



The Planning Inspectorate

Examination of the Chiltern and South Bucks Local Plan

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Dear Mr Cheston,

Examination of the Chiltern and South Bucks Local Plan

1. We write further to the postponed Stage 1 hearing sessions, which were due to run between 17-20 March and 25-26 March 2020. We would like to start by thanking Officers for their assistance in postponing the hearings at such short notice and putting in place measures to ensure that the examination could continue, despite the difficult circumstances that we all find ourselves in regarding the Coronavirus ('COVID-19').
2. Following receipt of the written representations, rebuttal statements and further information requested on 1 April 2020, we are now in a position to set out some initial findings on Matter 1 – Duty to Cooperate ('DTC'). In summary, we have significant concerns that in preparing the Plan the Councils did not engage constructively, actively and on an ongoing basis in relation to a strategic matter as required by Section 33A of the Planning and Compulsory Purchase Act 2004 ('the Act'), having particular regard to Slough's unmet housing needs.
3. We note that as of 1 April 2020 Chiltern and South Bucks Councils now form part of Buckinghamshire Council. However, it is our understanding that it is not the intention to rename the submission version Local Plan to avoid any confusion with the forthcoming 'Buckinghamshire Local Plan'. Any references to the Plan in this letter therefore refer to the Chiltern and South Bucks Local Plan, submitted for examination in September 2019. References to the 'Councils' also refer to Chiltern and South Bucks Councils prior to 1 April 2020.

Starting Point

4. As you will be aware, Section 33A of the Act places a duty on local planning authorities to co-operate in maximising the effectiveness of plan preparation. In particular, it requires local planning authorities to engage constructively, actively and on an ongoing basis in the preparation of development plan documents so far as they relate to strategic matters. A strategic matter is defined as sustainable development or the use of land that would have a significant impact on at least two planning areas. It can therefore include planning for new housing.
5. The National Planning Policy Framework ('the Framework') also includes a requirement in national policy to maintain effective cooperation. More specifically, paragraph 26 states that effective and ongoing joint working is "*integral to the production of a positively prepared and justified strategy*". It should help to determine where additional infrastructure is required, and whether development needs that cannot be met within a particular area could be met elsewhere.
6. It is clear from evidence before the examination that Slough Borough Council's ('SBC') ability to meet its own housing needs has been a longstanding matter for discussion. Although there is some debate about whether or not SBC has ever formally requested assistance with the issue, correspondence¹ received by SBC from the Councils confirms that:

"In drafting the report to our own committee meetings to seek approval to publish and submit the Local Plan, I was advised that we had not received any formal requests to meet any unmet housing needs of neighbouring areas. Having looked into this issue subsequently, I can confirm that we did receive representations from your Council to ask for this assistance in response to the Local Plan Issues and Options and Green Belt Preferred Options Consultations in 2016. I hope that this now sets the record straight on this matter."

7. The strategic matter of SBC's unmet housing need was therefore before the Councils at a very early stage in the Plan's preparation.

Constructive, Active and Ongoing Engagement

8. Based on the submitted information, the first DTC meeting with SBC was held on 9 September 2016. The next recorded meeting was over a year later, on 17 October 2017. It was facilitated by an independent planning consultant who sought to "*...direct the meeting and facilitate discussion towards the goal of creating a statement of common ground.*"
9. From the notes of the meeting it appears that the majority of discussions centred around unresolved disputes concerning housing market areas.² At

¹ Extract provided in Slough Borough Council's Duty to Cooperate Written Statement (March 2020)

² Examination Document EXAM33A

the time South Bucks' position was that there was effectively one housing market area comprising all the Berkshire authorities, and for that reason, suggested that SBC should look further afield for assistance in meeting its unmet housing needs. The scale of unmet need was described as "...between 5,000 and 10,000" new homes.

