

Sent by email to: planmk@milton-keynes.gov.uk

20/12/2017

Dear Sir/ Madam

Response by the House Builders Federation to Plan:MK

Thank you for consulting the Home Builders Federation (HBF) on the publication of Local Plan for Milton Keynes. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.

We are broadly pleased with the positive approach taken by Milton Keynes in seeking to not only meet its housing needs in full but to identify land to deliver nearly 10% over its assessment of housing needs. However, we do have a number of concerns that will need to be addressed for the plan to be found sound. We would like to submit the following representations on the Local Plan and we would welcome, in due course, participating in hearings of the Examination in Public.

Duty to Co-operate

Whilst the Council have made statements in the Local Plan with regard to the duty to co-operate we cannot find any published evidence as to the degree of co-operation between the relevant authorities or even what the key cross boundary issues are. In particular we would have expected to see clear evidence of co-operation with regard to meeting housing needs with neighbouring authorities. The Council state that Memoranda of Understanding have been drawn up with Aylesbury Vale and Central Bedfordshire but these have not been published and as such we are unable to comment on whether these are likely to be effective in addressing the key cross border and strategic issues between these Boroughs.

Our main concern is in relation to whether these authorities will be able to meet their needs in full and whether the agreements that are in place are reflected in policy within each local plan. For example whilst Aylesbury Vale, and the South Buckinghamshire Housing Market Area, have stated that they are able to meet needs we do not consider this to be the case. We consider this to be based on evidence which reduces the needs of Aylesbury Vale significantly below the latest household growth projections by DCLG. Delivery in the adjacent HMA will also be significantly below the Government's

assessment of needs based on the standard methodology. This could leave a neighbouring housing market area unable to meet its own housing needs and seeking the support of neighbouring authorities to address any unmet needs. Given that Milton Keynes are delivering beyond their assessed housing needs it is essential that the Council clearly set out the mechanisms as to how it will co-operate with the relevant authorities in future and how growth aspirations will be reviewed with these partners.

Until further evidence is provided as to how the Council has, and will continue to, co-operate with its neighbouring authorities we do not consider the Council to have fulfilled either the legal or policy aspects of the duty to co-operate.

Plan period

We are concerned that the effective period for the operation of this will be less than the 15 years suggested in paragraph 157 of the NPPF. Given that the earliest this plan is likely to be adopted is towards the end of 2018 that will leave just 13 full years in which to deliver the plan. This is inconsistent with national policy and the Council will need to extend this plan to ensure that it complies with the 15 years required by national policy.

Review of the Local Plan

In paragraph 4.6 the Council commits itself to a plan review within 5 years in order to respond quickly and flexibly to changing circumstances. Given the recent publication of the recent National Infrastructure Commission (NIC) report¹ on the Cambridge-Milton Keynes-Oxford Arc we consider it to be essential that this commitment is included within policy DS2 or as a separate policy. This report highlights that the wider concerns regarding the tendency of local authorities across this 'arc' to underestimate the levels of housing needs and it will be essential for the Council to consider the implications arising from this nationally important project.

Policy DS2: Housing Strategy

The housing requirement is unsound as it is not justified

The Council's most recent calculation of its Objectively Assessed Housing Needs (OAN) is 26,493 (rounded to 26,500) between 2016 and 2031. Whilst there are elements of the approach taken in assessing housing needs that we would usually object to, such as the use of ten year migration trend, it is evident that these have not impacted negatively on the overall assessment of housing need. However, we do have concerns about other elements of the approach to establishing the OAN.

We do not consider it appropriate to reduce uplift for market signals to take account of the earlier demographic adjustment to take account of market suppression. Planning Practice Guidance (PPG) distinguishes between those amendments made to take account of local demographic circumstances and those to take account of market

¹ Partnering for Prosperity: A new deal for the Cambridge-Milton-Keynes Oxford Arc (National Infrastructure Commission 2017)

signals. It is important that amendments relating to demographic changes and those relating to market signals are not blurred.

