

BROXBOURNE LOCAL PLAN EXAMINATION

Matter 1: Legal and Procedural Requirements and other General Matters

Issue 1.1: The Duty to Cooperate

1. Has the duty to cooperate under sections 20(5)(c) and 33A of the 2004 Act and regulation 4 of the 2012 Regulations been complied with having regard to relevant national policy and guidance? In particular, was the duty satisfied with regard to the following matters during the preparation of the Plan (i.e. up to the point at which it was submitted for examination):

a) Accommodating housing needs from outside Broxbourne Borough.

We have two concerns regarding the Council's approach to the consideration of housing needs outside of the Borough. These relate to:

- The degree to which the impact of London's failure to meet housing needs has been considered; and
- Whether there has been sufficient consideration to meeting some of Welwyn Hatfield's housing needs.

London

The Council recognises throughout its evidence base on housing market areas and housing needs that there are strong links to London both with regard to travel to work areas and migration. However, despite these strong links there does not appear to have been any significant consideration given to the ability of London to meet its own housing needs. The Duty to Co-operate Statement identifies that the Mayor of London has indicated in his Local Plan that the capital will continue to meet its own housing needs. We would suggest that in order to achieve the proactive approach to the duty to co-operate required by paragraph 9-004 of Planning Practice Guidance a more thorough assessment of London's ability to meet its own needs and the potential impact on Broxbourne should have been considered.

London has not been meeting its own housing needs. The GLAs most recent AMR outlines that the capital delivered 38,553 homes against its plan annual target of 42,388 homes. It must also be remembered that the GLAs annual housing target is the lowest in the potential range identified during the Further Amendments to the London Plan (FALP) and significantly lower than the draft London Plan which identified the need to deliver 64,000 homes in order to meet the both future needs and the backlog that has accrued from its failure to meet needs in the past. In fact the draft London Plan is far closer to the figure to the 62,000 homes identified in the FALP's evidence as being required to meet needs over 10 years.

In order to meet this level of need will require a significant shift in housing delivery in the capital and in particular from outer London Boroughs. For example the London Borough of Enfield will be require to deliver 1,876 homes per annum between 2019/20 and 2028/29 compared to its current annual target of 798. This level of delivery would seem to be even more unlikely given that Enfield has failed to even meet this lower level of delivery. In 2015/16 the Enfield delivered 674 dwellings 124 homes short of its current target. Even compared to the previous target of 560 dpa between 2011/12 and 2020/21 the Council averaged 486 dpa¹.

The evidence would suggest that the Council has taken a far too cursory approach to its co-operation with London and in particular the London Borough of Enfield. The Borough has not been meeting its housing needs and it would seem likely that it will struggle in future. At the very least it should be expected that there would be an MOU identifying how the two authorities have co-operated and will co-operate in future. Even if Broxbourne do not consider they can meet these needs in this local plan agreement could have been reached regarding reviews, monitoring and joint working that should have been included in the Local Plan.

Welwyn Hatfield

The Council have identified that there are considerable overlaps between the two authorities Housing Market Areas (HMA) recognising that essentially they both form part of a wider London HMA. Whilst there have clearly been discussions as to Welwyn Hatfield's inability to meet its housing needs the only outcome was to agree that Broxbourne could not help through this local plan but that beyond these respective plan periods the two authorities will need to explore solutions to meeting housing needs. Given the inability of Welwyn Hatfield to meet its housing needs an exploration into solutions to meeting housing needs as part of this plan should have been undertaken. In a similar position to the one described above with London the level of co-operation has not been a proactive response to meeting wider housing needs.

b) The proposed retail and leisure development at Brookfield, including in terms of considering other potential reasonable alternative approaches to accommodating main town centre use developments in Broxbourne Borough and elsewhere and the impact on the viability and vitality of town centres.

No comment

c) The proposals aimed at attracting B1 office development to new business parks that would be significantly in excess of the identified need for office space in Broxbourne Borough.

