

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD - BOROUGH LOCAL PLAN EXAMINATION

Issue 1: Has the Duty to Cooperate, as required by S33A of the Planning and Compulsory Purchase Act, been met in respect of matters related to housing? Is the Housing Market Area (HMA) upon which the Plan is based correctly defined?

The HMA

It is evident from the Council's response to the Inspector's initial questions that there has been significant disagreement regarding HMA boundaries. In reality we consider these areas to sit within a wider London Housing Market Area that extends into the wider south east. The influence of the capital has led to a complex pattern of commuting and migration within those areas surrounding London that could lead to a variety of options as to which neighbouring authorities the Council decides to partner itself with in relation to a housing market area and the preparation of a Strategic Housing Market Assessment (SHMA). This complexity will only be increased within this part of the South East given the improvements to transport networks arising from Cross Rail which will improve journey times into central London and increase demand for housing across this sub region. For this reason we would also have expected to see a greater degree of correspondence with those London Borough's where there are significant migration and commuting links especially given the fact that London has consistently failed to meet even its lowest estimate of housing needs. This failure will drive significant growth in RBWM and its neighbouring authorities and should have been a core part of any duty to co-operate activity.

However, at a more localised level we would not disagree with the Council's opinion that Slough Borough Council (SBC), South Buckinghamshire District Council (SBDC) and the Royal Borough of Windsor and Maidenhead (RBWM) form a housing market area – both evidentially and logically. There are clear links with regard to commuting and migration patterns within this area that are well articulated in the SHMA. What is even more evident is that there are far stronger links between SBDC and the other two authorities in the proposed HMA than between SBDC and Aylesbury Vale District Council (AVDC) who it is suggested will meet SBDC unmet housing needs.

But this does not mean that there are no other housing market areas that inter link and cut across this area. As outlined above there is a complex series of interactions and settlements around the capital that can lead to an area being considered in a number of HMAs. What we consider obvious is that the housing needs of Slough could be met by either SBDC or RBWM regardless of how the housing market is defined by each Council. Equally it is perfectly reasonable for any unmet need in SBDC to be met by its neighbour Chiltern District Council, regardless of which HMA the LPA, or other LPAs, consider it to be located. It would appear that the disagreements regarding HMAs has largely been

about avoiding the possibility of having to meet any unmet needs arising from Slough. This debate over the HMA has in turn led to a failure to adequately consider how housing needs will actually be met until after the plan has been submitted. Whilst we welcome the proposed joint working on a Growth Study this should have been the approach taken in the first instance.

Should the SA have assessed the implications of meeting Slough's housing needs sooner and did the timing of this assessment affect the result?

If co-operation had been effective and on-going – as required by the NPPF – then it would have been clear that Slough would struggle to meet needs. It is a tightly bounded authority with a growing population. This should have been a primary concern of both RBWM and SBDC yet there is no agreement between these authorities and Slough as to how these unmet needs will be resolved either now or in future. Whilst the Duty to Co-operate is not a duty to agree it is important that the outcomes of such co-operation leads to needs being met. If plan making is not currently aligned, making it difficult to consider unmet needs, then mechanism between neighbouring authorities should be established to ensure that these needs are considered as soon as possible in the future. No such positive outcome has been reached and as such there must be doubt as to whether the Council has effectively discharged its duty to co-operate.

There must also be a concern that the unmet needs of SBDC will not be met by AVDC. Significant concerns have been raised not just by the HBF but a range of stakeholders that the SHMA supporting AVDC's plan significantly under estimates their housing needs. This under estimation of needs has allowed AVDC to take on board the housing needs from other areas – however we would suggest that there is in fact limited capacity for AVDC to support the other authorities in their HMA in meeting needs.

The implications arising from the lack of co-operation is the late consideration of increasing the Council's housing requirement in order to address the unmet needs arising from other Borough's. To consider this position after publication of the regulation 19 consultation would appear to be a process of obtaining evidence to support the Council's published plan rather than inform the preparation of the Plan. Planning Practice Guidance is clear in the first paragraph in section 11 on SEA and Sustainability Appraisals that it should be undertaken during the plan making process and assess the extent to which "emerging plans" helps to achieve relevant environmental, economic and social objectives. If the Council had considered options prior to publication an alternative strategy could have been developed that increased delivery whilst ensuring the plan remained sustainable. PPG is also clear in paragraph 11-001 that whilst it is an iterative process it should inform the development of the local plan. The Council's consideration of higher numbers after the regulation 19 consultation has not informed its development but been an exercise in confirming an existing position.