10. The minutes from the October 2017 meeting includes advice from the facilitator, upon hearing the parties' positions on wider housing need issues, that Chiltern and South Bucks Councils could "...be at significant risk [of] failing [the] duty to cooperate." One of the outcomes of the meeting was therefore to work towards the preparation of a statement of common ground, with all parties agreeing that they would work more closely together in the future.
11. The next DTC meeting followed shortly afterwards, on 22 January 2018. Again, it was facilitated by an independent planning consultant and one of the aims of the meeting was to focus on the preparation of statements of common ground. Agreed matters included a recognition that SBC has an unmet housing need issue, and that its ability to expand to the south is constrained. This reflects the geography of the area, with the M4 motorway and River Thames limiting options for any significant southern expansion.
12. No further meetings were held between Chiltern and South Bucks Councils and SBC on this issue until 14 June 2019, approximately 18 months later, and after the Councils had published the submission version Local Plan for consultation. At the meeting SBC appears to have once more reiterated concerns that the Plan fails to meet any of its unmet housing need. Despite raising these concerns, there is nothing to suggest that the Councils took any immediate action insofar as the submission version Local Plan was concerned. Examination Document 33A confirms that "*no formal note was taken of this meeting*".
13. Since identifying the issue and discussing it at DTC meetings in late 2017/early 2018, there does not appear to have been any constructive, active or ongoing engagement with SBC as part of the preparation of the Local Plan. In terms of how the submitted Plan seeks to address SBC's unmet housing need, there is very little evidence of any effective and ongoing joint working leading to the production of a positively prepared and justified strategy, as required by the Framework.
14. This is further highlighted by the lack of a signed statement of common ground with SBC. Paragraph 27 of the Framework is clear that in order to demonstrate effective and ongoing joint working, strategic policy making authorities should prepare and maintain one or more statements of common ground which should be made publically available throughout the plan-making process. The Planning Practice Guidance ('PPG') also advises that in the case of local planning authorities, statements of common ground form part of the evidence required to demonstrate that they have complied with

the DTC.³ Furthermore, the PPG makes it clear that agreements (or disagreements) about the extent to which unmet needs are capable of being re-distributed should be included in such statements.⁴ Despite being raised in DTC meetings in 2017, the Councils have only very recently (March 2020) submitted a draft, unsigned statement of common ground.⁵

Wider Area Growth Study ('WAGS')

15. One of the outcomes of the DTC meetings in 2017 and 2018 was a commitment to procure a joint growth study between SBC, Chiltern and South Bucks Councils and the Royal Borough of Windsor and Maidenhead. The *Wider Area Growth Study Part 1* was published in June 2019 and aims to identify potential locations that could accommodate the future housing needs of the Slough, Windsor and Maidenhead 'core'. Part 2, which is expected later in the year, will look at specific locations where new housing development could be deliverable and sustainable.
16. Commitment to the joint growth study is a positive step forward in seeking to address SBC's unmet housing needs. However, the WAGS is intended to form "*...part of the evidence base to supporting future plan making...*" (our emphasis).⁶ As a result, although the Councils are now seeking to work collaboratively towards addressing the issue of unmet housing needs, this relates to future plan preparation. Published in June 2019, the WAGS in its published form has not influenced the preparation of the Chiltern and South Bucks Local Plan, which is before us for examination, nor is it clear that the emerging document did so.
17. Paragraph 3.5.7 of the submitted Plan states that one of the Strategic Objectives is to "*Establish a new, strengthened Green Belt boundary that will continue to meet national Green Belt purposes, prevent inappropriate development, secure opportunities for enhancement in accordance with national Green Belt objectives and, subject potentially to further consideration of the Green Belt boundary north of Slough in a review of the Plan, have boundaries that will endure beyond 2036*"
18. The Councils' response⁷ to our Initial Questions⁸ provides further clarity on this point. It states that, because of the uncertainty over the scale of SBC's unmet housing need, it is intended to pick up the matter through either a review of the Plan or a new Buckinghamshire-wide Local Plan. Essentially, "*CSB considered it better to get an up-to-date Local Plan in place, even if this has a limited time frame before its review, rather than to rely on two Local Plans adopted in the late 1990s.*"

