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Vale of White Horse District Council
135 Eastern Avenue
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2 October 2019

Attn: Cllr Emily Smith, Leader & Mark Stone, Chief Executive

Dear Sirs,

Re: Vale of White Horse District Council - Local Plan 2031 Part 2

We write on behalf of our client, CPRE Oxfordshire, in relation to Part 2 of the Vale of White Horse Local Plan 2031 that is due to be considered at Full Council on Wednesday 9 October 2019.

Our strong submission to the Council is that it would be unjustified, unlawful and bad planning for the Council to adopt Part 2 of the Local Plan 2031 (“LPP2”). Instead, it should withdraw it, or at the very least not adopt it and delay further work until an up-to-date figure of unmet housing need for Oxford City has been established.

A main (if not the main) justification for LPP2 was to allow for the examination of the unmet housing need from Oxford and how that might be provided in the Vale of White Horse. Instead, LPP2 simply adopted the 2,200 dwelling apportionment of Oxford’s need, derived from the 15,000 figure agreed by the Oxfordshire Growth Board (“OGB”) in 2015. That figure was merely a “working assumption” and the OGB’s work programme stressed that “it is not a formal planning process” and would require testing in the local plan process.¹

Core Policy 2 of Part 1 of the Local Plan emphasised the need for LPP2 to:

“... ensure that unmet need is considered and planned for in a timely manner and is tested through a robust plan-making process in accordance with national policy, national guidance, the Strategic Environmental Assessment (SEA), Environmental Assessment of Plans and Programmes Regulations, and the Habitats Regulations Assessment (HRA).”

LPP2 proposes meeting Oxford’s unmet need primarily through a Green Belt release at the Dalton Barracks/Abingdon Airfield/Shippon site. That is something that can only be justified in accordance with national policy if “exceptional circumstances” are shown (2012 NPPF para.83).

On 22 March 2019 Oxford City Council submitted its Local Plan 2036 for examination. That process will enable Oxford’s actual unmet need to be assessed. As the inspectors examining the Oxford plan recently noted, the update undertaken appears to show lower housing need that “could have a bearing on the level of unmet need for each neighbouring authority to accommodate”. In considering its own housing provision, Oxford will have to follow the methodology in the 2018 NPPF, including optimising the density of development and making as much use as possible of brownfield and underutilised land.

¹ See paras.37-38; it was also said that the local plan process would consider “reasonable alternatives” (at least for meeting the apportionment)

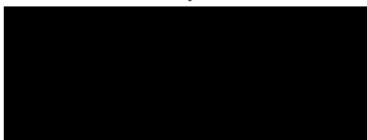
In those circumstances, CPRE Oxfordshire considers that any decision by the Council to adopt LPP2 with a substantial provision for Oxford's unmet need in the Vale of White Horse Green Belt would be unlawful. The (very brief) outline reasons for this are:

- (1) Untested unmet need cannot amount to "exceptional circumstances" justifying permanent Green Belt release. The Inspector's report into LPP2 notes the OGB figure, but is wrong to suggest that this represents a "quantum of additional housing now needed" (para.36, underlining added). Nor is the reasoning adequate.² The Inspector later noted that because it is a "working assumption", it "warrants some caution in allocating sites in the LPP2" (para.92). The Officer's report to the Scrutiny Committee meeting of 19 September 2019 reiterated that "there is a risk that in adopting LPP2, provision is made for housing for which the need has not been identified". There is therefore no established figure of need that can be relied upon to constitute exceptional circumstances.
- (2) At no stage has there been any assessment of alternatives to providing for the 2,200 dwellings of purported need from Oxford. As far as CPRE Oxfordshire can tell, all of the scenarios considered included the OGB allocation. Under both Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) there is a need to consider reasonable alternatives, the failure to do so is unlawful (see e.g. Heard v Broadland DC [2012] EWHC 344 (Admin)).
- (3) Moreover, the fact that Oxford City Council is in the process of updating its unmet need as part of a local plan process is an important material consideration that cannot sensibly be ignored. As CPRE Oxfordshire has consistently argued, there is very considerable scope for all of the previously identified need (if subsisting) to be provided for in Oxford itself. The 2018 NPPF means that Oxford will need to take a far more thorough approach to density and brownfield sites both generally (see Chapter 11) and before concluding that Green Belt release is justified (see para.137). The need case is almost certain to change. It would be perverse for LPP2 to be adopted with Green Belt releases based upon such a tenuous justification.

We appreciate that other plans have been promoted by other authorities that rely upon the OGB allocation.³ However, those plans pre-dated submission of the Oxford City plan. They also predate the new NPPF. The reality is that there is now an inevitable tension between the approaches to be taken as between OGB authorities. Unmet need on a county-wide basis should be revisited by the various planning authorities in a collaborative way. In any event, we do not see how the fact that other authorities have relied upon the OGB allocation is any answer to the substance of the points we identify above.

CPRE Oxfordshire wishes to emphasise that this is not just about lawful decision-making, it is about good planning. Full Council is invited to withdraw LPP2 (or at least take no action on it) to allow further work to be done to properly assess what (if any) unmet need from Oxford arises and how that might be met.

Yours Faithfully,



² See Calverton Parish Council v Nottingham City Council [2015] EWHC 1078 (Admin) per Jay J at para.51

³ However, the only adopted plan that does so, the West Oxfordshire Local Plan 2018, does not rely upon releasing Green Belt land; the Cherwell Local Plan 2011-2031 is still in the examination process