

**WARWICK DISTRICT LOCAL PLAN EXAMINATION**

**MATTER 1 : THE DUTY TO CO-OPERATE**

**Inspector's Key Issues and Questions in bold text.**

**Issue**

**Whether the Council has complied with the duty to co-operate in the preparation of the Local Plan.**

**Questions : General**

**1) What are the genuinely strategic matters as defined by S33A(4) of the Planning and Compulsory Purchase Act?**

**2) Who are the relevant local authorities and prescribed bodies in terms of cooperating on these strategic matters during the preparation of the Local Plan?**

**Questions: Overall housing provision**

**3) Is the Council's assessment of the extent of the Housing Market Area (HMA) correct? What is the evidence that supports this view? Is there evidence to support an alternative view of the extent of the HMA?**

The Coventry & Warwickshire Housing Market Area (C&WHMA) comprising of Warwick, Coventry, Rugby, Stratford upon Avon, Nuneaton & Bedworth and North Warwickshire is an appropriately defined strategic HMA subject to recognition that there is also a strong existing relationship between C&WHMA and the Greater Birmingham HMA. Such inter-relationship within and beyond the C&WHMA is acknowledged in paragraphs 1.20 and 1.21 of the Warwick Local Plan by stating that "*the Council has continued to recognise the importance of working on strategic issues across boundaries. Warwick District is not an island and therefore proposals and policies elsewhere impact on the District and vice versa*". Paragraphs 1.22, 1.23 and 1.24 of the Local Plan continue "*the Council and along with the other Councils in the Coventry and Warwickshire sub-region have also cooperated with Councils in neighbouring housing market areas, particularly the Birmingham area. Whilst it is not anticipated that Warwick District Council will be approached directly to accommodate any housing shortfall from the Greater Birmingham area, there is a possibility that other Councils within the Coventry and Warwickshire sub-region will be. This could have knock on effects for the District*". This inter-relationship is also acknowledged in paragraph 3.2.3 of the Council's Duty to Co-operate Statement dated January 2015.

**4) What is the situation regarding commuting and migration patterns between authorities in the HMA? What are the interrelationships in**

**terms of housing markets? In particular what are the relationships between Coventry and other authorities in terms of commuting, migration and housing markets?**

It is recognised that there are very strong inter-relationships between Warwick and Coventry (paragraph 3.2.2 Duty to Co-operate Statement) in terms of commuting and migration. The C&W Joint SHMA Final Report dated November 2013 confirms that *“analysis indicates that some of the strongest flows are between Warwick District and both Coventry and Stratford upon Avon”* (paragraph 3.22) and *“the above analysis focussed on gross migration flows – the combined flow both ways between two authorities. Turning to consider net migration we can identify the following significant net migration of flows Coventry to Warwick 1,060 persons per annum and Solihull to Warwick 150 persons per annum”* (paragraph 3.25). *“The gross combined flows between areas daily (ie total flows in both directions between tow authorities)”* show *“Coventry and Warwick 15,180, Warwick and Stratford upon Avon 13,027 and Warwick and Solihull 5,246”* (paragraph 3.28. *“The strongest commuting links are between Coventry and Warwick. We also see a strong set of links between Warwick and Stratford upon Avon”* (paragraph 3.29).

**5) How do these interrelationships affect Warwick District specifically?**

**6) When did co-operation with other authorities on overall housing provision within the HMA begin?**

Historically co-operative working between neighbouring authorities has been weak as evidenced in April 2013 when the Coventry City Council Core Strategy was withdrawn from Examination for failing to satisfy compliance with the Duty to Co-operate. Post 2013 more collaborative working activity has occurred including the commissioning of joint evidence and regular meetings between C&WHMA authority officers.

**7) What form has co-operation taken? Has it been ongoing during the preparation of the Local Plan?**

This co-operation has taken the form of commissioning joint evidence and meetings between officers. At the beginning of the plan preparation process co-operative working was very limited but such joint working increased over time.

