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VALP Proposed Main Modifications Consultation RESPONSE FORM

Responses are encouraged via the Council's online consultation system available on the website, see <https://aylesburyvaledc.jdi-consult.net/localplan>. However, this form can be returned via email to localplanconsult@aylesburyvaledc.gov.uk or in hard copy if necessary to:

Planning Policy, Aylesbury Vale District Council, The Gateway, Gatehouse Road, Aylesbury, Bucks, HP19 8FF

The consultation runs from 12pm Tuesday 5 November until 5.15pm Tuesday 17 December

This form has two parts:

Part A - Personal Details and Part B - Your comments

PART A

1. Personal Details

Title	<input type="text" value="Mr"/>
First Name	<input type="text" value="Simon"/>
Last Name	<input type="text" value="Willis"/>
Organisation (Where relevant)	<input type="text" value="Willis Dawson"/>
Address Line 1	<input type="text"/>
Address Line 2	<input type="text"/>
Address Line 3	<input type="text"/>
Post Code	<input type="text"/>
E-mail Address	<input type="text"/>
Telephone Number	<input type="text"/>

2. Agent's Details (if applicable)

Title	<input type="text" value="Mrs"/>
First Name	<input type="text" value="Sarah"/>
Last Name	<input type="text" value="Hamilton-Foyn"/>
Organisation	<input type="text" value="Pegasus Group"/>
Address Line 1	<input type="text" value="Pegasus House"/>
Address Line 2	<input type="text" value="Querns Business Park"/>
Address Line 3	<input type="text" value="Whitworth Road, Cirencester"/>
Post Code	<input type="text" value="GL7 1RT"/>
E-mail Address	<input type="text" value="sarah.hamilton-foyn@pegasusgroup.co.uk"/>
Telephone Number	<input type="text" value="01285 641717"/>

PART B

REPRESENTATION FORM

Please Note: You do not need to return this form if you have made the same comments via the council's online system for this consultation. Duplicates will not be considered.

Please specify which Proposed Main Modification, part of the Sustainability Appraisal addendum or Habitat Regulation Assessment your comments relate to. Any representations on the content of the new evidence published alongside the Proposed Main Modifications must also relate to a specified Main Modification to the VALP or they will not be accepted. If you wish to comment on more than one Modification please use a separate form for each.

e.g. MM001

MM023

Do you support or object?

Support Object

Do you consider the Local Plan to be legally compliant?

Yes No

Do you consider the Local Plan to be sound?

Yes No

If you do NOT consider the Local Plan to be sound, please specify on what grounds:

Positively prepared Justified Effective Consistent with National Policy

Enter your full representation here:

The Council identify in MM023 that there is a five-year land supply for the period 2018-23. The calculations in support of this position are presented in AM043 which is not open for consultation. Pegasus Group draw reference to these calculations as appropriate below in support of this representation to MM023.

The protection of the five-year land supply

The VALP is being examined under the transitional arrangements of paragraph 214 of the current NPPF such that it is being examined in the context of the former NPPF and former PPG. However, for decision-making purposes, the five-year land supply position must be considered in the context of the current NPPF and PPG. It is therefore the case that the five-year land supply position which is being considered for the purposes of this examination is different to that which will apply the moment before and the moment after adoption of the VALP. MM023 should therefore be modified to provide clarity that the Council consider that they are able to demonstrate a five-year land supply under the former NPPF rather than the current NPPF.

The former and current NPPF provide significantly different policies on the five-year land supply, particularly in relation to the buffer and the definition of a deliverable site.

Paragraph 47 of the former NPPF required the application of a 20% buffer where there was a record of persistent under-delivery and a 5% buffer in all other cases. A record of persistent under-delivery was based on the judgment of the decision maker according to the former PPG (3-035). The only substantive guidance on this concept was that this should be assessed over the longer-term. Paragraph 73 of the current NPPF now identifies that the buffer is largely dependent upon the Housing Delivery Test, which

measures the record of delivery using specified metric over the three preceding years only. It identifies that a 20% buffer will apply where there is a record of significant under-delivery, which is defined to be a Housing Delivery Test result of less than 85%, or that a 10% buffer will apply where a LPA wishes to protect their five-year land supply position through a recently adopted plan (and where there is not a record of significant under-delivery), and that a 5% buffer will apply in all other cases.

The method to calculate the buffer between the former NPPF and the current NPPF has therefore fundamentally changed, such that it may be concluded that it is appropriate to apply one buffer for the purposes of this examination, but a different buffer will apply the moment before and after adoption.

