



Communities and Local Government Committee

Oral evidence: Operation of the National Planning Policy Framework, HC 190

Wednesday 10 September 2014

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Written evidence from witnesses:

Panel 1 (Questions 665-705)

Vale of White Horse District Council

London Borough of Islington

Luton Borough Council

Watch the session

Members present: Mr Clive Betts (Chair); Bob Blackman; Simon Danczuk; Mrs Mary Glendon; David Heyes; Mark Pawsey; John Stevenson; and Chris Williamson.

Panel 1 Questions [665-705]

Witnesses: Councillor Matthew Barber, Leader, Vale of White Horse District Council, Councillor James Murray, Executive Member for Housing and Development, London Borough of Islington, and Councillor Hazel Simmons, Leader, Luton Borough Council, gave evidence.

Chair: We begin now our next session on the operation of the National Planning Policy Framework, which will be public evidence session 9. Can I welcome you to our session and can I sincerely apologise for the wait that you have had? You are probably aware we have had an extra session that we took this afternoon about the child sexual exploitation issues in Rotherham, which clearly has some immediacy and some importance. That is why we have been longer than we had anticipated in coming to you, but thank you very much for your patience in waiting for us. At the beginning, members of the Committee have already declared their interests, which are similar for the previous inquiry as to this one, and put them on the record, apart from Mary, if you could just put your interests on the record, because you were not at the beginning of the last session.

Mrs Glendon: I am sorry about that, Chair. My husband is a councillor in North Tyneside, as is a member of my staff.

Mark Pawsey: I have a member of staff who is a councillor.

Q665 Chair: For the sake of our records, if you could just say who you are and the organisation you represent, that would be really helpful, thank you.

Cllr Murray: Chair, I am James Murray. I am a councillor in Islington, with responsibility for housing and development.

Cllr Barber: I am Matthew Barber, Leader of the Vale of White Horse District Council.

Cllr Simmons: Hazel Simmons and I am Leader of Luton Borough Council.

Q666 Chair: Thank you very much for coming. I just have to say read something. It is just an issue around Luton Council and the issue of the judicial review proceedings that currently you have against Central Bedfordshire, in respect of a planning matter that has been drawn to our attention. I can allow questions about the operation of the duty to co-operate between Luton and Central Bedfordshire, which is obviously relevant to the inquiry, but I cannot allow questions about the details of the planning application, which is subject to judicial review. That is just to make it clear for members and for witnesses. That is an area that we cannot go into, but that should not restrict us in terms of the overall proceedings.

Let us go on and look initially at the issue of viability assessments and how developers may or not be using them to avoid paying for affordable housing infrastructure and other things. I am sure they would not do that knowingly but, Councillor Murray, I think you have drawn to our attention some concerns over the operation of developers in Islington. Would you like to say a bit more about that?

Cllr Murray: Thank you very much, Clive. Would it help if I set out for the Committee a brief overview of viability or is that not necessary?

Chair: Be brief.

Cllr Murray: To be as brief as I possibly can in explaining how viability works, broadly speaking, viability, which is now taking centre stage under the NPPF, operates by taking the completed value of the scheme—so all of the amounts that you might sell the completed homes, flats or offices for—taking all the elements that go toward creating that scheme—so the development costs, the profit, the affordable housing contributions and so on—and then you arrive at a residual land value at the end. That is what the developer would pay to the landowner to release that land.

The viability question comes about when you compare that residual land value to what they call the benchmark land value, which is the amount you would have to pay the landowner to release that land. It is basically a big model that has lots of variables within it but, if you start to tweak those variables or even, more than tweaking, dramatically changing some of those variables, you can get a very different outcome at the end of it. For instance, on the sales values of the flats at the end—in particular parts of the borough of Islington, property prices are going up by 30% a year—trying to estimate what the sales value is going to be six or seven years down the line is going to have a huge effect on the viability of the scheme. Likewise, the profit that the developer might take, the amount of affordable housing or the benchmark land value of the site is going to have a big impact on the scheme. What I would contend is that, because viability is now so central to almost

every major and even some minor planning applications, you have very well resourced developers coming up with very detailed viability analyses, which allow them to get away with not providing community benefit and, chiefly, in Islington that means affordable housing.