It is also surprising that the Sustainability Appraisal Addendum (CD-005) didn't consider the negative impact of Slough not being able to meet its housing needs – such as increased overcrowding, higher housing costs and reduced ability to meet economic growth aspirations. The Council set out in Appendix A of CD-005 that in considering the sustainability of their plan in relation to housing the decision making criteria will be to

ensure that everyone has the opportunity to live in a decent and affordable home and in not supporting Slough to meet its needs the Council cannot achieve this aim. So whilst the Council indicate in table 3.5 (p.43) of CD-005 that they currently consider their local plan to have the same positive impact on housing as the other higher options, we would suggest that this may not be the case. The impact of not meeting needs across the HMA will be that homes will be less affordable with the possibility of more people living in unsuitable accommodation. This should have been considered when making any decision as to the most appropriate option as part of the SA. Such an approach could have led to the current plan being considered a less sustainable option than a plan that meets some of Slough's unmet housing needs.

How far is it the responsibility of RBWM to seek an alternative solution to meeting Slough's unmet needs and is this responsibility being satisfactorily discharged?

It is the responsibility of RBWM to prepare a plan that seeks to meet the housing needs of the housing market area where it is consistent with the policies set out in the NPPF. It is therefore the responsibility of all those authorities in the HMA to co-operate in meeting those needs. The NPPF sets out in paragraph 179 that:

“Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas – for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework.”

Whilst there appears to have been engagement between the Councils in the preparation of a SHMA there does not appear to have been much co-operation with regard to how those needs will be met. There is clearly a lack of physical capacity in Slough to meet needs and it is therefore the responsibility to RBWM and SBDC as its neighbouring authorities to ensure needs are met. Given that there is no outcome as to how any unmet needs arising from Slough will be addressed we do not consider the Council's responsibilities under the Duty to Co-operate to have been adequately discharged.

Will the Wider Area Growth Study provide a suitable mechanism for resolving tensions surrounding HMA geography and cross boundary housing distribution in future?

Such an approach is welcomed and we hope that it enables the Council's to agree a way forward in terms of meeting the development needs for the area. However, it will require current plans, should they be found sound, to be updated in a timescale far shorter than those currently required by legislation. At present the Council will have to have completed a review five years after adoption. This could mean a new plan being adopted to address unmet needs in seven years. This is unacceptable and if the wider growth study is to have any impact a shorter review period to support the implementation of the Wider Growth Study should be set out in the plan.

Is the definition of the Eastern Berkshire and S Bucks HMA used by RBWM justified by the evidence on HMA geography. Should a different HMA have been used?

We would not disagree with the definition of the HMA as proposed by RBWM. However, as stated earlier there are complex relationships between areas with multiple options as to potential HMAs using the approach and evidence suggested in PPG. This complexity indicates the co-operation on meeting needs must be more nuanced with LPAs accepting that they may have to address unmet needs from outside their stated HMA. We would suggest that using a different HMA would not have addressed any of the challenges being faced with regard to meeting unmet needs and cross border co-operation.

Conclusion on the Duty to Co-operate

We do not consider the Council to have fulfilled their duty to co-operate as they have not planned positively with the appropriate local planning authorities to address the unmet housing needs within the HMA. Consideration to meeting a higher housing requirement was only undertaken after the publication of the plan as part of the SA process and in doing so the Council has inevitably supported its existing position.

Whilst there is clearly work being undertaken to improve this situation the Plan makes no provision for taking on board the outcomes of this co-operation until it is required to do so in legislation – 5 years following the adoption of this plan. As such the effectiveness of the Wider Area Growth Study in addressing needs within a reasonable timescale is questionable.

Mark Behrendt MRTPI
Planning Manager, Local Plans – SE and E