³ Paragraph: 010 Reference ID: 61-010-20190315

⁴ Paragraph: 012 Reference ID: 61-012-20190315

⁵ Examination Document EXAM31

⁶ Paragraph 1.1 of WAGS Part 1 (June 2019)

⁷ Examination Document EXAM2

⁸ Examination Document EXAM1

19. We can see that there may be some merit in this way forward, and have approached the examination pragmatically, recognising the importance of getting up-to-date Local Plans in place. But the PPG⁹ is clear that *"Inspectors will expect to see that strategic policy making authorities have addressed key strategy matters through effective joint working, and not deferred them to subsequent plan updates..."*. Paragraph 35 of the Framework also states that Plans are sound if they are *"...based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground."*
20. Furthermore, the issue of SBC's unmet housing need was identified as far back as 2016, and the physical constraints and subsequent need for family housing has been a longstanding issue in the area. 'Potentially' considering the area north of Slough in a future review does not represent a positively prepared, justified strategy based on effective engagement. It cannot be said that the decision to potentially consider Slough's unmet housing needs in a future review was only reached following constructive, active and ongoing engagement having failed to find an agreed way of addressing the unmet housing needs in the current plan.

Need for Agreement?

21. The DTC does not place a requirement on local planning authorities to agree on all strategic cross boundary matters. The PPG¹⁰ confirms that where agreements cannot be reached, it should not prevent a plan from being submitted for examination.
22. Nevertheless, in such circumstances the authority *"...will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved; this will be thoroughly tested at examination."* Based on the evidence provided we are not convinced that the Councils have actively engaged with SBC on the issue of unmet housing needs, or adequately demonstrated what outcomes this engagement has resulted in. For example, the Councils do not appear to have actively explored options for growth around Slough, as might be expected as part of considering reasonable alternative strategies in the Sustainability Appraisal. The fact that the draft Statement of Common Ground was sent to SBC in December 2019, three months after submission, only serves to emphasise a lack of constructive dialogue on this key, strategic cross-boundary issue.
23. In response to our Initial Questions the Councils advised that they are *"...not in a position to accommodate Slough's request at the present time."* Essentially, *"If an authority cannot meet its own needs, then it cannot be considered to be in a position to provide assistance for anyone else. This is not considered to be a complex equation."*

⁹ Paragraph: 022 Reference ID: 61-022-20190315

¹⁰ Paragraph: 022 Reference ID: 61-022-20190315

24. The Green Belt is clearly a significant consideration in deciding how best to deal with SBC's unmet housing need. The PPG¹¹ advises that local planning authorities are not obliged to accept needs from other areas where it can be demonstrated that doing so would have an adverse impact when assessed against policies in the Framework. This reflects paragraph 11 of the Framework, which states that strategic policies should provide for objectively assessed needs for housing, as well as any needs that cannot be met in neighbouring areas, *unless* the application of policies in the Framework provide a strong reason for restricting the scale, type or distribution of development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
25. However, there does not appear to have been any detailed analysis as part of the Plan's preparation to determine whether or not the adverse impacts of contributing towards SBC's unmet housing needs would significantly and demonstrably outweigh the benefits. Furthermore, the Framework's policies do not prevent Councils from amending Green Belt boundaries where there are exceptional circumstances in accordance with paragraph 136. The submission version Local Plan actually proposes to release land from the Green Belt for 1,000 homes, 12,000 square metres of office floorspace and a community hub including a new primary school near to Slough at Iver Station (Policy SP BP11). Land is also proposed to be released from the Green Belt adjacent to Taplow Station for around 4,000 square metres of office floorspace (Policy SP BP14). The Green Belt has therefore not precluded land from being identified for development in the submitted Plan.
26. The Councils also point to the lack of an exact, up-to-date figure which establishes the precise level of unmet need in Slough. As we understand, this will be for the WAGS Part 2 to establish. But the minutes from the October 2017 meeting refer to the unmet housing need as between 5,000 to 10,000 dwellings, and published outcomes from the January 2018 meeting state that "*Slough has a unmet housing need issue*". The 2017 Slough Local Plan Issues and Options described the shortfall at around 8,000 dwellings.
27. SBC's written representations also point to qualitative housing needs. Due to the tightly drawn administrative boundary and extent of the built-up area, the main identified supply of housing in Slough is flatted developments. It is for this reason, and in order to provide larger 3 and 4-bedroom family houses, that the Council is seeking to deliver new development beyond the borough boundary. Whilst a more precise and up-to-date figure will be established through the WAGS Part 2, it appears to us that the need to provide a significant number of new homes beyond Slough's administrative boundary is a matter which is therefore not in dispute. Given the constraints imposed by the M4 motorway and the River Thames, in order to provide housing as close as possible to Slough the areas for search recommended in the WAGS Part 1 include land within South Bucks.¹²

