

MATTER 24 - THE PROPOSED 'EAST OF LUTON' SITES

ED173 (Paper C) from North Herts District Council NHDC)

NAME OF REPRESENTOR – David Dorman,

PAPER 2 – THE QUESTIONS POSED BY THE INSPECTOR

In this second Paper we look closely at the response from NHDC to the questions posed by the Inspector. The comments in red below are our analysis of NHDC's comments..

a) Whose unmet need is potentially being met by NHDC? An observation.

- 1) The clarification from NHDC in ED173 that the need for house building by NHDC on the East of Luton sites around Cockernhoe is solely to meet the unmet needs of Luton Borough is welcomed and unequivocal.
- 2) However, it is also distressingly void of any sort of apology for causing such anguish among residents in the three potentially-affected villages. It is quite clear what NHDC stated in its response to the Inspector in ED159 where it was said in paragraph 39 that: the East of Luton sites: "would still be required to make a positive contribution towards housing needs from the wider Luton Housing market area." The latest response from NHDC in ED173 gives the impression that it was always the case that housing to the East of Luton was solely to help meet Luton's unmet need, not the wider Luton HMA, and their statement in ED159 is seemingly now dismissed.
- 3) It makes one wonder who is driving this planning policy in NHDC – is it the planners themselves without much, or any, political representative oversight - or do the elected representatives have to take some of the blame for this fundamental misunderstanding created by NHDC?

b) The increase in contribution to the Green Belt

- 4) The comments on the Green Belt from NHDC in ED173 relating to the increased contribution now made to the purposes of the Green Belt from the East of Luton sites includes the statement that were this land to be released for development it would cause 'significant harm' – but they justify this by saying that there are exceptional circumstances to justify release of this Green Belt land to meet the unmet needs from Luton.
- 5) Our analysis above in Paper 1 clearly disproves this statement by NHDC. **There are no exceptional circumstances in relation to the unmet housing need from Luton.**
- 6) Among the reasons given by NHDC to justify these so called exceptional circumstances are (together with our comments in red):
 - The statements that 'Luton's need is acute and pressing and that there is the imperative under the Duty to Cooperate plus the reference to the way in which the local authorities making up the Luton HMA have co-operated to address this unmet need' **is not justified by any evidence we have seen. From everything we can deduce, the potential delivery of 1.950 houses in this area has been presented as an OFFER from NHDC which has been accepted by the other local**

authorities (and why wouldn't they?) rather than the result of a proper in-depth investigation of all the possible other areas that could contribute. This important point has also been remarked upon by the Inspectors examining the Central Bedfordshire draft Local Plan. Also, even an 'acute and pressing need' has to be strongly justified in terms of damage to a 'significant' Green Belt area. **There is no justification that stands scrutiny.**

- The spurious argument that 'by building these 1,950 homes East of Luton will ensure that NHDC also contributes to the smaller scale of need arising from within the NHDC District itself'. The number of houses apparently allocated in this area for the needs of North Hertfordshire amounts to 200 houses. (Total proposed build on these sites being 2,150). However, if we were to suspend belief for a moment and pretend that Luton didn't exist, there is no evidence we have seen that NHDC has earmarked any land from within the boundaries of the three villages and the areas around them to be allocated for the building of 200 houses. Such a number would, in any event, effectively double the number of homes within this area. This is a convenient contrivance by NHDC to use the bigger build of 2,150 homes to hide the fact that they have no real plan in place to identify parcels of land within the three villages areas that could be used to build the smaller number of 200 homes they say are needed for North Hertfordshire. **Again, this is not an exceptional circumstance.**
- The statement that such a large scale development of 2,150 homes addresses unmet needs 'as close as possible to Luton and allows this area to plug into sustainable transport networks' is also spurious and frankly laughable. Any development to the west and north of Luton from within Central Bedfordshire or, indeed, from Aylesbury Vale District Council can also be stated to meet these requirements, so the east of Luton sites are not exceptional in that regard. Indeed, there are considerably more public transport options from Luton to the west and north with much better roads, the guided busway, the M1 and closer proximity to the railway stations. The so-called sustainable bus services from Luton to the east that NHDC believes this eastern area could 'plug into' consists of one diesel bus service three times a day between and Luton and Hitchin via other NHDC villages. **This is not an exceptional circumstance.**
- The statement that 'there are no other alternative areas within the NHDC district that sits within the Luton HMA' is **again not an exceptional circumstance.** The Duty to Co-operate means that authorities have to work together to see what they might be able to do to help out neighbouring authorities. It is not a Duty to agree, especially if there are countless reasons why this is not practical. What NHDC should have done was to point out to the neighbouring authorities in the Luton HMA that there was a possibility that a parcel of land east of Luton *might* be available to help meet unmet housing needs from within Luton but the land in question was in prime Green Belt and so development in that area would be difficult to justify – thus essential for all the four authorities to work together to see what better alternatives might exist elsewhere. That would have been acceptable under the Duty to Co-operate.
- The two statements – 'the absence of sufficient non-Green Belt alternatives from the wider Luton HMA that would allow the unmet need to be addressed in full without resort to Green Belt sites', and also 'the absence of sufficient Green Belt sites that might be considered less harmful in Green Belt terms than the East of Luton sites' Surely this is clutching at straws by NHDC. All of the sites assessed in the Luton HMA Growth Options Study have at least some Green Belt contribution. Several of those sites offer **MUCH LESS** contribution to the

