

# 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 <u>effectiveness</u>" of the plan-making process.
- The PPG says that "co-operation should produce <u>effective</u> and <u>deliverable</u> 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 "<u>effective</u>".
- 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 <u>effective</u>, the Inspector will assess whether it is <u>deliverable</u> within the timescale set by the Local Plan and if it demonstrates effective joint working to <u>meet</u> 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 <u>outcomes</u> of cooperation and not just whether local planning authorities have approached others". "Effective cooperation" it continues "is likely to require sustained joint working with <u>concrete actions and outcomes</u>". 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.
- 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 <u>concrete outcomes</u> 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 Cooperate 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

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## **APPENDIX 1 - CWLEP BOARD MINUTES 23 MARCH 2015**



### Minutes C&W LEP Board Meeting 23<sup>rd</sup> 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

### **Executives in Attendance:**

Martin Yardley Paula Deas Roger Dowthwaite Monica Fogarty Andy Williams Steve Maxey Craig Humphrey

#### In Attendance:

Adam Dent Andrea Whitworth

#### **Apologies:**

Board Paul Kehoe Others Chris West David Cockroft Marion Plant Michelle Egan Louise Bennett

- 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
- CWLEP CWLEP CWLEP Warwickshire County Council Coventry City Council North Warwickshire BC CW Growth Hub

Advent Communications BIS Local

#### **Birmingham International Airport**

Coventry City Council Coventry City Council NW&H College Dept. Communities & Local Government C&W Chamber of Commerce

1.	Welcome & Apologies					
	Apologies were received from Paul Kehoe					
2.	Call for Declarations of Interest					
	No interests were declared relating to any agenda item					
3.	Board Forward plan					
	This shows standard and other proposed items for discussion at each meeting					
4.	Approval of Minutes and actions from last meeting					
	The minutes of the meeting held on 26 <sup>th</sup> January 2015 were approved					
	Actions arising:					
	• The production of a message house for SEP1 has been completed and	Message				
	has been circulated;	House to be				
	• Board and operational leads will meet directly after the Board meeting;	circulated				
	• Resource requirement for ESIF has been planned and is in place;	with minutes				
	• The project board chairman of Intelligent Mobility is still being firmed up;					
	• A plan for dealing with company closures and redundancy has been					
	developed and was included in board packs;					
	• The coordinating committee for City of Culture is reporting back in June	Note for July				
	with the most appropriate structure to take it forward					
5.	Chairman's Briefing incl. Board matters	meeting				
	Growth Deal 2 – now known as the Growth Deal Extension – was formally					
	announced at the end of January which will bring an additional £15.3m of					
	funding to Coventry and Warwickshire beginning in 2016/17. This will bring					
	total Growth Deal funding received so far to just short of £90m. It was					
	understood that this was more than could have been expected. It reflects					
	progress that has been made across the LEP and the local authorities in					
	gaining the confidence of central government in governance and the LEP's					
	ability to deliver. CWLEP will also now receive improved freedoms and					
	flexibilities and funding will be received annually in advance rather than					
	quarterly which was previously the case.					
6.	Progress on Delivery of Growth Deal 1 & the Extension of Growth Deal 1					
	6.1 Freedoms and flexibilities					
	The CWLEP Board:					
	(i) Welcomed the additional freedom and increased funding management					
	flexibility with Growth Deal where funding will now be received					
	annually in advance beginning in April 2015;					
	(ii) Re-affirmed its commitment to continue to work to achieve maximum					
	freedoms and flexibilities by delivering the commitments made in the					
	City Deal, the SEP and Growth Deal;	22				
	(iii) Agreed to ask the EPB and Business Groups to re-affirm their	PD to arrange by 18 May				
	commitment to achieving the maximum freedoms and flexibilities;	by to way				
	(iv) Thanked Andrea Whitworth for helping CWLEP gain the freedoms and flexibilities so far achieved.					
	flexibilities so far achieved;	MY by 18				
	(v) Supported the concept of a single spatial strategy for Coventry and Warwickshire and requested that a read map he put in place for its	May				
	Warwickshire and requested that a road-map be put in place for its production;	,				
	(vi) That the agreed LEP/EPB structure contains the only groups recognised					
	to deliver partnership working across their subject areas					
	to deriver partnership working across their subject areas					

