

Home Builders Federation

ID: 19OTH0036

Matter 1

EPHING FOREST LOCAL PLAN EXAMINATION

Matter 1: Legal Compliance

Issue 3: Has the Duty to Cooperate, as required by S33A of the Planning and Compulsory Purchase Act, been met?

1. The strategic cross-boundary issues addressed by the Co-operation for Sustainable Development Board are set out in Section 3 of the Duty to Cooperate Statement, December 2017 (EB119). Has the Duty to Cooperate been met in respect of these matters and are there any significant omissions?

Whilst we recognise the considerable level of co-operation that has been undertaken across the Housing Market Area (HMA) we are concerned that it has resulted in an agreed housing requirement in the Memorandum of Understanding (MoU) that is lower than its objective assessment of housing needs. As such we question whether co-operation has maximised the effectiveness of plan making in relation to the strategic matter of housing delivery as required by paragraph 33A of the Planning and Compulsory Purchase Act. This is considered further in our response to question 3 below.

2. In respect of the Harlow and Gilston Garden Town, how have the Member and Officer Boards cooperated on matters such as transport, infrastructure and service provision, including education, to ensure that the Duty is met?

No comment

3. Does the decision of Epping Forest District Council and/or the other Local Authorities comprising the Housing Market Area (HMA) not to meet the Objectively Assessed Need for housing as found by the Strategic Housing Market Assessment July 2017 (EB407) represent a failure of the Duty to Cooperate? What cooperation took place to seek to meet this need within the HMA?

In considering whether or not the duty to co-operate has been effectively discharged requires the inspector, as set out in paragraph 9-010-20140306 and 9-018-20140306



of PPG, to assess the outcomes of any co-operation and whether the Council has maximised the effectiveness of the plan making process when planning for strategic cross boundary matters. The Council's Duty to Co-operate Statement (EB119) and the MoU between the authorities in the HMA establishes that meeting housing needs is a strategic matter for the Borough. Paragraph 179 of the National Planning Policy Framework also states that:

“Joint working should enable local planning authorities to work together in order to meet development requirements which cannot be wholly met within their area”.

However, joint working in this instance has produced an MOU that sets a requirement for the HMA that does not meet needs - 51,100 between 2011 and 2033 in response to an OAN of 51,700 homes – a position that is repeated at paragraph 2.56 in the Local Plan. Therefore, whilst there has been a considerable amount of joint working, if the outcome of that co-operation has not led to a housing requirement for the HMA that addresses housing needs in full there must be doubt as whether a Council can be considered to have been effective in its co-operation. This is all the more important for EFDC who have set a housing requirement that relies on other authorities in the HMA to meet some their needs.

In addition to this we also highlight in our representation our concerns regarding the underestimation of need across the HMA and the risk that either Uttlesford or Harlow would be required to meet the level of housing needs established through the standard methodology. Whilst we are pleased to note that Harlow Borough Council (HBC) have submitted their plan for examination and Uttlesford District Council (UDC) are planning to submit prior to the end of the transition period we remain concerned that these plans, in common with EFDC, are underestimating needs. In particular we are concerned that the level of needs in Harlow has been significantly underestimated in the SHMA and that there will be no capacity within Harlow to meet housing needs from elsewhere within the HMA. As such it is important that the outcomes of the examination into either of those plans will be considered at the earliest opportunity by EFDC.

We suggested in our representations that an effective response under the duty to co-operate to this uncertainty would have been to include a clause within the local plan to ensure that it is revised should there be further unmet needs arising within the HMA. We would therefore suggest the following wording is included within policy SP2 to secure an effective commitment in the plan with regard to meeting the needs of the HMA:

“Should there be any unmet needs arising as a result of the examination and adoption of other local plans in neighbouring areas then the Council will immediately seek to revise its Local Plan and allocate additional sites to ensure the needs of the HMA will be addressed.”

Mark Behrendt MRTPI
Planning Manager – Local Plans SE and E