Similarly, in order to be considered deliverable under the former NPPF it was only necessary for a site to be available now, offer a suitable location for development now and be achievable with a realistic prospect of delivery within five-years. Whilst this definition continues to apply for the purposes of this examination, the current NPPF provides a different definition with a requirement for clear evidence that completions will begin on-site within five-years for certain specified sources of supply. This again represents a fundamental change, such that the deliverable supply identified for the purposes of this examination will be different to that which exists the moment before and the moment after adoption.

This distinction is made clear in the current PPG (68-011) which identifies that in order to benefit from the protection of paragraph 74 of the current NPPF, namely that a five-year land supply will be able to be demonstrated where it has been established in a recently adopted plan, the five-year land supply will need to be assessed under the definition of a deliverable site in the current NPPF.

In order to facilitate this, the PPG (68-010) identifies that in order to benefit from this protection, the LPA will need to be clear that they are seeking this protection at Regulation 19 stage. This allows all parties to submit representations on the deliverability of sites under the current (rather than former) NPPF. However, this was not done in Aylesbury Vale and accordingly the Council will not benefit from this protection once the VALP is adopted.

This appears to be accepted by the Council as they do not apply the necessary 10% buffer required by paragraph 73 of the current NPPF in AM043. It should be made clear within MM023 that whilst the Council considers that it is able to demonstrate a five-year land supply, this will not be protected under paragraph 74 of the current NPPF given that the correct process has not been followed to benefit from this protection, consultees have therefore not submitted representations on this basis, and the requisite buffer has not been applied.

The housing requirement

In AM043, the Council identify a 5.47 year land supply against the proposed housing requirement of 28,600 homes. Based on the approach and buffer proposed by the Council and the deliverable supply identified by the Council, there would be a five-year land supply against any housing requirement of up to 30,714 homes. Accordingly, assuming that the Council's approach, buffer and deliverable supply are supported, the Council would be able to demonstrate a five-year land supply against the housing need for 30,345 homes as identified in response to MM001. The identified deliverable supply of the Council would therefore meet the housing need which addresses the concerns of the Inspector in terms of the migration effects of the financial crisis.

However, the approach, buffer and deliverable supply of the Council is not supported.

The approach

The Council had applied the Sedgefield approach to address any backlog in both CD/HOU/010 and the subsequent update entitled the VALP Housing Land Supply Soundness document June 2018. This accords with the former PPG (3-035) which identified that the Sedgefield approach should be applied where possible and where this is not possible LPAs will need to work with neighbouring authorities. The

Council however has demurred from this position and now seek to apply the Liverpool approach in AM043.

The Council's five-year land supply position is almost entirely dependent upon this modification and so it is likely to be material to the soundness of the VALP. Accordingly, this should be considered as a Main Modification. However, this change has only been identified in AM043, which is not open to consultation. In the absence of this significant modification being transparently presented and made available for consultation, it may be necessary to reconsult separately on this modification. Nevertheless, having identified this additional modification, Pegasus Group addresses it below.

The Council has provided no justification for seeking to apply the Liverpool approach.

The use of the Liverpool approach simply defers addressing needs which have already gone unmet. This gives rise to significant adverse social, economic and potentially environmental effects to communities and compounds the housing crisis in the short-term, contrary to the objectives of national policy. Such an approach should only be applied as a last resort where absolutely necessary and the resultant harms should be pro-actively addressed within neighbouring LPAs under the duty to co-operate in accordance with the former PPG (3-035) through increasing the requirements in those other LPAs in the short-term to minimise the adverse effects on communities. None of these circumstances apply in Aylesbury Vale. If the Council's buffer and deliverable supply is supported, the Council will be able to identify a marginal five-year land supply and so the use of the Liverpool approach would be contrary to the former PPG (3-035) and the Council has not worked with neighbouring LPAs to address short-term needs and so again the use of the Liverpool approach would be contrary to the former PPG (3-035).

The buffer

As illustrated in Table 7 of the Schedule of Main Modifications, there has been a record of under-delivery in every single year prior to the base-date of the five-year land supply assessment namely from 2013-18. It is considered inconceivable how this could be considered anything other than a record of persistent under-delivery. In such circumstances, paragraph 47 of the former NPPF requires the application of a 20% buffer.