Market signals are indicators the housing market in that area has not delivered the right number of homes to meet the needs of its population, with subsequent impacts on affordability. The adjustments to demographic projections relate to factors that have suppressed the starting point for considering housing needs. Planning Practice Guidance differentiates between these by considering amendments for suppression to part of the adjustments to demographic starting point as set out in paragraph 2a-015 which is separately to the considerations for market signals set out in 2a-019.

The inclusion of 815 homes to take account of concealed and homeless households would seem to be considered by the Council as being part of their demographic baseline and not part of their response to market signals. It would appear from paragraph 4.92 of the 2017 SHMA that the Council is using this figure as a proxy to take account of past household suppression which states:

“We have identified that the baseline household projections should be increased by 804 households to take account of concealed families and homeless households that would not otherwise be captured due to suppressed household formation rates.”

If the Council considers this to be the case we would not expect to see the uplift for market signals of 2,394 households to be reduced to take account of this demographic adjustment made to the baseline projection of household growth. The Council should apply the full level of uplift to the baseline demographic starting point of 24,744 households as set out in figure 58 of the SHMA.

Alternatively if the Council considers homeless and concealed households to be a market signal then they should form part of the uplift and not the baseline demographic projection. If this were to be the case there would need to be significantly higher uplift than the current 10% set out in the SHMA. In considering what is an appropriate uplift for market signals it is worth examining the Government’s consultation “Planning for the Right Homes in the Right Places”. Whilst the weight that can be given to the consultation is minimal we do consider it to provide the only indication from Government as to the degree of uplift that should be applied in relation to market signals. The consultation sets out that where house prices are, for example, greater than 8 times median income an uplift of 25% should be applied to the DCLG household projections. Considering the ratio of median incomes to house prices in Milton Keynes was 8.40 in 2016, having risen significantly from 6.05 in 2009, would suggest that a 10% uplift is insufficient.

The concerns regarding affordability are replicated in other indicators and also suggest a higher uplift is required. The ratio of lower quartile incomes and house prices was 8.91 in 2016 and house prices and rents are significantly higher than the comparator areas, as set out in figure 57 of the SHMA. In fact all the indicators considered in the SHMA suggest that Milton Keynes is, in comparison to similar areas and the country as whole, is significantly less affordable.

The SHMA, as required by PPG, also considers housing supply and outlines that housing delivery has been higher than in the comparator areas and the Country as a whole. However, whilst delivery has been better than similar areas it has still be below delivery of the 1,750 homes set out in the 2013 Core Strategy. Indeed the Council considers that it has persistently under delivered against its target and includes a 20% buffer in its housing land supply assessment. This persistent under delivery suggests that supply is not meeting needs leading to worsening affordability. We would suggest that this provides substantial evidence to support a uplift of more than 10% on the Council's adjusted demographic baseline.

As such we consider that a 15% uplift on the Council's baseline demographic starting point would be considered more reasonable. This would deliver an uplift for the plan period of 5,762 homes on the DCLG 2014 base projections which, at 25% higher than these official projections, is more in line with the uplifts expected by Government. This higher uplift would establish the minimum level of housing the Council should be seeking to deliver is 28,455 new homes (1,897 dpa). As this is higher than the jobs led level of housing need it should replace the requirement in policy DS2.

We recognise that the level of 29,000 new homes being proposed in the plan will still be sufficient to address this higher requirement. However the proposed buffer will be significantly reduced buffer. If the Council is to retain a buffer of nearly 10%, a position we would support given the potential for delivery o, it will need to allocate further sites. It is also essential that this is the stated level of housing need to ensure that the Council works towards delivering this higher requirement. It ensures that should sites not be deliverable in the way envisioned by the Council any amendments to the plan will be based on a correct assessment of housing needs. As such we consider it important that policy DS2 is amended to reflect this higher level of need.

Housing Supply

The HBF does not comment on the merits or otherwise of individual sites. Therefore our representations are submitted without prejudice to any comments made by other parties on the deliverability of specific sites included in the overall housing land supply, the five year housing land supply and housing trajectories.