		<u>Aonitoring Framework</u>				
		CWLEP Board:				
	(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.				
7.	<u>ESIF U</u>	<u>Jpdate</u>				
	The C	CWLEP Board:				
	(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.	Contingency			
	(iii)	Expressed disappointment that financial instruments (loans and grants) were evoluted from the initial open calls and asked that	plan to be			
		grants) were excluded from the initial open calls and asked that options be devised, with assistance from A2F Group, for local funding	devised -			
		to bridge the gap.	MY/SF by 18			
8.	Reso	urcing the LEP	May			
0.	The CWLEP Board agreed that:					
	(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.				
9.		igh Value Manufacturing Business Group				
		CWLEP Board asked the group:-				
	(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;	Richard			
	(iii)	To liaise with the Culture & Tourism Group to find ways to incorporate	Hutchins to			
	(:)	Digital Technologies into future plans;	meet with			
	(iv)	To inform them on any emerging concerns from the sector/group.	Catherine			
		ulture & Tourism Business Group CWLEP Board:-	Mallyon			
	(i)	Asked the group to note the opportunities of the historic civil war				
	0	connections with Hinckley & Bosworth; of current manufacturing and				
		connections with minickey & bosworth, or current manufacturing and				

		historic manufacturing heritage and of business tourism in Coventry & Warwickshire;		
	(ii)	Noted the development of a Destination Management Plan and that	Board Agen item 18 May	
	(iii)	endorsement of it by the board will be requested; Noted that a Culture & Tourism Business Investment Fund (similar to the C&W Business Investment Fund) should be considered in the		
		future.		
	9.3 <b>T</b>	ransport & Infrastructure Business Group		
		ands Connect		
	The C	CWLEP Board:-		
	(i)	Supported the general approach and aspirations of the Midlands Connect initiative;		
	(ii)	Sought reassurance that Appendix 1: 'Critical schemes and issues to be pursued through the Midlands Connect agenda' was not a wish list (recognising that removal of tolls from the M6 Toll in order to relieve the M6 and A5 was a wish rather than a reality);		
	(iii)	Agreed the critical areas of focus as the basis of further work and deliverables which the LEP should aim to secure through Midlands Connect, as set out in Appendix 1 of the report; and		
	(iv)	Delegated authority to the Board Lead for Transport and the Chair of the Transport & Infrastructure Business Group to make detailed responses, consultations and requests for technical input subject to board consultation.		
	Cove	ntry & Warwickshire Gateway		
	The CWLEP Board:-			
	(i)	Supported that CWLEP should commission an Employment Land study that consolidated previous relevant reports;	MY to Lead	
10.	Finance & Governance Committee Report			
	The C	CWLEP Board:-		
	(i)	Noted the report;		
	(ii)	Were asked to update/complete Register of Interest forms.		
11.	Any o	other Business		
	The C	CWLEP Board:-		
	(i)	Considered transparency and openness issues of CWLEP board meetings and the enquiry received from Cllr Kondakor to attend the meeting and ask a question. The publication of agendas, minutes and the invitation to submit questions relating to board agenda items were seen as appropriate for what is a company limited by guarantee and noted that local authority members were subject to Overview & Scrutiny arrangements;		
	(ii)	Agreed that a request from Hinckley & Bosworth Borough Council to join CWLEP (as well as Leicester & Leicestershire LEP) should be considered subject to endorsement by the F&G Committee.	F&G to consider	
	Date	of next meeting: Monday 18 May 2015 (an evening meeting)		
	Vonu	e: tbc		
	Venu			