I can give what I think is a very good and quite high-profile example of how I think viability is being abused in Islington if we look at the Royal Mail-owned site at Mount Pleasant, which borders Islington and Camden. To put it very simply, Royal Mail wants to build housing on the car park part of that site. In terms of viability, there should be a high amount of affordable housing we can get from this scheme, because you have extremely high sales prices for flats in that area. I just checked on the way here what a one-bedroom in a new tower goes for around there; it is £750,000, but that was last year and they are going up by 30%, so try to work out what it is worth now. I do not think getting money from selling those flats will be a problem for any interested developer. At the same time in this particular scheme, you have a very low land value because it is at the moment a car park. As we heard from the National Audit Office investigation into the privatisation of Royal Mail, the assets, including Mount Pleasant, were significantly undervalued, so there clearly is a lot of value that the public can get back from that site in terms of affordable housing.

Royal Mail came in with a planning application. They have no developer. They are clearly a landowner, so it is a speculative planning application to add value to their portfolio. What is very clear is, because they are the landowner, it is massively in their interest to overstate the value of the land as is. They came in with a model to us, which had very high land value expectations and very pessimistic sales forecasts for the flats that they would sell in any development, and that meant that their application, at one stage, only included 12% affordable housing, when our independent viability analysis showed that 50% affordable housing would be easily possible.

This application has been called in by the Mayor of London and his advisers appear favourable to the slightly changed offer of 24% affordable housing, which they are now offering. This really draws into stark relief the big impact that this could have. This is a huge site with hundreds of homes, where we could be missing out on affordable housing. If the Mayor of London accepts what we think are questionable assumptions about the overstated land value and other parts of the model, he will essentially give the green light to a scheme that favours the landowner's profit over affordable housing. We estimate, just to give you a sense of the scale here, from publicly available information, that if the Mayor of London says okay to this scheme on 3 October, when he is due to hear it, he is essentially selling out on affordable housing and handing a cheque for at least £30 million to Royal Mail's private investors. We are talking a big amount of money and we are talking, more importantly, a huge amount of affordable housing when we get schemes like this, where viability is centre stage.

Q667 Chair: Is this a general problem, this issue of viability, and developers or landowners trying to alter the figures, so that they do not have to provide affordable housing or other infrastructure? Is that a problem in your areas as well?

Cllr Barber: It is certainly something we have experienced. I do not think we have examples quite as stark as has just been outlined.

Chair: No, but probably few areas have.

Cllr Barber: But clearly we have the example of that. The biggest issue we have, as explained in our evidence, is actually the issue of the five-year land supply, but the viability is undoubtedly a problem, particularly at the stage of the plan we are at where we are setting our CIL charging level or about to be doing that. Where we set that level of CIL, the viability is obviously incredibly important. Set CIL too high and it will inhibit development and cause ourselves further problems. Set CIL too low because of viability and we are then left to the vagaries of the Section 106, which has its benefits and disbenefits. The viability question, how we judge that, how the developers present those facts and how the inspector will eventually judge those cases are absolutely crucial.

Cllr Simmons: We would agree with that. Luton has relatively low land values compared to other areas in the south of the country, so the viability of the development is often marginal, particularly in our larger brownfield sites. While the words of the guidance appear reasonable on the face of it, that is not the experience we have from it. Our main priority is to deliver affordable housing. As you know, Luton has a big housing need, which actually means we are not able to provide sustainable and balanced developments. Instead, we are getting housing without the supporting infrastructure, so that our needs for affordable housing and the pressure on our schools continue to grow. So we would agree with that.

Q668 Chair: If that is the problem, what is the solution?

Cllr Murray: What is really key to recognise is that a couple of years ago we only had a handful of viability reports coming in on schemes. It was not commonplace at all; it was a very rare thing for us to see. Suddenly, because of the emphasis on sustainable development within the NPPF, rather than that fixing itself on what I think it should be fixed on, which is affordable housing, infrastructure and so on, it has become fixed on just this question of viability. Viability has suddenly swung to centre stage and now, in Islington, as I said earlier, we get viability reports on everything—on all these major applications and a lot of minors. Although our officers in Islington are pretty good at this and very well able to unpick it—I am not just saying that because they are sat behind me. I genuinely mean it—

Chair: They have written the brief, haven't they?

Cllr Murray: Yes. It's handwritten; it's my one. Although they are able to, it is always going up against these assumptions, which come in from developers, which then have to be unpicked. For instance, the modelling, quite often, behind the assumptions they are making is not shared with the councils, so you have to reinterpret the modelling and backwards-extrapolate how they got to that figure. To actually question the figures within the information that is coming over is very hard. What I would say is that, in Islington, we are very soon starting a supplementary planning document about viability, which will set out our expectations about the process, the methodology, the justification and so on for all of the parts of the model that developers use in a viability toolkit. That is only a supplementary planning document that we do locally. We need national action to make sure that landowner windfalls do not come primarily as the consideration.