purposes of the Green Belt than the East of Luton sites and conceivably could be deployed to meet at least part of the unmet need e.g. the Edlesborough area of Aylesbury Vale District Council ((capacity of 1,200 houses); and areas to the north of Central Bedfordshire's part of the Luton HMA (e.g. Clophill (804), Maulden East (521), Flitton (410), Gravenhurst, (240), Caddington NW (368), M1 Junction 10 – Slip End (900). Total capacity of these sites to 2031 is 4,443 houses and at least two of them (Caddington and J10 of M1) are contiguous with Luton – with a total capacity of 1,268. In addition, Central Bedfordshire recently modified its allocation in its draft Local Plan to meet unmet needs from Luton to include a site - North Houghton Regis - adjoining the north of Luton and inextricably linked to the proposed M1/A6 link road (which has received planning permission) and which will contribute 4,818 houses. (NB: Luton Borough Council has recently stated it will launch a High Court challenge to try and stop the M1A6 link road being built)

- The statement – ‘the scale of need arising in those parts of the Luton HMA in other authority areas, notably Central Bedfordshire, that need to be addressed before they can be considered to be making a ‘net’ contribution to any unmet needs from Luton’. It seems that NHDC has some sort of fixation about the ability of Central Bedfordshire to make its contribution to help meet unmet needs from Luton. Central Bedfordshire has stated categorically that it **WILL** build the 7,350 houses it has earmarked to help meet the Luton unmet need and its latest projections show that this will be met with a small buffer. Additionally the draft Central Bedfordshire Local Plan states that there are 52 small and medium sites ranging in size from 12 - 650 houses and spread throughout Central Bedfordshire – some of these sites, it says, could be released to help contribute towards Luton's unmet needs. But as we have seen from Paper 1, the reality is that there is hardly any unmet need arising from Luton due to Luton's ability to build considerably more houses than its 8,500 minimum, so once again, NHDC's failure to study what is going on in Luton has rebounded on them with this statement.
- The statement – ‘the making of provision towards those unmet needs in a sustainable location immediately adjoining Luton’ – it is utterly inarguable that the East of Luton sites are much less sustainable than other sites close to Luton that are also earmarked. These would include from Central Bedfordshire, the new North Houghton Regis site (4,818 houses), the Caddington North West site (318) and the M1 Junction 10 site (900). Total capacity of these sites is 6,036. Given the plans of Luton to build a further 3,872 houses in the period to 2031, which will reduce the unmet need to 5,428, the unmet need can be met comfortably and more sustainably by the sites allocated by Central Bedfordshire.

c) The absence of further comparative assessment from within the Luton HMA

- 7) The Inspector states that he has not seen any compelling evidence of a Luton HMA-wide comparative analysis of other sites from within the HMA that might provide better opportunities for housing to meet Luton's unmet needs leading him to doubt the eventual justification for allocating the East of Luton sites.
- 8) This point has also been picked up by the Inspectors examining the Central Bedfordshire Local Plan in relation to looking at sites to the west of Luton in particular.
- 9) FOI requests to all four local authorities about the allocation earmarked from NHDC and how it was arrived at have resulted in inadequate responses (and nil in the case

of Luton Borough Council) as to meeting minutes of the HMA. Further requests to find out why this narrow strip of land around Cockernhoe to the East of Luton was considered to be part of the Luton HMA in the first place also have produced no satisfactory response.