**8) To what extent is there agreement between the authorities in the HMA regarding the level of objectively assessed need for housing (OAN) for the HMA and individual authorities? Is this as set out in the 2014 SHMA Addendum?**

The Duty to Co-operate Statement prepared by the Council states that in March 2014 the C&WHMA authorities confirmed support for an OAHN of between 3,750 – 3,800 dwellings per annum as identified in the 2013 SHMA and agreed its distribution across the HMA (paragraph 5.2.4). In November 2014 the C&WHMA authorities agreed a higher OAHN of 4,004 dwellings per annum for the HMA as identified in the 2014 up-dated SHMA Addendum

(paragraph 5.2.8). However the distribution of this increased OAHN was not determined and the previously agreed distribution remained as a starting point for the distribution of OAHN across the HMA. The final distribution would be agreed later.

It is not certain if these statements about agreements reached are totally reliable because for example until 1<sup>st</sup> December 2014 Stratford upon Avon District Council was not proposing a housing requirement in its submitted plan that met its proposed share of OAHN of 540 dwellings per annum. It would be helpful if the Council provided further evidence to justify these statements of agreement such as signed copies of Memorandums of Understanding or Statements of Common Ground attached as appendices to the Duty to Co-operate Statement.

**9) What is the evidence that the level of need in individual authorities and the HMA as a whole will be met i.e. in terms of capacity assessments/SHLAAs/Green Belt studies etc.?**

The proposed distribution of the OAHN across the HMA is set out in the Council's Duty to Co-operate Statement. This shows an agreed distribution for 3,770 dwellings per annum, which is a midway point between the OAHN range identified from the 2013 SHMA. The remaining 234 dwellings per annum representing the increase in the OAHN in the 2014 up-dated SHMA Addendum remains undistributed.

C&WHMA AUTHORITIES	PROPOSED DISTRIBUTION OF OAHN (dwellings per annum)
Coventry	1,180
North Warwickshire	175
Nuneaton & Bedworth	495
Rugby	660
Stratford upon Avon	540
Warwick	720
SUB TOTAL	3,770
Non distributed OAHN	234
TOTAL	4,004

Moreover this proposed distribution of OAHN across the HMA does not correlate with the ability to meet that need within the administrative boundaries of any given authority in particular Coventry.

Nor is there any correlation with housing targets in adopted plans such as Rugby Core Strategy with its lower housing provision target of 10,800 dwellings (540 dwellings per annum) between 2006 – 2026 against an apportionment of OAHN of 660 dwellings per annum between 2011 - 2031. It is also understood that the Nuneaton & Bedworth Preferred Option consultation proposed only 439 dwellings per annum rather than 495 dwellings per annum.

**10) Will there be unmet needs within the HMA? In particular will there be unmet needs in Coventry? If so, what is the scale of this unmet need?**

The potential for unmet needs within the HMA amounts to :-

- 234 dwellings per annum from the non-distribution of OAHN across the HMA equivalent to 4,680 dwellings between 2011 – 2031 ;
- The latest consultation (ended 31 November 2014) identified that Coventry city had a capacity on brownfield sites for 16,500 dwellings compared to its OAHN distribution apportionment of 23,600 dwellings (1,180 x 20 years 2011 - 2031) meaning a potential unmet need of 7,100 dwellings ;
- 480 dwellings since 2011 in Rugby representing the difference between distributed OAHN and the adopted Core Strategy housing provision figure ;
- 56 dwellings per annum from the difference between Nuneaton & Bedworth Preferred Option consultation (439 dwellings per annum) and its apportioned distribution of OAHN of 495 dwellings per annum.

**11) What are the issues as far as Warwick District is concerned in addressing unmet needs from other authorities i.e. Coventry?**

The NPPF (paragraph 47) requires that OAHN in the HMA are met in full unless this requirement of national policy is satisfied Local Plans cannot be found sound. Therefore as a neighbouring authority of Coventry with an acknowledged strong relationship with the city it is not unreasonable to expect Warwick District Council to assist in meeting a proportion of unmet needs from Coventry.

