

OXFORD CITY COUNCIL

RE: EMERGING LOCAL PLAN 2020 – 2040 ('OLP 2040')

ADVICE

Introduction

1. Oxford City Council ("OCC") is preparing a replacement local plan for the plan period 2020 – 2040; the OLP 2040. I am asked to advise on the following questions:
 - (1) whether the *Oxfordshire Housing and Economic Needs Assessment* (December 2022) ('HENA') adheres to the requirement in the PPG to "take account of past under delivery" (PPG para. 2a-011-20190220);
 - (2) whether it is permissible for the HENA to employ the concept of the Housing Market Area ('HMA') given that that concept was removed from the National Planning Policy Framework ('NPPF'); and
 - (3) whether allocated "unmet needs" sites in neighbouring authorities' adopted local plans (which cover different, earlier, plan periods to that which OLP 2040 will cover) can be taken to meet OCC's unmet need for the period up to 2040.

Question (1)

Policy framework

2. The NPPF provides at para. 61 that:

“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.”

3. The PPG provides, so far as material, that:

- (1) *“the standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply”* (para. 2a-002);
- (2) the use of the standard method is not mandatory but there is *“an expectation that the standard method will be used and that any other method will be used only in exceptional circumstances”* (para. 2a-003);
- (3) *“there will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates”* (para. 2a-10: note that this paragraph provides three examples in which this may be the case but is clear that these examples are *not* exhaustive);
- (4) *“Where...an alternative approach identifies a need higher than using the standard method, and...it adequately reflects current and future demographic trends and market signals, the approach can be considered sound as it will have exceeded the minimum starting point”* (para. 2a-015);

(5) *“The 2014-based household projections are used within the standard method to provide stability for planning authorities and communities, ensure that historic under-delivery and declining affordability are reflected, and to be consistent with the Government’s objective of significantly boosting the supply of homes”* (para. 2a-005; see also para. 2a-015);

(6) *“An affordability adjustment is applied as household growth on its own is insufficient as an indicator of future housing need because:*

4.

(a) *household formation is constrained to the supply of available properties – new households cannot form if there is nowhere for them to live; and*

(b) *people may want to live in an area in which they do not reside currently, for example to be near to work, but be unable to find appropriate accommodation that they can afford”* (para. 2a-006);

(2) *“The affordability adjustment is applied in order to ensure that the standard method for assessing local housing need responds to price signals and is consistent with the policy objective of significantly boosting the supply of homes. The specific adjustment in [PPG] is set at a level to ensure that minimum annual housing need starts to address the affordability of homes”* (para. 2a-006);

(3) *“The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately”* (para. 2a-011); and

(4) *“Where an alternative approach to the standard method is used, past under delivery should be taken into account”* (para. 2a-011).

5. As to (9) above, the PPG is not specific about how under delivery should be taken into account: it merely says that it should be taken into account. But note that para. 2a-015, i.e. (5) above, says that the use of the 2014-based household projections is to ensure that “historic under-delivery” is reflected in a local housing needs assessment.

The HENA

6. The HENA calculates OCC’s local housing need (for the period 2020-2040) by:
 - (1) calculating housing need for Oxfordshire as a whole; and then
 - (2) disaggregating that need to the districts within Oxfordshire, including OCC.
7. As to (1) above the reason why the starting point in the HENA is Oxfordshire as a whole is because it comprises a “reasonable approximation” of a Functional and Economic Market Area (‘FEMA’) and a HMA. See para. 7.6.1 of the HENA, *inter alia*.
8. Also as to (1) above, the HENA considers four different methodologies for calculating housing need in Oxfordshire, namely:
 - (1) the standard method scenario;
 - (2) the 2021-census adjusted standard method scenario;
 - (3) the 2022 CE baseline scenario; and
 - (4) the economic development led scenario.
9. Scenarios (1) and (2) above are “housing led”. Scenarios (3) and (4) above are “employment led”. See section 7.1 of the HENA, *inter alia*.

10. Paragraph 7.6.2 of the HENA is as follows:

“7.6.2 While the standard method provides housing need figures at district level, these are aggregated to the FEMA level in order to run the scenarios which produce more robust and consistent outputs at the FEMA/County level. In constrained urban districts like Oxford, the calculation of need using sub-national population projections that inform the standard method, can be distorted by historic suppression of household formation and impacts which constrained housing supply has on migration patterns. This effect is negated when assessing the whole FEMA as this covers the functional area where households will have formed beyond spatially constrained areas.”

11. This is relevant to the question of whether the HENA adheres to the non-specific requirement in the PPG to “take account” of past under delivery.

Analysis

12. Plainly, it does. This is set out clearly in para. 7.6.2 which makes the point that the methodology in the HENA considers Oxfordshire as the starting point (which is a departure from the standard method) because historically household formation has been suppressed at the district level, and has in effect been pushed outside of district boundaries. But this effect is “negated” at the FEMA/HMA area. This analysis shows that the HENA has taken account of past under delivery.

13. It is also notable that in respect of scenario (2), i.e.. the 2021 census adjusted standard method scenario, para. 3.6.4 of the HENA provides that:

“The remodelled demographic projection used in this report therefore adopts consistent assumptions on household formation to the 2014-based Household Projections. The difference arises as the population inputs are different – the population projection developed takes

account of more recent migration trends as well as Census data.”