- 10) NHDC's response that any land allocated for the purpose of meeting Luton's unmet needs has to be very close indeed to Luton itself cannot be justified if the land in question is making a significant contribution to the purposes of the Green Belt and provides a clear separation of the countryside from the urban conurbation of Luton. If this land were to be built on in the way proposed, it would in effect cease to be part of NHDC but become a dormitory of Luton. In any event there are sites available in Central Bedfordshire that are close to Luton and without the strong Green Belt contribution that is evident around Cockernhoe.
- 11) The reference quoted by NHDC of the Cherwell District Council Plan to meet unmet needs from Oxford is hardly representative of our area. In the Cherwell case the point is surely that the land offered was close to the A44 and A4165 transport corridors. The land around Cockernhoe has but one or two single track, with passing places, roads, originally farm cart tracks, which are prone to flooding and not suitable to heavy traffic. Areas to the west and north of Luton have much better transport corridors that can be used.
- 12) The commentaries that the land around Cockernhoe could be regarded as a seamless extension to Luton town ignores the very rural village atmosphere/Green Belt land which we seek to protect. The areas to the north and west are much closer aligned with Luton through transport links and historically through Luton originally being part of Bedfordshire.
- 13) The point about areas of Central Bedfordshire being close to Luton and that authority needing to satisfy its own housing needs before looking to help meet Luton's unmet needs belies the fact that Central Bedfordshire has said that it can meet its own requirements from within its own area without help from neighbouring authorities and, furthermore, can contribute to meet Luton's unmet needs. NHDC doesn't seem to believe this!! NHDC also makes the point that Luton, Houghton Regis and Dunstable make up a continuous conurbation so, on that basis, surely it is better to use any possible land from within that area first before desecrating unspoilt Green Belt land eastwards. Indeed Central Bedfordshire is now proposing the North Houghton Regis site which will be close to the proposed M1/A6 link road which itself resonates more powerfully with the Cherwell District Council Plan reasoning above (para 11) as the M1/A6 link road and the two roads it connects are nothing if not major transport corridors.
- 14) NHDC adds a further point that the allocation east of Luton has to be self-sustaining from an education viewpoint. This is because Herts County Council states that it cannot justify building smaller schools for smaller numbers of pupils that might arise if fewer houses were built in this area. It further adds that the contribution NHDC could make to meet unmet needs from Luton is either 1,950 homes or it will be nothing. **We would be very happy if it were indeed nothing because we believe that houses from this area are not required to help meet Luton's unmet needs.**
- 15) It is worth offering the view at this stage that NHDC's quest against all the odds that are stacking up to build these houses to the East of Luton to meet Luton's unmet needs is more to do with the scores of millions of pounds it stands to gain from the Government's New Homes Bonus, plus the ongoing Council Tax receipts and the Section 106 payments for infrastructure developments. This is what we believe is driving this helter-skelter approach to build around Cockernhoe. The very integrity of NHDC is at stake here.

- 16) There then follows in the NHDC response a tortuous 13-page commentary - **options for addressing Luton's unmet need on the face of the Growth Study (HOU 7)** which examines many of the suggested sites from within Central Bedfordshire that might be available to help meet Luton's unmet needs, together with commentaries about transport links, and the ability of Central Bedfordshire to actually meet its own needs as well as that of Luton's.
- 17) This analysis by NHDC is, in our view, rendered totally invalid by:
- a) **The fact that we have demonstrated that Luton's house building programme will deliver substantially more houses than the minimum of 8,500 in their Local Plan, thus reducing considerably any unmet need arising from the town;**
 - b) **The fact that some of Central Bedfordshire's site allocations have changed since the publication of HOU7 – most notably with the emergence of North Houghton Regis with its stated capacity of 4,818 houses through to end 2031 and which therefore do not form part of the NHDC analysis.**
- 18) Nonetheless in the interests of openness and analysis we have taken a close look at the NHDC arguments. These are discussed in **Appendix A**, but we stress that the two conclusions (a) and (b) immediately above represent our firm views that the NHDC arguments are invalid.
- 19) It is important that our Appendix A is read because it forensically demolishes much of NHDC's arguments about the ability of Central Bedfordshire to contribute anything towards its own housing needs and to meet unmet needs from Luton. Furthermore, there is either, (a) seriously sloppy analysis by NHDC in terms of mistakes in the paper about the sites nominated by Central Bedfordshire; or (b) an inability by NHDC to keep up with an ever changing situation that renders many of its arguments meaningless, or, (c) a deliberate policy of confusion in terms of misleading the reader by changing the allocation of sites offered by Central Bedfordshire and substituting other sites. The Inspector will be in a better place to judge.

