overall range identified.
34. The Plan would provide for an average of 675 houses per year. This compares with past completion rates which have averaged approximately 750 houses per year. I appreciate that past levels of growth were in the context of higher requirements set out in the South East Plan and in recent years a significant proportion of completions have been affordable houses supported by government funding which may not be available in future. However, the District has seen annual completions above the level proposed in the Plan even in the very difficult economic circumstances that have prevailed in recent years. In 2011/12 completions totalled 1,103 houses and in 2012/13 they totalled 934 houses.
35. On the basis of the Council's assessment, the Government's 2011-based interim household projections published in April 2013 indicate an annual need for 961 houses. The 2008-based household projections indicated a need for 765 houses annually. I note the Council's concern in relation to the 2011-based interim

projections, particularly in terms of migration assumptions given data from mid-year population estimates. However, whilst an over estimation of migration may play a significant part in the other (unattributable) component of change in the mid-year estimates, there is insufficient basis to conclude that it accounts for 100% of this figure. Indeed the ONS itself considers that it would be sensible to exclude the unattributable figure from migration trends (see Appendix 1 to M2/17) given the degree of uncertainty. Attributing all of this to migration, as the Council has done, has the effect of substantially reducing the estimates of past net in-migration to the District. The very recent trend suggests an increase in annual net in-migration, to approximately the levels assumed in the 2011-based interim household projections. Whilst the Council has concerns as to the assumptions which underpin the projections, I find insufficient evidence to conclude that they are inaccurate to the extent suggested.

36. The proposed level of housing in the Plan most closely reflects the projection in the HEGA based on a five year migration trend. The May 2013 Demographic Projections Report concludes that this scenario would require approximately 12,900 houses between 2011 and 2031 and see a growth of approximately 5,500 jobs. It also considers four economic led projections (two used in the original HEGA and two based on more up to date forecasts). All of the economic led projections show significantly more houses would be required than provided for in the Plan (approximately 16,600 to 21,500). The figures would be even higher if existing patterns of out-commuting were to remain. Notwithstanding the difficulties associated with economic forecasting, it is clear that the Council is planning for a level of housing well below that indicated by its own evidence in terms of potential economic growth.
37. The Plan seeks to make provision for at least 6,000 new jobs in addition to those on committed sites (approximately 10,000). Despite the doubts expressed by the Council in its statement and at the hearing sessions in relation to the implementation of existing commitments, the Plan is clearly based on a strategy of delivering some 16,000 additional jobs between 2011 and 2031. The Council's evidence indicates that significantly more housing than that planned would be required to support this level of jobs growth. There is no substantive evidence that the jobs density or patterns of out-commuting are likely to change to the extent required to support the planned level of employment growth without the need for significantly more housing. In simple terms there is a clear and substantial mismatch between the level of housing and jobs planned.
38. The Validation Study concluded (Paragraph 7.20) that potential economic growth could lead to a higher requirement for housing than proposed in the Plan and that an objective assessment of housing needs would be for between 6,000 and 9,000 houses in addition to commitments. It raises some doubt as to the realism of reducing out-commuting to the levels required to support housing provision at the lower end of this range and recognises that provision towards the upper end of the range would potentially allow for some unmet needs from other authorities to be met and support higher levels of job growth (Paragraph 7.21). It goes on to recommend a plan, monitor and manage approach to housing and employment growth. It seems to me that the Council's own evidence base raises concerns as to the appropriateness of the level of growth planned.
39. The decision on the level of housing provision was based on the needs of the District following initial consultation. There is no evidence that the potential needs of other authorities was a specific factor taken into account at that stage.
40. As explained above, I do not consider that the overall level of housing provision in the Plan is a result of effective co-operation and collaboration with other relevant

authorities. A number of key strategic issues remain unresolved. The contingency approach included in the Plan is not an effective or appropriate way to deal with the issue of potential unmet housing needs from other authorities. The decision on whether unmet needs had been identified and justified and that these should be met in Aylesbury Vale would be taken by the Council itself. On a practical level, the only effective response to such a situation would be a review of the Plan, given that the issue would be the overall level of housing provision rather than phasing and also that the Plan does not include site allocations. This is likely to take some time, even if the Council agreed to such a course of action. There is considerable uncertainty as to when and indeed whether strategic issues would be addressed.

41. There are significant strategic housing issues which need to be effectively resolved as soon as possible through the plan making process following genuine co-operation and collaboration with other authorities. Putting this off by relying on a potential future review wholly dependent on the Council's own interpretation of the situation would not be appropriate. Whilst there are clearly benefits in having an adopted plan as soon as possible, these would not in themselves outweigh the need for that plan to be effective in respect of housing issues.
42. Taking all of the above into account, I consider that in relation to the overall provision for housing and jobs, the Plan has not been positively prepared, it is not justified or effective and it is not consistent with national policy. It is therefore not sound.

Overall conclusions

43. You will appreciate that there is no mechanism to rectify a failure to comply with the duty to co-operate. Accordingly I must recommend non-adoption of the Plan and give reasons for the recommendation.
44. In terms of soundness, there would be a need for a substantial amount of additional work to rectify the deficiencies I have identified. This would require significant cross boundary co-operation with a number of other authorities and is likely to take some time, particularly given the difficult issues that would need to be addressed. Modifications required to make the Plan sound would make it fundamentally different to that submitted in terms of its overall strategy and the approach to growth. In the light of this, a suspension of the examination would be inappropriate, notwithstanding the failure to comply with the duty to co-operate.
45. Under the circumstances this leaves two options. Firstly the Council could choose to receive my report. Given my findings, I must recommend non-adoption of the Plan. Alternatively the Council may choose to withdraw the Plan under S22 of the Planning and Compulsory Purchase Act 2004 (as amended) I appreciate that you will be disappointed by my conclusions. However, I would be grateful if you could confirm the Council's position via the Programme Officer as soon as possible.
46. In the meantime, it would be inappropriate to proceed with the further hearing sessions scheduled to begin on 18 February 2014. I will be asking the Programme Officer to inform relevant parties that the further hearing sessions will not be taking place and there is no need to submit statements. The Council's website should also be updated to reflect the situation. A copy of this letter should be placed on the website and made available on request.

Yours sincerely

Kevin Ward

INSPECTOR