**12) What is the situation regarding housing needs beyond the HMA i.e. Greater Birmingham affecting the HMA? What form has co-operation with other relevant authorities taken? What has been the outcome?**

In response to the Birmingham Development Plan (BDP) Examination Inspector's Interim Conclusions the latest evidence from Peter Brett Associates identifies an OAHN of 89,000 dwellings for Birmingham between 2011 - 2031. The submitted BDP proposes a housing requirement of only 51,000 dwellings. Therefore there is a potential unmet need of circa 38,000 dwellings arising in Birmingham. Furthermore the Inspector determined that North Warwickshire and Stratford upon Avon form part of the Greater Birmingham HMA. So the accommodation of some of this unmet need from Birmingham may be sought in North Warwickshire and / or Stratford upon Avon with a consequential ripple effect across the remainder of the C&WHMA.

It should also be remembered that as established in the High Court (Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin)) and the Court of Appeal (Solihull Metropolitan Borough Council v (1) Gallagher Homes Limited (2) Lioncourt Homes Limited [2014] EWCA Civ 1610) the housing requirement in the recently adopted Solihull Local Plan is not based on an OAHN. Therefore

there is also uncertainty as to whether or not unmet needs may occur in Solihull too with consequences for Warwick as a neighbouring authority.

**13) Has the issue of unmet need within the HMA or beyond been addressed and resolved?**

The issues of unmet needs arising from within the C&WHMA from :-

- the non distribution of full OAHN ;
- development constraints in Coventry city ;
- the differences between the proposed distribution of OAHN and housing targets in adopted plans

or beyond the C&WHMA from :-

- unmet needs arising in Birmingham ;
- Solihull Local Plan not based on OAHN

have not been satisfactorily addressed or resolved.

**14) How does the Local Plan deal with the issue? Is this an appropriate approach?**

This issue is set out in paragraphs 1.22 – 1.24 and Policy DS20 of the Warwick Local Plan which state :-

- *“each of the authorities within the sub region is at a different stage in preparing their local plan or core strategy. The capacity of the other districts to deliver their housing requirement in full is therefore not known. In this context, the potential remains that one or more of these authorities will not be able to meet their housing requirement within their boundaries. Warwick District Council has therefore been working closely with the other authorities in Coventry and Warwickshire to agree a robust process to address this issue should it arise. This process has been agreed by the Coventry and Warwickshire Joint Committee. It involves three broad stages (1) ensuring a robust and up to date joint evidence base, (2) agreeing a sub-regional strategy for meeting any shortfall in housing provision and (3) reviewing Local Plans where necessary. If required, the Council is committed to an early review of its Local Plan to address any shortfall in the sub region’s housing provision. The Council and along with the other Councils in the Coventry and Warwickshire sub-region have also cooperated with Councils in neighbouring housing market areas, particularly the Birmingham area. Whilst it is not anticipated that Warwick District Council will be approached directly to accommodate any housing shortfall from the Greater Birmingham area, there is a possibility that other Councils within the Coventry and Warwickshire sub-region will be. This could have knock on effects for the District. It has therefore been agreed, that any housing shortfall arising from*

*within the Greater Birmingham area will also be addressed using the approach described above”.*

- Policy DS20 Accommodating Housing Need Arising from Outside the District - *“the existence of unmet housing need arising outside the District will not render this Plan out of date. However, the Plan will be reviewed if evidence demonstrates that significant housing needs arising outside the District should be met within the District and cannot be adequately addressed without a review ... The six LPAs within the Coventry and Warwickshire HMA have agreed to cooperate together to ensure the HMA’s housing need of 3,750-3,800 dwellings per annum is met in full. It is recognised that this is important in supporting the growth ambitions of Coventry and Warwickshire as set out in the Strategic Economic Plan as well as ensuring local plans and core strategies within the sub-region comply with national policy and guidance ... A further issue that may need to be addressed through this process is the potential for a shortfall in housing land arising from outside the Coventry and Warwickshire HMA, in particular from the Greater Birmingham area. In the event that such a shortfall may need to be partially addressed within the Coventry and Warwickshire HMA, the six local planning authorities have agreed to work together using the process described above“.*

The approach illustrates the very slow progress made by the C&WHMA authorities in working together. After years of joint working the C&WHMA authorities are still at Stage 1 of the process. This questions the appropriateness of the approach.