f) NHDC response to Inspector's Query 4 – robustness of the Sustainability Appraisal in relation to the East of Luton sites

- 20) This section is in response to an objection from Natural England that there hasn't been an adequate examination of alternatives to the EOL sites in terms of sustainability and that there doesn't seem to have been a Luton HMA - wide comparative analysis by any of the local authorities concerned.
- 21) NHDC argues that the only way such a sustainability appraisal might cover options in the wider HMA would be through a joint statutory plan with one or more of the local authorities in the HMA., They say this has not been pursued and that no credible suggestion that this should be done has been presented at any point during the examination of the NHDC Local Plan.
- 22) They point out that the timings of the Local Plans are different. Luton was ahead of NHDC with Central Bedfordshire following after and on a different timescale, The Luton inspector specifically concluded that because the NHDC and AVDC areas that

fall within the Luton HMA are so small and that both have more extensive housing market relationships with other authorities, the prospect of preparing a joint plan with Luton would not have been realistic.

- 23) Well that is convenient isn't it! Yes, of course, both NHDC and Aylesbury Vale DC (AVDC) areas in the Luton HMA are tiny which rather underscores our concerns as to why they have been included in the wider Luton HMA in the first place. If they are so small that there is no way that a joint plan could be prepared with Luton, doesn't that rather prove the point that the inclusion of these small areas in the Luton HMA is a grave mistake – the comment by the Luton Inspector that the East of Luton sites have more extensive housing market relationships with other areas is telling
- 24) But that has not prevented the East of Luton areas from being potentially forced to assume a hugely over significant contribution to meeting the housing needs of Luton (the East of Luton site represents about 0.5% of Luton's population and yet the proposed new housing would contribute to meet 22% of Luton's needs). At the same time AVDC has got off scot-free though the area around Edlesborough, which is not in the Green Belt, and capable of 1,200 houses (and over 4,000 in the longer term), whilst being close to a decent main road into the Luton conurbation, has not really been assessed properly.
- 25) The Luton inspector also concluded that there was very little chance that a joint plan between Luton and Central Bedfordshire would have achieved anything – too much delay to the Luton Local Plan and too many complexities of the various housing market areas.
- 26) For these reasons NHDC believes that the NHDC Inspector is wrong to doubt the 'robustness of the sustainability approach' – which is a strange thing to say given that there clearly has been no such proper sustainability examination and therefore robustness has not been demonstrated, merely that the Luton inspector did not consider it worthwhile

g) NHDC'S final conclusions and our commentary

- 27) In its final conclusions NHDC repeats many of the arguments/opinions put forward above but they also state that they believe there are no reasonable grounds on which further comparative assessment is required and they repeat that Central Bedfordshire does not have any reasonable prospect of absorbing a further 2,150 homes within the Luton HMA without those homes from the East of Luton sites.
- 28) That must be pure and biased opinion. The new examination of the Central Bedfordshire Local Plan will surely result in further land allocations coming forward – otherwise how will their Plan be able to pass the examination of meeting its own housing needs?
- 29) Furthermore it takes no account of the findings about what might happen to the west of Luton where there is considerable potential and for which their inspector is demanding a closer study.
- 30) It also fails to consider the impact of the newer OAN statistics arising from the ORS Objectively Assessed Need of November 2017 which shows a lower housing need. And indeed the potential impact of the ONS 2016 population and household

projections which almost certainly will result in even fewer homes being required in Luton.

- 31) Why is no account at all taken by NHDC of the clear evidence from Luton itself as to the scale of its house-building achievements in the past 25 years and, in the current Local Plan period, the clear evidence pointing to an increase of nearly 4,000 houses over and above the stated minimum of 8,500 to be built by Luton Borough?
- 32) How can it be that the figure of 9,300 unmet houses from within Luton stands rigidly in all of NHDC's arguments when it is plainly obvious that this figure is going to be fewer? At what point does the new evidence take over from the established rigid position that NHDC sticks to?
- 33) How can it be that this small parcel of land to the east of Luton can turn out to be the second largest contributor across the whole of the Luton HMA for housing to help meet Luton's unmet needs?
- 34) It is clear to us who are fighting these plans by NHDC that their arguments contained in Paper C represent little more than the Council defending the indefensible. There has clearly been precious little evidence that any of the neighbouring authorities have worked together to prepare a proper assessment of any of the sites identified to help meet unmet housing needs from Luton. The offer from NHDC to build 2,150 homes to the east of Luton seems to have precluded all the authorities from carrying out proper studies as both sets of Inspectors want.
- 35) Finally, as NHDC seeks once again to try and push this unwanted and as we have demonstrated – unneeded – housing on to the East of Luton site, it is seemingly the case that at no time since the draft Local Plan was issued has NHDC engaged meaningfully with the three other local authorities that make up the Luton HMA. This is most starkly illustrated in this Paper C (ED173). There seems to have been no consultation with any of the other local authorities in order to try to come to a reasonable position. As we have seen NHDC has failed miserably to keep tabs on the house building achievements and plans by Luton Borough Council and, furthermore, its response in the paper to the plans by Central Bedfordshire Council are dismissive and certainly not in a spirit of co-operation.