There are three ways I can suggest you might achieve that, which are, first, through greater transparency. There is a huge issue with confidentiality being insisted on, in terms of not publishing this data, so it is essentially a fight between the developers and council officers, who are trying to catch up with all this information. As it is not being published transparently, it then is not subject to full public scrutiny. Really testing that confidentiality argument that developers throw at us is important. You could also have review mechanisms. It is particularly a London thing, but it might affect more broadly, in that if you have a scheme that is six or seven years until completion, you cannot possibly guess how much the sales value is going to go up in that time. In London, we assume they are going to keep going up by a lot, but to build in some review mechanisms would mean that any extra value over the years could be clawed back. Finally, because this has become such an industry and it has become such a systemic part of planning, there should be a review of how viability is working, possibly by the National Audit Office or an appropriate body, which could do a thorough investigation of whether this is delivering what the NPPF and what local councils actually want to have.

Cllr Barber: I would not disagree with the points made. One of the things that affects the process at the other end, particularly in the Section 106 regime, is the ability for developers to appeal seemingly unreasonable or currently unviable Section 106 agreements. We are very concerned that we get to a situation locally where we have some major applications where the infrastructure is absolutely vital, not just for those, but also to pull together the picture of infrastructure around some of our larger towns. There is this risk that we are very concerned about that, actually, once having agreed the Section 106, developers will use the argument of viability to go straight to appeal—perhaps not straight to appeal, a discreet period so that it does not look too obvious—on those to be released from some of those Section 106 contributions. If they do that, we have not achieved the infrastructure requirements that we undoubtedly need in the area, and that is all based on the viability argument.

Cllr Simmons: I would not disagree with anything that has been said there but, alongside this, there is a lack of Government funding and/or mechanisms to enable projects, such as on brownfield sites or even greenfield sites, where the market is unable to bring forward required development. The reduction in HCA funding, for instance, is having a negative impact on delivery of affordable housing in Luton, at a time when needs are increasing. If we cannot rely on the market to deliver that, we have to have some support to help us be able to take that forward.

Q669 Mark Pawsey: I feel you have answered this one partly. I wonder if I could put to the councillors that we have expected planners to negotiate Section 106 agreements for years. In some instances, clever developers have out-manoeuvred planning officers on Section 106 agreements. We simply have to expect our officers now to raise their game. I do not think it is enough to say, “We just want the Government to give more money.” We were told by Councillor Murray that we are in an era of rising house values. The officers have simply got to get their evidence together, make their case, make it evidence-based and extract the increased value that is there, not say, “Mr Government, please give me more money.”

Cllr Murray: In a way, the discussion about Section 106 is slightly moot, because it is going and being replaced by CIL, the Community Infrastructure Levy.

Mark Pawsey: In those councils that choose to adopt it.

Cllr Murray: If you look at it as an example of how you can change a system, CIL does not depend on negotiation to the same extent, because it is flat rate per square metre of whatever net floor space you create, so it is a more transparent, upfront way of getting a developer's contribution. What is really important then is that, when you were questioning where that extra payment comes from, where does the CIL fit into the viability model, the temptation, I dare say, for lots of developers will be to have it eat into the affordable housing contribution, rather than to be passed on to the landowner in the form of a reduced land payment. That is where guidance from national Government would be helpful. Absolutely, the implementation will be done locally. One of the problems that we have been having is that local planning decisions are taken out of our hands by the Mayor of London, by appeal to a planning inspector and so on. If you are going to move to a system of CIL, you need to be very clear that that should be borne, at least to some extent, by the price that the landowner receives, rather than eating into affordable housing yet again through the viability mechanism.

Q670 Simon Danczuk: We are trying to understand why it is so difficult for authorities to get their local plans in place. Why have you found it such a struggle, Matthew?

Cllr Barber: One of the biggest obstacles that we have had has been the moving goalposts. After the NPPF, we had the NPPG, which effectively introduced some new policies and changes that we have had to deal with. We have had changing guidance, certainly over the end of last summer, so we were working to a particular target and some issues have changed.

Q671 Simon Danczuk: It is the Government's fault.

Cllr Barber: No, I do not blame the Government for the delay in the plan per se, because there is an obstacle course that we have to go through. I blame the Government for changing things as we move along.

Simon Danczuk: So it is the Government's fault then.

Cllr Barber: Part of it is the Government's fault and part of it is just the process that we have to go through. One of the things that we had to do following the abolition of the South East Regional Plan was to construct our own housing number. We have done that jointly with other authorities in Oxfordshire, which is our strategic housing market area. We have come up with our Strategic Housing Market Assessment, which has produced numbers, which I do not think anybody in that area is comfortable with. They are incredibly high numbers. We in the Vale have a target of over 20,000 houses that we need to meet over our plan period.