No comment

¹ Data taken from London Borough of Enfield Authority Monitoring Report 2015/16 Appendix 1 table 2

d) The Council's intention not to accommodate the identified need for a significant amount of additional floor space for B8 storage/distribution uses7.

No comment

Issue 1.6: Viability

8. Would the cumulative impacts on viability of the policy requirements in the Plan, in combination with any other local requirements and nationally required standards, be likely to put implementation of the Plan at serious risk?

At the regulation 19 consultation our representation outlined the lack of any evidence showing that the policies contained in the plan would not be of such a scale as to threaten the viability of development in the Borough. This is a clear requirement of paragraph 173 of national policy and to prepare a local plan without considering viability until weeks after it has been submitted cannot be considered appropriate. At no stage could the Council have considered whether the development they were proposing and the policies in the plan were actually viable and deliverable. In addition paragraph 173 sets out that pursuing sustainable development, the fundamental principle for plan making as set out in paragraph 14 of the NPPF, requires careful attention to viability. Such considerations should therefore form part of the Sustainability Appraisal which without the requisite evidence would have been impossible.

The Council have now submitted evidence with regard to viability. Document EXAM3B sets out the Council's own assessment as to the deliverability and viability of the local plan. However, whilst the Council state that this provides the necessary evidence to show the plan is viable we consider it to provide limited evidence as to the impact of the Council's policies on development. The document provides some background information with regard to its strategic allocations and considers the impact of its policies but it never actually establishes what would be the cumulative impact of these policies on the allocated sites or indeed a range of other indicative sites that are likely to come forward.

With regard to the viability of its strategic sites it must be a concern to the Council that policy CH1 requires the delivery of 40% affordable housing at Cheshunt Lakeside but the viability evidence submitted with the application to that sites states that only 10% affordable housing is viable. This alone would suggest that an overarching viability assessment of the local plan was required to assess whether or not the policies for affordable housing, housing mix, infrastructure contributions etc. would lead to development becoming unviable.

However, it is important to look beyond the viability of strategic sites and consider whether smaller sites would be unduly affected by the Council's policies. We recognise that it is not possible for all types of sites to be considered but guidance does suggest that Council's consider a range of indicative sites that are likely to come forward. This enables Council's to understand the general impact of viability on a range of sites. Without this evidence the Council cannot state whether this is the case and as such whether the 319

units on unallocated sites set out in the housing trajectory will be deliverable on the basis of the policies in the local plan.

In its own assessment of the financial impacts of the policies in the plan the Council recognises that its affordable housing policy indisputable “... *places a significant burden on the returns from development...*” and that it has not tested potential CIL levels as it is not introducing CIL alongside the Local Plan. Taking the issue of CIL first, it is not acceptable to state that the Council will introduce CIL later without having some form of testing to show that the level of CIL required to provide the necessary infrastructure is achievable alongside the other policies in the Plan. Without this assessment the Council cannot say whether the plan is deliverable with regard to the necessary infrastructure. Given that the Council have indicated in its Infrastructure Delivery Plan that CIL will be part of the funding required to support education, transport, health and social infrastructure it is essential that these costs are considered and form part of a proper viability assessment.

With regard to the affordable housing policy H1 page 22 of EXAM3B highlights 2 sites where the proposed level of affordable housing has been achieved but without giving any other evidence with regard to these sites and why they provide a reasonable proxy for all other sites in the Borough. However, the Council go on to state that where development is unviable they will seek a viability appraisal to demonstrate that the requirement is unaffordable. Ultimately the Council seem to believe it is for the applicant to show that the policy requirements of the Local Plan are unviable rather than for them to provide the necessary evidence to show that their plan is viable. Given that we operate within a plan led system it is important to ensure, as set out in paragraph 182 of the NPPF, that those plans are justified, effective and consistent with national policy. At present this cannot be considered the case for the Broxbourne Local Plan and without further evidence as to the viability of the plan it cannot be considered sound.

Issue 1.7: Any other Legal and Procedural Matters

No comment

Mark Behrendt MRTPI
Local Plans Manager – SE and E