Windfall

Whilst we cannot make any further comments on the allocated sites we do not consider the level of windfall set out in table 4.3 to have been adequately justified. This is a high level of windfall that has been taken forward form the Core Strategy. However, we cannot find any assessment as to whether this level of windfall has been consistently delivered. The most recent Authority Monitoring Report (AMR), published in June 2015, makes no references as to whether the expected level of windfall has been delivered. Considering it has now been 5 years since the adoption of the Core Strategy we would have expected a thorough analysis of windfall in order to justify its continued inclusion at this rate. As the NPPF in paragraph 48 requires an assessment of whether windfall "... continue to provide reliable source of supply" we do not consider the Council to have sufficiently justified the extension of this positon from the Core Strategy.

Five year housing supply

We note from the Council's 'Assessment of Five Year Land Supply 2017 to 2022' that the Council is currently using the Liverpool approach when calculating its housing land supply. We were surprised that this document was not included as part of the Council's evidence base alongside past monitoring. The approach set out in this document is not consistent with national policy as it spreads the delivery of any backlog across the whole plan period. PPG requires any backlog in the housing supply to be addressed within five years and states in paragraph 3-035 that:

"Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible."

It is clear that the default approach to calculating the five year housing land supply must have any backlog in delivery annualised across the first five years of the plans housing requirement, an approach most commonly referred to as the Sedgefield approach. Given the Council had a shortfall in delivery of 3,185 dwellings² against the Core Strategy we would suggest that it is essential that the Council uses the Sedgefield approach. If not there is the real risk of much needed housing being provided much later in the plan period than is required.

We would also agree with the assessment set out by the Council's latest statement on five year land supply that it has persistently under delivered on housing and should apply the 20% buffer³. This will require the Council to deliver 10,632 new homes in the first five years of the plan. If the backlog of 519 dwellings is then included into the 5 year requirement this would suggest that the Council should be seeking to deliver 11,219 new dwellings in the first five years of the plan. Whilst it would appear from table 4.1 of the Strategic Housing Land Availability Assessment (SHLAA) 2017 that there is sufficient land to meet this level of delivery this assessment includes 1,247 completions in 2016/17. These should not be included within the 5 year land supply. This reduces the housing land supply in the first five years of the plan to 10,889 homes. Therefore, based on the evidence set out in the 2017 SHLAA, the Council's housing land supply on adoption of the plan would be 4.85 years.

It is essential that the Council has a policy compliant five year land supply on adoption. If not then the plan cannot be considered to be sound as it will be out of date on the basis of paragraph 49 of the NPPF which states:

"Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

The Council will need to identify additional sites that can be delivered the first five years to address this concern.

² Paragraph 2.4 of the Assessment of Five Year Land Supply 2017 to 2022

³ Paragraph 2.7 of the Assessment of Five Year Land Supply 2017 to 2022

Policy HN2: Affordable Housing

This policy is unsound as it is inconsistent with national policy

National policy sets out that a fundamental principle of the local plan is to provide a practical framework for both decision makers and applicants. Paragraph 17 of the NPPF in particular seeks to address this issue and states that local plans:

“... should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency”

Paragraph 154 of the NPPF then reiterates this position outlining that only policies that provide a clear indication of how a decision maker should react should be included in the local plan.

The approach set out in part A of this policy is inconsistent with these principles. By setting out that development should provide at least 31% and no more than 50% affordable housing contribution provides no certainty whatsoever as to the level of affordable housing contributions that a developer will be expected to make. In order to acquire land and bring forward development quickly and effectively the signals sent out by the local plan must be clear and allow the development industry to make effective decisions as to the viability of a development. There is a significant difference between a site being viable at 31% affordable housing and it being viable at 50%. This level of uncertainty will deter developers from bringing forward sites.

These concerns regarding viability of development at contributions above 31% are also supported by the viability assessment. This considers 31% requirement to be appropriate and has not even tested viability at 50%. In fact at paragraph 12.26 of the study it sets out that there would only be scope to higher targets in some areas without developer contributions. Though earlier in the document concerns are raised as to whether 31% is viable for developments in the city core and older centres and estates suggesting that a 20% affordable housing rate might be considered appropriate. It would seem that the ability of development to deliver against the higher end of the Council's proposed range is not supported by the evidence.