¹¹ Paragraph: 022 Reference ID: 61-022-20190315

¹² Paragraph 7.11 and Figure 7.1 of WAGS Part 1 (June 2019)

Summary and Conclusions

28. In summary, it is evident that the issue of SBC's unmet housing need was raised early in the preparation of the Chiltern and South Bucks Local Plan, as far back as 2016. Although the precise level of need has changed, and is yet to be accurately established, it is also evident that SBC has quantitative and qualitative needs that cannot be met within its tightly drawn administrative boundary.
29. The DTC is not a duty to agree, but the Act is clear that strategic plan making authorities should engage constructively, actively and on an ongoing basis. From dialogue in October 2017 and January 2018, no further meetings were held with SBC for almost 18 months, until after publication of the submission version Local Plan. Despite SBC raising concerns once more, no formal notes of the meeting were taken, and the Plan proceeded to submission in September 2019. In our opinion, this does not demonstrate that the Councils have taken reasonable steps to engage actively, constructively and on an ongoing basis in relation to the strategic issue of unmet housing need. Not having a signed statement of common ground in place with SBC only serves to demonstrate a lack of effective dialogue.
30. Although work on the WAGS is a positive step-forward in seeking to identify SBC's unmet housing needs and sustainable locations for growth, it does not relate to the preparation of the submitted Plan before us. As the Part 1 Study confirms, it's focus is on future plan-making in the area.
31. It has been suggested by some participants that the issue surrounding SBC's unmet housing need could be addressed through Main Modifications to the Plan, either by allocating more land for development or requiring an early review to take account of the WAGS Part 2. However, a failure to meet the DTC cannot be remedied during the examination because it applies to the preparation of the plan, which ends upon submission.
32. Based on the evidence provided we therefore have very serious concerns that the Councils have not engaged actively, constructively and on an ongoing basis in relation to a strategic matter in the Plan's preparation as required by Section 33A of the Act. Whilst we have sought to be pragmatic in our approach, Section 20(7A) of the Act requires that the examiners must recommend non-adoption of the Plan if they consider that a Council has not complied with the DTC. We will not reach a final conclusion on this matter until the Council has had the opportunity to consider our findings and respond to this letter. However, it is important that we point out that there is a strong likelihood that the only option will be for the Council to withdraw the Plan.
33. We appreciate that the Council will be disappointed with our findings and we have only come to this view after carefully considering the information provided in response to our Initial Questions, the Hearing Statements, Written Representations and Rebuttal Statements. We are also conscious that this is a difficult time for everyone due to the Coronavirus ('COVID-19').

However, Officers have indicated that the Council would wish to receive our findings on Matter 1 as soon as possible.

34. Clearly the Council will need some time to consider our findings and we recognise that the usual decision-making processes are likely to have been affected by restrictions arising from the Coronavirus ('COVID-19'). For this reason, we have not set a deadline for responding, although an indication of when a reply can be expected would assist for ourselves and participants.
35. We have asked the Programme Officer, Ian Kemp, to upload a copy of our letter to the website for those who are following the examination, but we are not seeking any comments from participants at this stage. In the meantime, should you have any further queries, please do not hesitate to contact us.

Yours Sincerely,

Matthew Birkinshaw and David Troy

Inspectors