h) Providing answers to the Inspector's questions in relation to NHDC Paper C

- 36) The Inspector posed five questions in relation to NHDC's paper.
- 37) The first question is – does the Growth Options Study provide a comparative assessment of the options for addressing the unmet housing needs of Luton Borough? *We would contend that it does not. It is clear that there has been little or no comparative assessment as discussed above and furthermore events have overtaken the Study. There is no cognisance taken of the actual house building profile from within Luton itself which means that a hugely significant contribution has been totally ignored, rendering the need for much less housing to meet Luton's unmet needs.*
- 38) Question 2 posed by the Inspector relates to the NHDC statement that the above Growth study does not identify alternative locations with strong links to Luton – physical proximity or public transport accessibility – on land that is preferable in Green Belt terms to the East of Luton site. Is this analysis correct? *We would contend that this analysis is incorrect. In this paper we have identified several locations to the north of Luton in particular where the Green Belt exposure is less than in the East of Luton area. Furthermore there is the call by the Inspectors looking at the Central Bedfordshire Local Plan that sites to the West of Luton need to be examined much more thoroughly in this regard. Both the sites identified to the north and west are*

sufficiently close to Luton, have better transport connections and are to a large extent part of the growing conurbation that is Luton/Dunstable/Houghton Regis. In that regard there is already a lot of housing and infrastructure in those areas, unlike the rural area to the East of Luton which has poor road access to the town and a pitiful bus connection service.

- 39) Question 3 – NHDC states that the Growth options study identifies 12,800 homes in locations that (at least partly) make a lesser contribution to the purposes of the Green Belt. Is this correct? Firstly it has to be said that we can find no figure of 12,800 mentioned in the Growth Options Study. The nearest figure that we can calculate that gets close to the 12,800 is to take the areas of all the assessed sites that are marked as having less than a 'strong' impact on the Green Belt and taking the relevant percentage against the total housing projected in those areas through to 2031 and then adding them all up. We get to a figure of around 12,500. Whether this is correct or not is uncertain; not helped by NHDC simply quoting a figure that is impossible to verify and for which they do not provide any method of calculation (Not the first time this has happened in NHDC documentation). That said, our analysis does seem to suggest that a considerable housing potential does exist in the Luton HMA from areas with lesser Green Belt impact than from the East of Luton site and close enough to Luton itself or to good transport links to make these sites viable options.
- 40) Question 4 – without the East of Luton sites are there any realistic options to address Luton's unmet housing need? We would contend most certainly – not least from within Luton itself which we have demonstrated will build close to 4,000 more homes through to 2031, thus reducing the unmet need to 5,428 houses. Central Bedfordshire states unequivocally that it will build the homes needed to meet its proportion of Luton's unmet needs. In that regard the addition of the North Houghton Regis site adding a further 4,818 houses reduces the unmet need to just a few over 600. There will be other sites in Central Bedfordshire than can meet this much smaller target and in any event NHDC has stated that it will not be able to build less than the 1,950 houses in the East of Luton site due to the statement by Herts County Council that it cannot justify building schools catering for smaller numbers of pupils coming from smaller house allocations
- 41) Question 5 – should the Sustainability Appraisal consider land or sites outside of North Hertfordshire? Again we contend, yes it should. There is no doubt that opportunities exist from within the major parts of the Luton HMA outside North Hertfordshire to provide sites for housing to help meet Luton's unmet needs. It is wrong that such a narrow strip of land as the area around Cockernhoe with no more than 200 homes straddling across three small villages in a strongly rural and hugely significant Green Belt area should have to bear such a disproportionate burden as is being foisted on it by NHDC. Indeed the very fact that this area is included in the Luton HMA in the first place is deeply disturbing given its small population which in terms of Luton itself is statistically insignificant.