That process takes time. It is actually something that councils have always argued for: that we ought to have the power to set our own target. We have had to generate that number locally, but it has been done from a Government-derived methodology. That part of the process was a natural delay, where you would have to ascertain what your housing target was. There have been additional delays caused by Government changes to guidance, particularly through the NPPG. We deal with those, but that is certainly one of the obstacles.

Simon Danczuk: Hazel, do you blame the Government?

Cllr Simmons: When the PINS inspectors visited London to provide advice on our plan preparation, they commented that we are in uncharted waters, because of the circumstances particular to Luton. We face poor development viability, so little land and so much need for housing. Our recently updated Strategic Housing Market Assessment, completed with eight other associations, showed that Luton had a need for 18,000 homes between 2011 and 2031, and urban capacity only to provide 6,000.

We are faced with needing our neighbours to actively co-operate with us for us to progress our plan and, for a variety of reasons, they are unable or unwilling to do so. Responses from other authorities have generally been attempting to rush through their plans without making proper consideration for meeting Luton's unmet housing needs. For instance, Central Bedfordshire has just consulted on a plan that does not fully reflect the recently completed Strategic Housing Market Assessment. I am not blaming the Government; I am saying that this is what we are dealing with through the planning mechanism we are having to work under.

Q672 Simon Danczuk: You have not got it done yet?

Cllr Simmons: No. It is working.

Q673 Simon Danczuk: The Planning Inspectorate has suggested that political will was one of the main barriers to getting local plans in place. How would you react to that, Hazel? You do not have the will power to get it done; is that not the truth?

Cllr Simmons: That is not true. I have just explained to you the issues in Luton that are very difficult to overcome without support from our neighbours. We have not got the land within our area. We are landlocked and we need support from our neighbours to be able to develop housing, particularly affordable housing. We need 18,000 homes and we have the capacity to build 6,000. What we are concerned about is, if we do a plan, which we are in the process of doing, as things stand, both we and our neighbours could face the prospect of having our plans fail the test of soundness because it cannot be demonstrated how that housing need is going to be met.

Q674 Simon Danczuk: Matthew, all local authorities can come up with special pleading in relation to this issue, but many of them just get on with it and get it done. Why have you not?

Cllr Barber: I think we have got on and got it done. We inherited a situation where we came to power less than four years ago and the authority did not have an adopted local plan.

Simon Danczuk: It is your predecessor's fault.

Cllr Barber: Yes, it is our predecessor's fault that we did not have a plan.

Q675 Simon Danczuk: Basically, it is the Government's fault; it is your predecessor's fault. It is just not your fault. That is the reality of this, is it not? You have only had four years to do it.

Cllr Barber: The reality is it is a process that does take a period of time. We have statutory consultation periods, quite rightly. We have to analyse the results of those consultations. We have to respond accordingly. We had to conduct our own Strategic Housing Market

Assessment. We have gone through that process. You have mentioned political will, and there is absolutely political will to get this in place.

Q676 Simon Danczuk: When will it be in place then, Matthew?

Cllr Barber: We will shortly be going out with our Reg 19 consultation. There is another statutory consultation, which will take its time. We expect to be able to submit that to the Inspectorate hopefully this side of Christmas, potentially the other side of Christmas, depending on the number of responses that we receive, and to have it adopted early next year.

Q677 Simon Danczuk: What one change would you make to the National Planning Policy to help speed up the adoption of local plans? Hazel, what one change would you make, off the top of your head?

Cllr Simmons: I would make the duty to co-operate a bit more forceful.

Simon Danczuk: Stronger, yes. We will probably ask about that later. Matthew?

Cllr Barber: I would want to make the requirements of the Strategic Housing Market Assessment, the establishment of the housing target, to have a much clearer methodology that could be more easily understood and more easily derived. The biggest delay, in our plan process, has been establishing that housing need across the strategic market area and dealing with that through the duty to co-operate with neighbouring authorities.

Q678 Simon Danczuk: When you get this to the Planning Inspectorate stage, they might reject it. It has been suggested, throughout evidence that we have taken, that one idea might be to allow the Inspectorate to agree a proportion of the plan, so you can be getting on with some of it and not other aspects of it that still need to be put right. What do you think of that idea? Do you follow that?