Once the necessary 20% buffer is applied, the Council is unable to demonstrate a five-year land supply even against the proposed housing requirement which does not address the Inspector's concerns and even using the Liverpool approach contrary to the former PPG.

The deliverable supply

Pegasus Group was involved in a S78 appeal this year during which evidence on housing land supply was prepared, although it was agreed that the five-year land supply position was not material to the decision and so the evidence was not presented at the inquiry. During the course of the preparation for this inquiry, a Statement of Common Ground was under-preparation, within which the Council had conceded that 75 of the homes identified within the deliverable supply were not deliverable, owing to the fact that the capacity of some sites had been mis-recorded, subsequent applications for reserved matters had changed the number of dwellings, some sites had been duplicated, and the permissions on some sites had lapsed. These concessions should be maintained notwithstanding the different definition of a deliverable site which is applied for the purposes of this examination as these concessions did not arise from an absence of clear evidence. However, these 75 homes seemingly erroneously remain in the deliverable supply identified by the Council. This difference is not however likely to be material to the existence or otherwise of a five-year land supply, just to the extent of any surplus or shortfall.

It is not considered proportionate to undertake a detailed site by site assessment of the remaining components of the deliverable supply, owing to the fact that the Council will be unable to demonstrate a five-year land supply once the necessary 20% buffer is applied and that whatever conclusion is reached on the five-year land supply position for the purposes of this examination will be immediately out-of-date.

However, it is pertinent that the Council's identified 5.47 year land supply position provides a surplus of only 740 homes under the former NPPF. This provides a surplus of only 740 homes even if the Council's position is supported and it is found appropriate to:

- set a housing requirement of 28,600 homes notwithstanding the Inspector's concerns;
- apply the Liverpool approach is endorsed notwithstanding that this is contrary to the former PPG;
- support the supply notwithstanding the fact that the Council has previously conceded certain elements of this; and
- assume that outline planning permissions and allocations are deliverable in the absence of clear evidence notwithstanding that this is contrary to the current NPPF.

This 5.47 year land supply also relies upon the delivery of strategic allocations for which it is considered that there is no realistic prospect of achieving the trajectories identified by the Council. For example:

- The Council assume that the site at AGT2 South West Aylesbury will achieve the first completions in mid-2022/23 (within circa 33 months) notwithstanding that:
 - the Start to Finish Report, Lichfields, November 2016 identifies that for a site of this scale it takes on average almost 6 years from the submission of a planning application until the first completion;
 - that the delivery of this site is dependent upon the off-site highways works to be brought forward as part of HS2 which is currently subject to a Governmental review, and until this review is complete and the future of HS2 secured it is entirely uncertain whether the infrastructure upon which the development relies will be in place; and
 - the current outline planning application remains undetermined and is the subject of numerous objections including from statutory consultees including the Environment Agency; and
- The Council assume that the sites at Shenley Park and RAF Halton will achieve the first completions in mid-2024/25 (within circa 57 months) despite that no planning application has even been submitted on these sites and the Start to Finish Report indicates that on average it would take almost 6 years (72 months) from the submission of a planning application until the first completion.
- The Council assume that the site at Land between Wendover Road and Aston Clinton Road will achieve the first completions in mid-2021/22 (within circa 21 months) notwithstanding that:
 - the Start to Finish Report, Lichfields, November 2016 identifies that for a site of this scale it takes on average almost 7 years from the submission of a planning application until the first completion which would take us to early 2023;
 - the delivery of this site includes the delivery of the Southern Link Road which the draft S106 of April 2019 identifies would be secured by obligation requiring practical completion by 2021, however, planning permission has still not been secured in December 2019 and as a result, it is now considered that there is no prospect of this being achieved;
- The Council assume that the site at Salden Chase will achieve the first completions in mid-2021/22 (within circa 21 months) notwithstanding that Milton Keynes Council recently refused planning permission, in November 2019, for the highways accesses necessary to facilitate the proposed Salden Chase development; and
- There is also significant doubt as to whether the site at Aylesbury Woodlands is achievable according to the Council's trajectory given its reliance upon the Eastern Link Road.