In addition to the difficulties faced by applicants we also believe that this policy will be confusing for those making decisions. In particular we are concerned that planning committees will use this as a reason to refuse development against officer advice if they consider a development to be viable at a higher rate. It is our experience that clear and unambiguous policies support better decision making from both officers and politicians. Policies worded in this way are of increasing concern to our members who, where affordable housing policies are set as minimums, are being asked to provide evidence to justify meeting these minimums. There is a real danger that such policies will generate additional and unnecessary justification for policy compliant schemes. In order to make this policy sound we would suggest that it be amended by removing the reference to 50% and requiring applicants to provide 31% affordable homes where this

is viable. We would also suggest that the policy states that where schemes are compliant with policy they will not be required to provide any further evidence.

Whilst we support the inclusion of part B of this policy we would suggest that the provision of financial contributions or off-site provision of affordable homes should be considered within the list of approaches allowed to make a scheme viable. The NPPF in paragraph 50 states that such flexibilities can be considered where they are “robustly justified”. Given that applicants will have been required to provide a significant amount of evidence on viability under part B this would clearly satisfy the requirements of the NPPF and there is no reason to treat these differently to the other ‘flexibilities’ set out in the list.

Policy HN4: Amenity, Accessibility and Adaptability of homes

This policy is unsound as it is ineffective and inconsistent with national policy

This policy proposes that on sites of 11+ dwellings at least 60% of all new dwellings comply with the higher optional M4(2) standard for accessible / adaptable homes. If the Council wishes to adopt this standard then the Council should only do so by applying the criteria set out in the NPPG. It is incumbent on the Council to provide a local assessment evidencing the specific case for Milton Keynes which justifies the inclusion of optional higher standards for accessible / adaptable homes in policy HN4. The Council’s evidence is set out in latest SHMA. It is acknowledged that half of all population growth and that there will be an increase in the population over 75. However the Council’s evidence on its ageing population is not unusual and is not a phenomenon specific to Milton Keynes. If it had been the Government’s intention that such generic arguments justified adoption of the higher optional standards for adaptable / accessible dwellings then the logical solution would have been to incorporate the standards as mandatory via the Building Regulations which the Government has not done.

As set out in our comments to policy HN2 we are concerned that the Council is seeking to test the limits of development viability within the Borough by setting policies that are minimums. Policy HN4 is another example of this approach which sets out that its expectations for space standards and accessible and adaptable homes are minimums. This indicates that the Council will expect developments to exceed these minimums where it considers it appropriate. This cannot be considered to be an effective or positive approach to supporting new development that is required by the NPPF. As we have mentioned with regard to affordable housing, it is a growing concern that Councils are expecting applicants to justify why they are only able to meet minimum targets. Policies need to be clear setting out the expectations of the local authority and where those expectations are met then development should be permitted without delay. To make this policy sound the Council should remove the terms “minimum” and “at least” from part A 1 and part B i, ii and iii respectively.

Policy HN5: Self Build and Custom Housebuilding

This policy is unsound as it is ineffective and inconsistent with national policy

Whilst we support the encouragement of self-build housing through the local plan we consider the requirement for all allocations to provide some degree of self-build and custom housebuilding plots is not justified and inconsistent with national policy. We recognise that Local Planning Authorities now have a duty to promote self-build housing but we do not consider the Council to have looked at sufficient options with regard to how it can provide plots to support self-builders. Paragraph 57-024 of the PPG sets out a variety of approaches that need to be considered – including the use of their own land. This is reiterated in para 57-14 of the PPG which sets out the need for Council's to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions. We cannot find any evidence as to the Council's consideration of other reasonable approaches to delivery as suggested in PPG. Without such consideration it would appear that the Council is seeking to place the burden for delivery of self-build plots on house-builders without looking sufficiently at other delivery mechanisms as set out in national guidance.