Cllr Barber: It is not something we have explored, but it is a very interesting idea. I would go back to the political will. Time is absolutely of the essence from our point of view. We have a real issue with five-year land supply, or lack of, in our district. It is causing us real problems. There is a real imperative to get a plan in place and get a sound plan in place but, as I say, that takes a period of time. If we can progress some elements of it more quickly that would get us to a position where we can have some comfort from that plan to then give us a bit more time to get the plan right. Speed is absolutely important, but getting a sound plan and a plan that can deliver what our public, the residents of the Vale, want is also vital.

Q679 Simon Danczuk: Just briefly, James, sorry I have ignored you, but do you have any other general observations in terms of local plans?

Cllr Murray: Our local plan is in place. We are in a more fortunate situation. Again, I do not want to make this too much about London, but it is interesting to look at the different structure in London. It has quite a different outcome. In the rest of the country, when the regional spatial strategies were abolished, in London you effectively retained one through the Mayor of London. All the questions about duty to co-operate do not, I think, come up in the same way between us and other inner London boroughs, because there is the framework we co-operate or interact through, via the Mayor of London.

What I would say is that it does become a bit hard to understand why, in cases like ours where we have a core strategy in place, we have site allocations in place and we are going to deliver 6,000 new homes over this council term, the Mayor focuses on us rather than other boroughs—I will not name them—that are not delivering homes. I think there should be a bit of an understanding there. If you are delivering homes, if you are getting on with it, let us have the rent levels that we think are appropriate, let us do the radical stuff we want to do and do not keep coming and picking a fight with us. Pick a fight with people who are not delivering homes.

Q680 Simon Danczuk: Name the authorities that are not delivering homes.

Cllr Murray: It would be indiscreet of me to name them.

Simon Danczuk: You have the chance to name them.

Cllr Murray: Most of them do not, but in particular some of the outer London boroughs are not picking up the home targets, whereas there are inner London boroughs like Islington that are.

Q681 Mark Pawsey: Just a quick question: the problems seem to occur in those authorities that do not have a local plan in place. Matthew, you have told us that was the fault of your predecessors. Would it be a good idea for plan-making to be a statutory obligation?

Cllr Barber: Yes. I am not sure that necessarily would have helped in our circumstances. The previous council had agreement from the previous Secretary of State to hold over some of those policies from a previous plan and delay that process. They have not just ignored the fact; they have gone through a process to give themselves an extension, but events obviously overtook that. Having a statutory responsibility to do so would put on that extra onus and drive things forward.

Q682 Mark Pawsey: Hazel, if you had had to do it, would you have done it?

Cllr Simmons: We could certainly do a plan, but we would need definitely to address the issues of how we are going to solve the need for our housing, as I have explained to you in the last question. Doing a plan is okay, but we would want a workable plan.

Q683 Mark Pawsey: You have had loads of time. You have had years to work up a local plan. If it had been a statutory obligation that you had to do one within two or three years of the legislation coming out, you would have had one in place years ago.

Cllr Simmons: Yes, and it could have been rejected if we had not solved the other issues.

Chair: I am just going to hand over now to David Heyes to ask the next question. I just want to apologise; I am going to have to leave, because I have an interview to do on the back of the previous hearing that we had about Rotherham. Thank you very much for coming. Bob Blackman is going to take over the Chair for the next couple of questions.

In the absence of the Chair, Bob Blackman was called to the Chair.

Q684 David Heyes: I wanted to ask you very briefly about land banking. I think I will start with Councillor Barber. You said in your evidence to us that you put a 20% buffer into the land supply, and that is being abused by developers. Can you just develop that a bit? How does that show itself? What are the problems associated with that?

Cllr Barber: Land banking is very difficult to prove. There is anecdotal evidence, but I could not point a finger at a particular developer and say, “That is absolutely what they are doing,” because there is always a convenient excuse as to why a site has not been brought forward. The 20% buffer is incredibly difficult for us to deal with. That increases the burden of the five-year land supply and, because of that, we are very aware of developers. We have a number of speculative applications. We have had something like 2,000 properties granted consent in areas where we simply would not have done. They are NPPF applications and it was because we did not have our five-year land supply. That burden is increased because we have the 20% buffer. The 20% buffer is partly there because we have granted consents in the past, but they have not been delivered.

There is that issue over how you judge authorities. We are judged on deliverable permissions granted. I can understand why they need to be deliverable but, actually, we can grant planning permission for as many houses as anybody wants. If they are not actually going to get built, which often is not within the control of the local authority, then we are forced to grant consents for more and so we get into this cyclical problem.

Q685 David Heyes: The Home Builders Federation have mentioned in their evidence to us the claim that land banking is a myth. What does each of you think about that? Is it a myth? If it is not, where is the evidence to the contrary?

