

Matter 1: The duty to co-operate

Examination hearing statement

Prepared by Framptons Planning Ltd

On behalf of:

1. A C Lloyd Ltd
2. Northern Trust Ltd

Respondent Reference Number: 5958 and 6105

Main issue: Whether the Council has complied with the duty to co-operate in the preparation of the Local Plan

Questions:

This response relates to Questions (1) - (17) in the context of whether in the preparation of the Plan, have the Council engaged constructively, actively and on an ongoing basis with all those bodies with whom they are required to co-operate, in respect of strategic housing matters

1. Section 33A specifically requires the outcome of the duty to be “maximising the effectiveness” of the plan-making process.
2. The PPG says that “co-operation should produce effective and deliverable policies on strategic cross boundary matters”. This chimes with one of the tests of soundness in the NPPF para 182, which is whether a plan will be “effective”.
3. For us, the question is not whether WDC has engaged actively and on an ongoing basis in, but whether the outcome is an effective strategy for meeting the needs of the District.
4. The PPG says that “In assessing whether the Local Plan is effective, the Inspector will assess whether it is deliverable within the timescale set by the Local Plan and if it demonstrates effective joint working to meet cross boundary strategic priorities”. WDC cannot show that its unmet needs will be delivered within the plan period.
5. The PPG goes on to say “Inspectors testing compliance with the duty at examination will assess the outcomes of cooperation and not just whether local planning authorities have approached others”. “Effective cooperation” it continues “is likely to require sustained joint working with concrete actions and outcomes”. It is the outcomes of co-operation on which we focus.

6. The Council's position is that they have fully engaged the DTC with the outcome being that they are participants in the CWLEP Joint Strategic Housing Market Assessment (JSHMA) exercise, which will determine the needs their own plan cannot meet and that the Coventry and Warwickshire Joint committee for Economic Growth and Prosperity will determine the distribution of OAN between the participant authorities which will then trigger either a co-ordinated review of their respective local plans, or preparation of a Joint Core Strategy.

7. We note that paragraph 3 of EXAM2A indicates that WDC consider the reference to the preparation of a Joint Core Strategy in the final bullet point of paragraph 5.2.8 of LP22 to be misleading and instead refer to paragraph 2.2 of LP20 as being correct. However, the position is still not clear in that the minutes of the CWLEP Board Meeting of 23rd March 2015 (attached as Appendix 1) refer at item 6(v) to "*Supported the concept of a single spatial strategy for Coventry and Warwickshire and requested that a road map be put in place for its production*". The CWLEP Executive is charged with producing this 'road map' by 18th May 2015. Clearly therefore EXAM2A is in need of updating as is table 2 of LP20.

8. Our position is that the issue of the WDLP having to take account of the needs of Coventry has been known about and discussed in the CWLEP forum since November 2013, leading to the Publication Draft Local Plan as acknowledged in paragraph 5.24 of LP22.

9. The CWLEP work also began in 2013 as recorded in LP22. However, currently there is no clarity on how the distribution of housing growth will be addressed. For example, there is currently no overarching technical review of the JSHMA 2013, JSHMA Addendum 2014, the 2012 based Household Projections and the various economic forecasts (undertaken by Experian and Cambridge Econometrics) to assess how economic factors will affect the determination of objectively assessed housing

need in the WDLP, thereby fulfilling the objective of paragraph 158 of the Framework to ensure that a LPA's housing and employment strategies are integrated.