14. Scenario (2) therefore further complies with the requirement in PPG to “take account of under-delivery” because it uses (albeit with adjustments that flow from the 2021 census) the 2014-based household projections. As I have set out above the PPG is clear that one rationale for the use of those projections is to ensure that “historic under-delivery” is reflected in a local housing needs assessment.
15. Further, the increases in the supply / demand ratios (i.e.. the “Housing Market Effects”) for each of the HENA scenarios are as follows:
 - (1) scenario 1: 4.1%
 - (2) scenario 2: 9.9%
 - (3) scenario 3: 8.6%
 - (4) scenario 4: 10.1%
16. Scenarios (1) and (2) have these effects, in part, because of the affordability adjustments which are built into the standard methods, on which those two scenarios are based.
17. Although scenarios (3) and (4) are not calculated using affordability adjustments because they are employment-led rather than housing-led, it is clear that they will bring about similar housing market effects to the two housing-led scenarios. This is a further indication that these scenarios “take account” of past under delivery.
18. As to the distribution of the Oxfordshire-wide housing need figures to the district level, paras 7.6.4 – 7.6.5 of the HENA are as follows:

“7.6.4 Due to the local area effects described above regarding suppressed population growth and household formation in Oxford, it is not considered appropriate to use the standard method as a basis for distributing housing across the FEMA, particularly given Oxford’s role as the county’s economic node, which sees acute affordability issues.

7.6.5 Distribution using the standard method continues existing patterns of development, rather than trying to assign the need to where it is being generated.”

19. Again it is clear to me that in this respect the HENA is compliant with the advice in the PPG to “take account” of past under-delivery.
20. That therefore is my conclusion in respect of question 1. I do not consider that there is any real risk that the HENA figures, and in particular the two employment-led scenarios, will fall to be further adjusted upwards as a result of a failure (which is non-existent, as I have explained) to have “taken account” of past under-delivery.
21. The PPG is not specific or prescriptive as to how past-under delivery should be taken into account. I am firmly of the view that the way that the HENA takes that matter into account is legally unassailable. I so advise.

Question 2

22. The concept of the HMA has been removed from the extant (July 2021) version of the NPPF. However this does not mean that:
 - (1) the concept of a HMA has ceased to exist; or that
 - (2) the concept of a HMA has suddenly become irrelevant; or that
 - (3) the concept of a HMA has become legally out-of-bounds for whatever reason.

23. Although HMAs are no longer referred to specifically in the NPPF/PPG, equally neither of those documents indicates that any of propositions (1), (2) or (3) above should be regarded as being true.
24. On the contrary:
- (1) although PPG says that “exceptional circumstances” are needed to justify a departure from the standard method, it is not prescriptive about what method/methodology/approach can be used when a departure is being made;
 - (2) provided a plan-making authority adopts a methodology that is statistically sound and meets the other requirements in the PPG (such as, for example, the need to adequately reflect current and future demographic trends and market signals) such method is permissible as a matter of policy provided it can, of course, be justified at examination; and
 - (3) there is no conceivable reason why it would *only* be possible to achieve compliance with (2) above by way of a methodology/approach that eschews the concept of a HMA entirely.
25. I therefore advise that in principle there is no legal or practical reason that prevents the HENA from employing the concept of the Oxfordshire HMA (and FEMA for that matter) in its analysis.

Question 3

26. As I understand matters, this question arises because:
- (1) the plan period for OLP 2040 is 2020-2040; yet

- (2) the neighbouring authorities' adopted local plans relate to the period 2011-2031 (*2034 in the case of South Oxfordshire DC).
27. I note in this context that by and large the so-called "unmet needs" sites are contained within the neighbouring authorities' trajectories after 2021 and that very few completions have been yielded on these sites as of today.
28. It is said (as far as I can ascertain) that the effect of the dichotomy expressed at para. 26 above is that OCC can only rely on 14,300 units being delivered on "unmet needs" sites for the period ending in 2031/2034 (as the case may be) but that thereafter "using the housing numbers in [neighbouring] districts' local plans to offset OCC's needs from 2031-2040 may not align with the strategy/evidence/agreed position to date."
29. When OLP 2040 is adopted there will be a new "unmet needs" figure that will form part of the neighbouring authorities' local housing need. That alone is likely to justify those authorities departing from the standard method when setting their housing requirement in the next round of local plans/local plan updates. See PPG para. 2a-010.
30. However, the fact that there will come a time when OCC's local plan relates to a different period than the neighbouring authorities' adopted plans is neither here nor there. I fail to see what relevance this matter could possibly have on anything pertinent to the progression of OLP 2040.
31. The position as I see it is as follows:
 - (1) for so long as the neighbouring authorities' adopted local plans remain extant, they should continue to make provision for OCC's unmet needs by:
 - (a) progressing the allocated "unmet needs" sites; and

- (b) having regard to the most up to date quantification of OCC's unmet needs in development control decisions, that being an "obviously relevant consideration" within the meaning of s.38(6) of the Planning and Compulsory Purchase Act 2004; and
- (2) using the most up to date quantification of OCC's unmet needs when they progress and prepare their own replacement local plans or local plan updates.

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