Cllr Simmons: It is very difficult to comment from Luton’s perspective. We have very little undeveloped land in the town, so it is not something we could even comment on really.

Cllr Murray: In Islington, land banking is not a huge issue. Part of that is not because we do not have development; it is because a lot of the development comes forward on small sites, which tend just to get developed quite quickly and they do not get land banked in the same way that you classically think of land banking as happening.

There are some things that delay sites coming forward. The industry quite often decides to release homes in waves, at a slower pace, in order to maintain the sales values and so on, so there are some issues that we have with that. There is also a bigger point about changeable planning regimes, which mean that developers or landowners might sit on sites hoping for a better regime in due course. If we could pass a rule that says, “For the next 100 years, you will have to provide 50% affordable housing” then that would be absolute certainty and sites would come forward. If people think, “Well, we can wait until we get a more favourable administration, a more favourable Government we can appeal to,” or whatever, then people might sit on sites hoping for a more favourable wind in planning. That is probably more of an issue, not necessarily at the moment, but in general in areas like mine.

Q686 David Heyes: Is it an issue for you, Councillor Barber?

Cllr Barber: Absolutely. It is very difficult to prove because you have to understand someone's motives, but there are three places in which it happens. There are those where permission is granted and construction takes place and, as Councillor Murray has said, they are built at a very slow pace, which maintains the sales values. We have other sites where permission is granted and development just simply does not begin, for whatever reason. We have ourselves tried to solve that problem as much as we can locally by time limiting planning applications, but we all know the reality of where our powers really lie in that. The third case is actually not with developers, but with landowners. I can think of some major sites that have dragged on for the best part of a decade in getting them through the process. An awful lot of that delay has actually been with the landowner rather than necessarily the developer, because they have a clear motive that, if they had sold at prices at 10 years ago, they would have made an awful lot less than if they sell now. Therefore, they think if they can hang on for another couple of years, as prices keep going up, they will make even more money.

Q687 Bob Blackman (in the Chair): Just moving on to the duty to co-operate, can I start with you, Councillor Simmons? At the moment, I do not want to go into the court case and I trust you will not go into it either. Why is it that most authorities across the country are managing to co-operate, but you and your neighbours do not seem to be able to do so?

Cllr Simmons: I have not come along here today to have a go at my neighbours. That is not the point of coming along here, of criticising. It is about trying to get the message over of the greatest need for housing in Luton. That is the priority.

Q688 Bob Blackman (in the Chair): I understand that, but sorry, can I just cut across you? The point is that co-operation is two ways. There is your council and your neighbouring councils, because it is not just limited to one.

Cllr Simmons: If I can explain, we have had a lot of active engagement with our neighbours, both at member level and officer level. We have talked a lot about the needs of Luton and the space to accommodate all our development needs. I have explained to you about the Strategic Housing Market Assessment that was recently being done. Luton chaired the meeting of eight authorities to put that together. The conversation was had, but the duty to co-operate has so far proved to be ineffective in the attempt to secure the housing we need for the town.

Q689 Bob Blackman (in the Chair): I do not want to go on too long about your specific issue, but you mentioned at the beginning, during one of the other pieces, that your strategic housing need was for 18,000 and you can only provide 6,000. Is it the case then that the other local authorities surrounding you are not able to meet any of that demand and not bring any of that demand in their local plans?

Cllr Simmons: You would have to ask them that question. The reality is they have land.

Bob Blackman (in the Chair): You are before us. We do not have them before us, with respect.

Cllr Simmons: I understand that, but they obviously have land in their areas and are actually doing developments in their areas. What Luton really needs is affordable housing. Our agenda in Luton is for a social cohesive society, and we need affordable housing

because we have great housing need and a lot of homelessness. You can see that we can only provide 6,000 homes out of a need for 18,000.

Q690 Bob Blackman (in the Chair): What proportion of this need is affordable housing, of your current assessment?

Cllr Simmons: To be honest, we could do with all of it being affordable housing.

Bob Blackman (in the Chair): So you would want 100% affordable housing?

Cllr Simmons: It is a negotiation, as always. What our neighbours are doing is providing 5,000 homes on our border. Of that, there was only 10% affordable housing in total. We want to negotiate a settlement with them.

Q691 Bob Blackman (in the Chair): I do not want to go into the intricacies of planning applications. I am looking at why you and your neighbours are not getting on.

Cllr Simmons: We will continue to engage with our neighbours. As we compare the local plans, we are trying to talk to them. We understand the real challenges they have, but the reality is having the duty to co-operate does not mean very much if there is no force behind for it to be enforceable. Consequently, they can just go forward with their plans without taking that into account.