10. The fact that such an exercise is not commissioned, let alone complete by April 2015 at the time of the BDP examination means that the Council cannot demonstrate concrete outcomes in terms of:

- Having explored all the options, particularly in respect of the sustainability of the options to be assessed in the WDLP
- Specific agreements on the quantity, location and timing of unmet housing need, particularly as the PPG makes it clear that LPAs are not obliged through the DTC to accept unmet need
- Sufficient certainty that an effective strategy will be in place to deliver housing to meet WDC's needs by 2031

11. It is apparent from LP20 paragraph 2 that the Council together with CWLEP colleagues considers that the level of the full objectively assessed needs (OAN) for the housing market area over the period 2011-2031 is 4004 dwellings p.a. This is the figure commensurate with the 2102 based SNPP in Figure 12 of the JSHMA Addendum (HO08). As explained in respect of Matter 2 the plan is not based on OAN for market and affordable housing in the housing market area over the plan period which reflects the guidance in the Framework or PPG. In such circumstances, the judgment in Solihull (Gallagher Estates Ltd v Solihull MBC [2014] EWHC 1283 (Admin) is relevant where at paragraph 107 Mr Justice Hickinbottom stated "*...it is impossible to say whether or not there is any breach of the duty to co-operate*", principally because Solihull did not know what its objectively assessed needs were. The same could be said of WDC.

12. As and when the further stages of the CWLEP work emerge and a figure for OAN is proposed which may be higher than that included in the Submission Plan and may

well impact on the level of provision that will need to be made to help meet Coventry's needs in neighbouring areas.

13. In terms of meeting the needs of Greater Birmingham the references in paragraph 2.86 of the submitted plan, paragraph 5.2.10 of LP22 and paragraphs 8, 9 and 10 of EXAM2A are noted. Clearly the submitted Plan takes no account of meeting the needs of Greater Birmingham. It is however important to acknowledge that the GBSLEP provides only a partial picture of the HMA. Past migration flows are a good indicator of cross boundary relationships. Intra-regional migration flows in the period 2000 - 2011 (see table below) reveal a more wide ranging pattern of movement:

The Destination of Gross Intra-Regional Out-Migration flows from Birmingham 2000/01 to 2010/11

Destination	%
Rest of GBSLEP	41.2
Black Country	37.0
Coventry & Warwickshire LEP	10.9
The Marches LEP	3.8
Rest of Stoke & Staffordshire LEP (i.e. excl this Districts falling within the GBSLEP)	3.7
Rest of Worcestershire LEP (i.e. excl those Districts falling within the GBSLEP)	3.5

Source: ONS (NHSCR, Patient Register Data and HESA)

(Table originally provided in Birmingham City Council's BDP Duty to Co-operate Statement October 2013 Table 4.1)

14. The WDLP as submitted in Policy DS20 seeks to provide an explanation of the extent to which it has complied with the duty to co-operate with neighbouring authorities, in particular in terms of the Housing Market Area. The approach is also set out in the

EPB report (LP20). The matter has yet to be resolved. Indeed the entire process is at an early stage. It is disappointing that in April 2015 such matters have not been resolved as the DTC issue was highlighted 8 months ago at paragraph 5.31 of the JSHMA Addendum (HO08) in which states:

5.31 In line with Paragraph 158 within the NPPF, Councils will need to ensure that their strategies for housing and economic growth align with one another. The authorities working together could, taking account of economic evidence, housing land availability and potential investment in infrastructure, consider an alternative distribution strategy for housing to encourage sustainable travel patterns. The Planning Practice Guidance supports this.

15. Having regard to the above WDC should be required to:

- To undertake further joint work with relevant adjoining authorities to ensure the duty to co-operate is properly discharged with appropriate updating of references at LP20 and LP22 including evidence of joint working and an indication of how any shortfall in meeting objectively assessed needs will be met;
- To provide a more transparent justification and explanation of WDC's full objectively assessed housing need in the submitted plan and to explain the rationale which underpins the table which is set out at the second bullet point of paragraph 5.2.8 of LP22 in the context of the conclusions of the JSHMA September 2014 (HO08);
- To include within Policy DS20 specific reference to a possible Joint Core Strategy to be prepared between the CWLEP authorities if, as seems to be the case from the CWLEP Board minutes of 23 March 2015 (see attached Appendix 1) is likely to be pursued.