**15) What are the implications for compliance with the duty to co-operate of not addressing this issue at this stage?**

As confirmed by the BDP Examination Inspector a plan cannot be recommended for adoption without an Inspector being satisfied that full housing needs are capable of being met over the plan period (paragraph 74 BDP Inspector’s Interim Findings dated January 2015). Therefore there must be reasonable certainty that OAHN within and beyond the C&WHMA will be met. This requirement is not satisfied by Paragraphs 1.22 – 1.24 and Policy DS20 of the Warwick Local Plan.

Moreover the reliance upon Local Plan reviews in the future to meet OAHN is no guarantee as acknowledged in the North Warwickshire Core Strategy Examination Inspector’s Final Report dated September 2014. *“The Council has proposed a main modification which commits it to continue working collaboratively with its neighbours and to an early review of the Plan should it be demonstrated that any unmet need should be accommodated in the Borough ... and I acknowledge that this change cannot force NWBC to carry out a review”* (paragraph 15).

**16) What additional work is required to address and resolve the issue of fully meeting OAN for the HMA? What progress has been made? What agreements are in place?**

Therefore further additional work is required including :-

- C&WHMA authorities to agree full OAHN for the HMA which should be no less than 4,100 dwellings per annum representing official ONS based household projections converted into dwellings and possibly even higher up to 5,100 dwellings per annum to support economic growth and improve affordability (see HBF Matter 2 Hearing Statement for further details) ;
- C&WHMA authorities to agree an appropriate distribution of housing across the HMA to meet OAHN in full together with confirmation that individual authorities can meet their respective apportionment of OAHN within their own administrative boundaries. If necessary accelerating forward commencement and completion of work on the Joint Core Strategy for the sub-region setting out OAHN for the C&WHMA and distribution thereof (currently proposed to start no later than 2017 and finish in 2020). The start, end and review dates of plans within the C&WHMA should also be aligned ;
- Further consideration to incorporate the BDP Examination Inspector's Interim Conclusions concerning Birmingham's unmet needs. The Inspector considers that there is no justification for recommending adoption of the BDP unless Birmingham's full housing needs are capable of being met over the plan period. For the Plan to be found sound main modifications should incorporate the inclusion of the shortfall in BDP policy as an element of its housing requirement, the inclusion of a mechanism to monitor provision of land by other authorities to meet Birmingham's shortfall, an early review of BDP should the rate of progress not meet expectations and a commitment to an active on-going role for the Council to ensure its housing shortfall is met ;
- Further consideration of the Stratford upon Avon Inspector's Interim Conclusions on the C&WHMA OAHN and the opinion that the Reserved Sites Policy proposed by the Stratford upon Avon District Council would facilitate meeting Birmingham's unmet housing needs even earlier than via a review process.

**17) In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of housing provision?**

In summary overall engagement was not very good at the beginning of the plan making process but over time it improved. This engagement comprises of jointly commissioned evidence and meetings attended by officers. So whilst the C&WHMA authorities have attempted to address the legal requirements of the Duty to Co-operate associated with the process of co-operative working there are no conclusive outcomes from this process. Unfortunately therefore despite this engagement the soundness of the Warwick Local Plan remains questionable because too many unresolved matters remain. A lack of conclusive outcomes from this process of joint working illustrates a number of

fundamental flaws which undermine a positively prepared and effective plan. There remain unanswered questions about :-

- OAHN ;
- the distribution of OAHN across HMA ;
- meeting OAHN in full and ;
- unmet needs arising from within and beyond the HMA.

The process of co-operative working started by the C&WHMA authorities is incomplete so instead of prevaricating and pushing difficult decisions off for determination in the future as set out in paragraphs 1.22 – 1.24 and Policy DS20 of the Warwick Local Plan the C&WHMA authorities should finish the process of co-operation with conclusive outcomes now rather than later.

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