Q692 Bob Blackman (in the Chair): What would you rather have? You say that you do not have the duty to co-operate. Do you want it in some way enforceable in law? What would you have introduced?

Cllr Simmons: I think there would be a possibility of having halfway house where, when there is a dispute of this nature, you could have some arbitration, perhaps using the Planning Inspectorate. That could work on the plans being considered and the arguments going on between the two authorities or however many authorities there are. That would avoid councils having to take expensive legal action.

Q693 Bob Blackman (in the Chair): You are suggesting a requirement. Have you ever been involved in discussions to produce an agreed plan for both Luton and the surrounding areas?

Cllr Simmons: We did enter into discussions with our neighbour, Central Bedfordshire.

Q694 Bob Blackman (in the Chair): Was there a plan developed?

Cllr Simmons: It was not completed, because there was no agreement on the land use within the area.

Q695 Bob Blackman (in the Chair): How much money did your council invest in this process?

Cllr Simmons: Off the top of my head, I am afraid I cannot answer that.

Q696 Bob Blackman (in the Chair): I am told, and the evidence we have got is that your authority walked away on the day it was due to be signed, after you had agreed everything in advance. Is that not true?

Cllr Simmons: No, that is not true. There was a debate between us all about what land use there would be.

Bob Blackman (in the Chair): There was no written plan that was ready for signature by all local authorities.

Cllr Simmons: It was not completed, no. We wanted to look at building some properties, a small amount of housing, on the west of Luton, which is an area outside us. Central Bedfordshire was not interested in negotiating that.

Q697 Bob Blackman (in the Chair): I am also advised that, of your surrounding neighbours, eight of them came together and signed a memorandum of understanding of how they should proceed forward, but you are the only local authority that refused to participate. That suggests to me, looking at it, that you are the ones that are refusing to co-operate, not them. Tell me if I am wrong.

Cllr Simmons: That is not totally true. We facilitated and chaired the event that led to the MoU being discussed. However, it became clear to us that this, in effect, was sanctioning Central Bedfordshire to prepare a partial plan, which would leave Luton's housing needs to be considered way into the future. You have heard the needs that we have got at the moment, and that was not to our satisfaction.

Q698 Bob Blackman (in the Chair): Basically, what you are saying is all your neighbours are wrong and you are right. Is that right?

Cllr Simmons: No. We were not convinced that Central Bedfordshire was serious about addressing the remaining unmet needs. We wrote to them in June, asking them to commit to a joint study about where we should go and they refused. We asked them also to slow down their plan-making, so that the Strategic Housing Market Assessment findings could properly be addressed in their plan and they refused.

Q699 Bob Blackman (in the Chair): I know Luton to a certain extent. There are a number of employment sites in Luton, are there not, which could be used for housing purposes. Why are they not identified for bringing forward your affordable homes within your local area?

Cllr Simmons: I am just checking my notes. We are optimising our land for housing, including donating land into the housing joint venture that we set up. That is a mixture of private and affordable housing. We are taking difficult decisions about using wildlife sites and former allotments and playing fields.

Q700 Bob Blackman (in the Chair): You are describing green land. I am talking about employment land that potentially could be utilised. Off the top of my head, knowing the area, there are some areas around there of derelict employment land that could be brought to housing use, but they do not appear to be in your plan. That is what I am told.

Cllr Simmons: We already are using 50% of an old Vauxhall manufacturing plant site, called Napier Park, and that will accommodate 600 homes. We do have policies in our draft plan for a phased release of older employment sites, when they become vacant. Some of our employment sites are not suitable for housing because they are near the airport, an area called Century Park, or they are near junction 10A of the M1. Even if they were—

say, if we use 50% of our employment site at Butterfield for housing to achieve about 350 homes—this would deliver less than 2% of our unmet housing need.

Q701 Bob Blackman (in the Chair): Let us move on. Councillor Barber, you have described quite a complex position in relation to your neighbours. How is your co-operation going?

Cllr Barber: We have found the whole process much easier than Luton clearly has. We have a committee called SPIP, the Spatial Planning and Infrastructure Partnership, which was in existence before the duty to co-operate came into place, set up under the old structure plan days of the county council, which involves the five district councils, the county council and the HCA. It is that body that we used for all the duty to co-operate matters, largely the SHMA. That is clearly the one single biggest piece of work, but obviously there are an awful lot of other areas of joint working under the duty to co-operate that we have been involved in. We agreed a joint communication strategy for that, so that no authority would go off and break ranks without at least informing other members that they were going to do so. That has led us to a position where we are able to progress our plan. Three out of the five districts in Oxfordshire do not have adopted local plans. One of the ones that has got an adopted plan is Oxford City. That is clearly where the largest unmet need was always going to be.