Furthermore, the Council assume that some of the proposed allocations which do not benefit from an implementable planning permission will achieve completions in 2020/21 or before. This is simply unrealistic. For example:

- The Council assume that the site at Land north of Aylesbury Rd and r/o Great Stone House will be complete prior to April 2020 but this remains subject of an application to discharge a pre-commencement condition and so cannot have even commenced;
- The Council assume that the site at Land east of Walnut Drive and West of Foscoote Road will deliver completions in mid-2020/21 (within circa 9 months) despite of the fact that the outline

planning application remains to be determined and there are no applications for the approval of reserved matters;

- The Council assume that the site at The PO Sorting Office will be fully complete in 2020/21 but there is no evidence that a planning application has even been submitted on this site;
- The Council assume that the site at Land off Turnfields will achieve completions in 2020/21 despite of the fact that there is no application for the approval of reserved matters on this site;
- The Council assume that the site at Land south of Whaddon Road and West of Lower Road will achieve completions in 2020/21 despite of the fact that there is no application for the approval of reserved matters on this site; and
- The Council assume that the site at Dadbrook Farm will achieve completions in 2020/21 despite of the fact that no planning application has even been submitted on this site:

Similarly, the Council assume that completions will be achieved on sites which are not even subject to outline planning permission in 2021/22, within two years. Figure 4 of the Start to Finish Report, Lichfields, November 2016 identifies that on average it takes between 1.5 and 2 years from the approval of reserved matters until the first completion on sites of less than 500 homes. Accordingly, the Council's trajectories are at best unduly optimistic and considered unrealistic. For example:

- The Council assume that the site at Land off Osier Way will deliver completions in mid-2021/22 (within circa 21 months) despite of the fact that is only the subject of an undetermined outline planning application which remains the subject of objections and requests for further information including from local highways authority;
- The Council assume that the site at Land north of Rosemary Lane will deliver completions in mid-2021/22 (within circa 21 months) despite of the fact that is only the subject of an undetermined outline planning application;
- The Council assume that the site at Land east of B4033 Great Horwood Road will deliver completions in mid-2021/22 (within circa 21 months) despite of the fact that part of the site is subject to an undetermined outline planning application; and the remainder of the site is subject to an undetermined outline planning application on which a S78 appeal is live on the grounds of non-determination which the Council has identified it would have refused owing to 3 putative reasons for refusal; and
- The Council assume that the site at Land south of Creslow Way will deliver completions in mid-2021/22 (within circa 21 months) despite of the fact that this is not even the subject of any planning application.

It is considered that there is simply no prospect of any of the above trajectories being achieved. It may also be the case that the trajectories for other sites are unachievable, but these have not been considered given that it is clearly the case that the VALP will not be able to demonstrate a five-year land supply even if these are delivered according to the trajectories.

It is therefore considered inevitable that, based on the deliverable supply identified by the Council, there will be a five-year land supply shortfall immediately upon adoption of the VALP even if this was found to be sound. This is exactly the position that Milton Keynes Council has found itself in, having adopted Plan MK in March 2019 with the Inspector having concluded that the Council was able to demonstrate a five-year land supply under the former NPPF, but within six months a S78 Inspector has found that there is only a 4.4 year land supply under the current NPPF. In order for the policies of the VALP to be effective post-adoption, it will therefore be necessary either to increase supply within the VALP through additional allocations or apply policies flexibly until such time as a five-year land supply can be restored.

In summary, the Council is unable to demonstrate a five-year land supply in accordance with the former NPPF for the purposes of the examination and it is unable to demonstrate a five-year land supply under the current NPPF for decision-making purposes both before and after the adoption of the VALP. It will therefore be necessary to identify additional sources of supply within the VALP and/or to introduce additional flexibility into policies until such time as a five-year land supply is able to be restored.

If your representation is more than 100 words, please provide a summary under 100 words here:

The five-year land supply position identified by the Council is contrary to national policy and guidance.

Please specify the changes you think are needed to be made to the proposed main modification. It will be helpful if you are able to put forward your suggested revised wording of any policy or text.

The VALP is unable to support a five-year land supply either for plan-making or decision-making purposes and accordingly additional sources of supply will need to be identified and/or additional flexibility provided within policies to enable a sufficient supply to be restored.

If the inspector decides further hearing sessions are needed would you wish to speak at these?

Yes

No

If Yes - you wish to speak at any further hearings, please outline why you consider this to be necessary:

The policies of the VALP will be ineffective in the absence of a five-year land supply and it is therefore necessary to ensure that the VALP responds appropriately.

Do you wish to be notified...

When the Inspector's report is published?

When the Vale of Aylesbury Local Plan is adopted?

**Vale of Aylesbury Local Plan: Responses should be returned to Aylesbury
Vale District Council by 5.15pm Tuesday 17 December 2019
(responses will not be accepted after this time)**