Framptons
April 2015

APPENDIX 1 - CWLEP BOARD MINUTES 23 MARCH 2015



Minutes C&W LEP Board Meeting 23rd March 2015

Present:

Board

Jonathan Browning: Chairman

George Gillespie

John Latham

Richard Hutchins

Sean Farnell

Cllr Izzi Seccombe

Pete Richings

Nick Abell

Cllr Andrew Mobbs

Cllr Kevin Maton

Karl Eddy

Cllr Ann Lucas

Cllr June Tandy

Catherine Mallyon

Cllr Chris Saint

MIRA

Coventry University

WMG

C & W Chamber of Commerce

Warwickshire County Council

Jaguar Land Rover

Wright Hassall

Warwick District Council

Coventry City Council

Grant Thornton

Coventry City Council

Warwickshire County Council

Royal Shakespeare Company

Stratford District Council

Executives in Attendance:

Martin Yardley

Paula Deas

Roger Dowthwaite

Monica Fogarty

Andy Williams

Steve Maxey

Craig Humphrey

CWLEP

CWLEP

CWLEP

Warwickshire County Council

Coventry City Council

North Warwickshire BC

CW Growth Hub

In Attendance:

Adam Dent

Andrea Whitworth

Advent Communications

BIS Local

Apologies:

Board

Paul Kehoe

Birmingham International Airport

Others

Chris West

Coventry City Council

David Cockroft

Coventry City Council

Marion Plant

NW&H College

Michelle Egan

Dept. Communities & Local Government

Louise Bennett

C&W Chamber of Commerce

	<p>6.2 <u>Monitoring Framework</u> The CWLEP Board:</p> <ul style="list-style-type: none"> (i) Considered the Red and Amber commitments and noted progress in those areas and the overall progress being made on Growth Deal; (ii) Noted the successful allocation of £15.3m additional Growth Deal Extension resources; (iii) Confirmed its continued support for the City Council to act as Accountable Body for the additional resources for the Growth Deal Extension under its management; and (iv) Noted the draft owners of each of the CWLEP Commitments within the Growth Deal. <p>7. <u>ESIF Update</u> The CWLEP Board:</p> <ul style="list-style-type: none"> (i) Supported feedback from the Local Government Association and LEP Network on the poor communication and dialogue regarding the delivery of the operational programmes to the National Growth Programme Board for the European Structural and Investment Funds. (ii) Endorsed the need for the management of the Growth Delivery teams (DWP, DCLG) to proactively engage in dialogue and discussion with Coventry and Warwickshire Local ESIF Committee regarding the development of the programmes to ensure the full and active role of partners and utilisation of knowledge and expertise in decision making. (iii) Expressed disappointment that financial instruments (loans and grants) were excluded from the initial open calls and asked that options be devised, with assistance from A2F Group, for local funding to bridge the gap. <p>8. <u>Resourcing the LEP</u> The CWLEP Board agreed that:</p> <ul style="list-style-type: none"> (i) The core team should continue in its current employment format for the foreseeable future with oversight provided by the F&G Committee. (ii) An additional person should be recruited on a temporary self-employed basis to join the core team primarily to deal with the secretariat of the EPB and to provide additional general management for CWLEP. (iii) Other resources, as and when required, would be provided as now from a blend of sources. <p>9. <u>9.1 High Value Manufacturing Business Group</u> The CWLEP Board asked the group:-</p> <ul style="list-style-type: none"> (i) For thoughts on supply chain resilience and agility and links to the Industrial Strategy; (ii) To liaise with the Skills Group on implications of 24% cut in adult education budget; (iii) To liaise with the Culture & Tourism Group to find ways to incorporate Digital Technologies into future plans; (iv) To inform them on any emerging concerns from the sector/group. <p><u>9.2 Culture & Tourism Business Group</u> The CWLEP Board:-</p> <ul style="list-style-type: none"> (i) Asked the group to note the opportunities of the historic civil war connections with Hinckley & Bosworth; of current manufacturing and 	<p>Contingency plan to be devised - MY/SF by 18 May</p> <p>Richard Hutchins to meet with Catherine Mallyon</p>
--	--	--