We are seeking to fully meet our own need in the first instance, but have committed in our plan and through the duty to co-operate to a potential early review if Oxford City, following a review that is being done jointly again, can justify the fact that they have unmet need and that a proportion of it ought to be borne by us, then we will commit to an early review of our plan. It is a bit like the partial adoption idea that has been suggested; that gets us over that hurdle. It establishes our five-year land supply. It gets a plan in place and gives us that breathing space to then properly plan for any unmet need from Oxford, should that be the case. It also allows us to push back to Oxford and say, “Hold on”—they are similar questions to the ones that you were just asking—“There is a large employment site here; there is a golf course there. They might not be very palatable options for you to look at, but the options would be just as unpalatable for us if you dump the housing on us”. There is a bit of a pushback there, but that is done in a broadly amicable way and there is an agreement for us to progress.

Q702 Bob Blackman (in the Chair): Do you see the need for greater sanctions in the way that Councillor Simmons would want to have?

Cllr Barber: In our case, it is working and working pretty well. People from outside have commented on how well it works. The difficulty is how it should work has never been laid down, and we potentially have been fortunate in Oxfordshire because we have had pre-existing arrangements. Clearly, different authorities in different areas are dealing with the duty to co-operate very differently and they have not clearly laid out what the duty to co-operate actually means, where the give has to be and what you have to co-operate on. The detail is missing. If you are going to have the idea of the duty to co-operate, which is laudable in its aims, it needs to be much clearer about how that will actually be achieved.

Q703 Bob Blackman (in the Chair): Councillor Murray, obviously you have a slightly different arrangement in London. Have we got it right in London then, having the London

plan with the Mayor of London passing down targets to you for the local authority to implement? Is that the right way forward?

Cllr Murray: As you say, London is in a unique position, in that we effectively still have a regional spatial strategy through the London Plan. What is important, in terms of housing numbers, for instance, is when you have key parts of the London Plan relating to housing, such as the Strategic Housing Land Availability Assessment—so where the housing targets should go—that is done at a pan-London level, but with full borough involvement. It is led by the Mayor of London and it has to happen, so there is a driving force there to make sure that something comes out of it, the SHLAA—the Strategic Housing whatsit. That comes out at the end of it, but that is done with borough involvement. I am not sure it is a case simply of targets being handed down. I am not sure that is exactly the right characterisation, but having the Mayor of London co-ordinating between the boroughs—we do not always agree. In fact, we disagree quite a lot, but it does at least provide a mechanism to have that discussion at a regional level.

Q704 Bob Blackman (in the Chair): One of the issues that has been covered recently is the Mayor of London has done a report that identifies a large number of sites that could potentially be used for housing. I think you would agree, from the evidence you gave, that there is a great need for housing in London, but a lot of those sites are prevented from coming forward because of local authorities. Is that a problem in your borough?

Cllr Murray: No, it is not. Actually, it veers very much into politics here, rather than just being strictly within the planning process. One of the things that I think frustrates us in Islington is that, for instance, we have two sites at the south of the borough: one which I referred to earlier, Mount Pleasant, the Royal Mail one; the other one is called City Forum. I do not know if you know the area, but it is between Angel and Old Street. It is on the City Road. It is one of those big sites there. We have had a development plan in place for years, which is very pro-growth, pro-development, and we are very welcome to discuss with developers what we are going to do.

What we made very clear, though, is that we need the right sort of housing in London. In London that is more acute than anywhere else because, if you build thousands of flats in towers that get sold off-plan in Hong Kong before they are even built, they are not going to go towards helping London's housing crisis. We need to be very firm that we are building the right sort of housing, which means homes for social rent. It means homes that most people who live locally can access and, if they are private ones, that they are ones that people can actually have a chance of buying rather than them disappearing through this phenomenon that we have called 'buy to leave', where they get bought overseas and then left empty.

That is why it would not be fair to say when the Mayor of London takes things out of our hands that we were not getting on with it. It is rather that we have very specific and clear guidelines about what we want. I do not think it is right to go for housing at any cost, if you were going to say you do not care what tenure it is or you do not care whether it is affordable. You do need the right sort of housing in London.

Q705 Bob Blackman (in the Chair): Councillor Simmons, you appeared to get some more briefing material and I do not know if there was anything else you wanted to add.

Cllr Simmons: It was just to clarify for you that the joint core strategy was submitted for examination but was stopped, because the councils could not agree on how to take it forward.

Bob Blackman (in the Chair): Thank you very much for your attendance. That concludes the session.