

Home Builders Federation

Matter 1

WEALDEN LOCAL PLAN EXAMINATION

Matter 1: Legal Compliance, including Duty to Co-operate.

Issue 1: Whether the plan has been prepared in line with the relevant legal requirements and procedural matters?

Duty to Co-operate

The latest Duty to Co-operate (DtC) Statement (A32) and its appendices set out how Wealden District Council (WDC) has engaged and consulted with the relevant local planning authorities and other prescribed bodies on strategic and cross boundary issues. One of the key strategic issues highlighted by WDC and its neighbouring authorities is housing demand and supply. This is considered in section 5 of the Duty to Co-operate Statement and considers housing need and supply across each of the authorities neighbouring WDC and specifically identifies the fact that Eastbourne Borough Council (EBC) will not be able to meet housing needs.

Whilst the Council has engaged with the relevant local authorities on the strategic issue of housing delivery there are no concrete actions that have resulted from this co-operation that will address this matter. Much of the work undertaken with regard to the assessment of housing needs has been produced for Wealden alone and not in partnership with other authorities. In order to better understand both needs and supply a shared evidence base would have allowed the Council to co-operate more effectively and produce shared policies or plans that meet housing needs.

However, our main concern regarding the DtC is the failure of the WDC to work effectively with Eastbourne Borough Council to ensure that the needs of the HMA are met in full. Paragraph 9-010-20140306 outlines that the outcome of co-operation on strategic and cross boundary issues should be effective policies on those matters and that in testing co-operation inspectors must assess the outcomes not whether local authorities have approach one another. The latest DtC Statement though provides no further evidence that joint working has improved following the publication of the pre-submission consultation and EBC's reiteration of its position.

The only outcome suggested by the Council is a review should certain infrastructure concerns be addressed. However, this is insufficient and will not lead to the unmet



needs of EBC being addressed. It is not clear what options were considered. A longer plan period, for example, would have allowed the Council to plan for long term infrastructure improvements beyond 2028 and allocate land for development that would have supported EBC in meeting their needs.

Without any outcomes that will address EBC's unmet need the only conclusion that can be reached is that WDCs approach to the duty to co-operate has been neither effective or consistent with national policy and the plan must be considered unsound.

However, it is not just on housing needs where co-operation has been ineffective. In assessing the impact of development on the Ashdown Forest the Council chose to prepare their own evidence rather than commissioning this in partnership with its neighbours – mainly, as stated in the DtC statement, due to differences of opinion over methodologies. Whilst the neighbouring authorities are in the best position to state whether the Council has been effective in sharing data and involving them in the preparation their evidence in relation to transport and air quality modelling the overarching approach has seemingly resulted in conflict rather than agreement between the relevant Councils. Conflict that could have been avoided through a more effective and open approach on this matter. Effective co-operation should have enabled the Council's to develop a shared and consistent approach to such modelling which would have enabled a collective and proportionate consideration with regard to the assessment of the impacts of development on the Ashdown Forest SAC.

Therefore, we do not consider the Council to have discharged the duty to co-operate in a manner that is consistent with paragraph 178-181 of the NPPF and as such we do not consider the plan to be sound. The Council have failed to take a proactive approach to meeting identified unmet housing needs arising in neighbouring authorities. Given that paragraph 179 of the NPPF expect joint working to enable development needs that cannot be met in one area to be delivered elsewhere this is a clear failure to co-operate effectively. In addition, they have not worked with their neighbours with regard assessing the in-combination effects of local plans on the Ashdown Forest SAC.

Habitat Regulations Assessment (HRA)

Whilst not a member of the Ashdown Forest Stakeholder Forum Consortium the HBF has been party to the work of the Forum and supports and endorses the work the Consortium has undertaken on the Habitats Regulation Assessment and which was submitted by Savills on behalf of the Consortium. Their response as part of the regulation 19 consultation sets out a series of key concerns that the HBF shares with regard to the HRA and in particular we are concerned:

- an overly precautionary assessment of traffic impacts in relation to Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC which does not take into account improving background trends in terms of Nitrogen deposition.
- That scenario B for the Ashdown Forest SAC shows that changes to Nitrogen deposition under what could be considered to be a realistic worst-case scenario would be relatively minimal and would result in a negligible measurable change to target vegetation types. As such traffic emissions are not considered to result

in an adverse effect on the integrity of the site and the need for mitigation is not justified.

It is also evident from Natural England's representation that they share similar concerns regarding the Council's approach and the final conclusions of the HRA. The representations submitted to this examination by both these parties indicate that the plan as submitted does not, either alone or in combination with other plans have an adverse impact on the European sites.

Recommendation

Given that the Council, on the basis of the HRA, has capped housing delivery which has not only led to shortened plan period but the decision not to meet the unmet needs from EBC the Council should look to review the Sustainability Assessment in order to reconsider the Borough's capacity to deliver more housing.

Mark Behrendt MRTPI
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