We also consider the policy to be inconsistent with the third bullet point of paragraph 57-025 of PPG. This outlines that the Council should engage with landowners and encourage them to consider self-build and custom housebuilding. The approach taken by the Council moves beyond encouragement and requires land owners to bring forward plots. We would therefore suggest that the policy be deleted and replaced with a policy that seeks to encourage the provision of self-build plots in line with the approach set out in PPG.

The policy is also ineffective as it does not set out what should happen to self-build plots should they remain unsold. It is important that the policy specifies the timescale within which plots must be sold and after which they should revert to being developed for market housing. At present this policy makes no such provision, as such it is ineffective. We would suggest that for the policy to be considered sound it must state that if a plot remains unsold after 6 months of it being offered on the open market then it should revert back to the developer to be delivered as part of the overall scheme. The policy should also state that if the development of a purchased plot has not commenced within three years of purchase that the buyer be refunded and the plot reverts to the developer. It is important that plots should not be left empty to detriment of its neighbours or the development as a whole.

Policy CC1: Percent for Art

This policy is unsound as it is unjustified and inconsistent with national policy

Planning Practice Guidance sets out the situation with regard to existing legislation on planning obligations. In particular it states that:

“Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind” (Ref: 23b-001-20161116).

The Council have not established within the plan or the supporting evidence base how it considers public art to meet any of these tests. The Council has set out its expectations with regard to the need for development to be of high quality and this should be sufficient. If the developer in agreement with the Council consider public art to be appropriate then this should be considered on a case by case basis. We therefore consider this policy to be unjustified, ineffective and inconsistent with policy and legislation. As such it should be deleted.

Policy SC1: Sustainable construction

This policy is unsound as it is ineffective and inconsistent with national policy

Whilst the HBF does not generally object to local plans encouraging developers to include renewable energy as part of a scheme and to minimising resource use in general it is important that this is not interpreted as a mandatory requirement. This would be contrary to the Government's intentions, as set out in ministerial statement of March 2015⁴, the Treasury's 2015 report 'Fixing the Foundations'⁵ and the Housing Standards Review, which specifically identified energy requirements for new housing development to be a matter solely for Building Regulations with no optional standards. The Deregulation Act 2015 was the legislative tool used to put in place the changes of the Housing Standards Review. This included an amendment to the Planning and Energy Act 2008 to remove the ability of local authorities to require higher than Building Regulations energy efficiency standards for new homes. Transitional arrangements were set out in a Written Ministerial Statement in March 2015.

We would also question whether this policy has been adequately tested with regard to plan viability. The Viability Assessment sets out that the costs of complying with these standards are likely to be £500 per unit and are based on the costs established in the Sustainable Construction Guide adopted in 2007. We would suggest that further evidence is required as to the cost of this policy and its impact on the viability of new development.

Conclusion

At present we do not consider the plan to be sound as considered against the tests of soundness set out in paragraph 182 of the NPPF. We do not consider the Council has met the tests of soundness in the following areas:

- Whilst delivery is beyond the level of need identified the housing requirement set out in DS2 does not reflect the full need for housing within Milton Keynes. This should be amended to ensure that there should be any difficulties with regard to delivery with regard to any site the Council seeks to ensure that it still meets housing needs;
- The use of the 'Liverpool' method to assessing the five year housing land supply is inconsistent with national planning policy

⁴ www.gov.uk/government/speeches/planning-update-march-2015

⁵ <https://www.gov.uk/government/speeches/fixing-the-foundations-boosting-britains-productivity>

- The Council cannot show they will have a five year housing land supply on adoption;
- Policy HN4 sets requirements as minimums which is ineffective and inconsistent with national policy;
- Policy HN6 in relation to self-build housing is inconsistent with national policy and is ineffective as it as it does not consider how unsold sites will be treated.
- Policy CC1 on contribution for public art is not consistent with either national policy or legislation relating to developer contributions
- Policy SC1 on sustainable construction is inconsistent with the Government's approach to improving the energy efficiency of new homes.

We hope these representations are of assistance in taking the plan forward to the next stage of plan preparation and examination. I would also like to express my interest in attending any relevant hearing sessions at the Examination in Public. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully

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