

Home Builders Federation

Matter 1

MAIDSTONE LOCAL PLAN EXAMINATION

Matter 1 – Legal and Procedural

Issue 1: Whether the Council has complied with the Duty to Co-operate in the preparation of the Local Plan Review

Questions

Duty to Co-operate

Q1.1 Has the preparation of the plan (up to the point of submission on 31 March 2022) accorded with the legal requirements relating to the Duty to Cooperate? Is this sufficiently evidenced by the Duty to Cooperate Statement and the statements of common ground (Document LPR5.5 as an update to Documents LPR1.58 & 1.59) and the appendix summarising meetings with duty to cooperate bodies (2017-2022) at Document ED4a?

The HBF would disagree with the Council's position, as referred to in paragraph 1.6 of the Duty to Co-operate Statement (LPR 1.58), that the Mayor of London was not a body with which it should engage with as part of its Duty to Co-operate. As we highlighted in our representations there are unmet housing needs in London and strong transport and migratory links between the capital and Maidstone indicate that the issue is a strategic cross boundary matter for Maidstone. Indeed, the Council recognise the wider significance of London in terms of travel to work patterns and the high-speed rail links between London and Maidstone in paragraph 2.13 of the Duty to Co-operate Statement and in paragraph 4.28 of Appendix A to the Strategic Housing Market Assessment (LPR 1.7). Such matters should have led to some discussions with the Greater London Authority, yet we could find no evidence with of any correspondence or meetings with regard to the matter of the capital's significant shortfalls against its assessed housing needs.

Q1.2 Is there any evidence through the Duty to Cooperate process, including the signed statements of common ground on plan submission [LPR5.5], of unmet housing, gypsy and traveller and employment needs that the Local Plan Review should reasonably consider.



No comment

Q1.3 Various representations refer in general terms to unmet housing need from London. The Duty to Cooperate typically applies to neighbouring authorities as well as other authorities and bodies in the wider housing market area or a functional economic market area. Has the Council logically applied the Duty to an appropriate functional geographical area?

As the Council note in the Duty to Co-operate Statement (LPR 1.58) the Town And County Planning Act (Local Planning) (England) Regulations 2012 specifies that the Mayor of London is a prescribed body with which Council's should engage. The HBF recognise that not all authorities will need to engage with the Mayor as there will be no strategic or cross border issues that are relevant. However, the Council did not consider it necessary to engage with the Mayor of London on the capital's the strategic issue of housing needs. As we set out in our representations the inability of London to meet its own needs and the substantial shortfalls identified by the panel examining the now adopted London Plan will have a significant impact on those areas with strong transport links, such as Maidstone, which is likely to see an increase in migration as households cannot meet their housing needs in the capital. This is an issue that is outlined in paragraph 4.28 of Appendix A to the Strategic Housing Market Assessment (LPR 1.7) which states:

“At a more strategic level, whilst a movement of households from cities to areas around them is common around all UK cities (and many internationally), the outflow of people from London is also clearly influenced by a sustained under-supply of housing delivered within London, and of limited delivery of houses (as opposed to flats) within London. There has been net stock growth of some 27,000 dwellings per annum from 2001 – 2011 and some 26,000 per annum from 2011 – 2016. The trend in delivery is clearly upwards, with 31,700 net additions to the stock in 2017/18; but remains well below London Plan housing requirements (which themselves are below the need identified in the standard method). Alongside (and linked to) this, there are particular affordability challenges, with the latest data showing median house prices are 12.2 times median earnings across London. For market rents, the 2017 London SHMA notes that private rental values have increase rapidly despite stagnant earnings with private rental costs outstripping growth. The Maidstone London evidence thus points towards a lack of supply of housing in London and the cost/ unaffordability of housing contributing to households continuing to look outside of London to find housing they can afford; as well as households moving to attractive areas beyond the Capital but accessible to it, to access family housing in good quality neighbourhoods.”

The wider influence of London on Maidstone, and indeed the rest of the south east, has also been recognised on page 16 of the Housing Strategy Topic Paper (LPR 1.22) alongside the more local requests from neighbouring authorities with Green Belt. The HBF recognise the issue of London's unmet housing needs, is one not just facing

Maidstone but the majority of the wider south east. However, this does not mean it should be ignored. It is an issue that should have been further considered by the Council through the duty to co-operate and in turn included as a reasonable alternative in terms of the overall housing requirement and spatial strategy.

Whilst it is for Council to provide detail as to any co-operation with the Mayor of London it is important to note that the London Plan includes a statement that the Mayor of London is seeking support from the rest of the south east to help meet identified unmet need for housing. This is set out in paragraph 2.3.4 which states "... *the Mayor is interested in working with willing partners beyond London to explore if there is potential to accommodate more growth in sustainable locations outside the capital*". So, whilst there may have not been a direct plea for assistance there was a clear call for support that the Council should have been aware of and should have formed part of its duty to co-operate considerations, and any subsequent decision making by the Council on housing needs and supply.

Q1.4 A signed Statement of Common Ground with Medway Council did not accompany the submission of the Plan. Does this indicate that the legal duty to cooperate has not been appropriately discharged? Are any matters of disagreement/concern relating to the Plan's proposed spatial strategy (Lidsing) issues of soundness that could be addressed by main modifications if necessary?

No comment

Q1.5 What cross boundary issues are there in relation to the Garden Settlement proposals at Heathlands and Lidsing and how have these been dealt with through co-operation?

For Council

Q1.6 Overall, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan Review?

The Council will need to provide further evidence as to its considerations of the unmet needs of London and its decision not to consider an increase in its housing requirement to take account some of the capitals identified shortfall.

Sustainability Appraisal

Q1.13 Has the Sustainability Appraisal [SUB002] adequately assessed the likely environmental, social and economic effects of the Local Plan Review? Does the Sustainability Appraisal meet the relevant legal requirements in relation to Strategic Environmental Assessment (SEA) as per NPPF paragraph 32?

No comment.

Q1.14 Does the Sustainability Appraisal: (i) systematically appraise reasonable alternatives? (ii) give clear reasons for the preferred approach; (iii) take a proportionate approach to explaining why unreasonable options/alternatives have been discounted and not systematically appraised? and (iv) Where significant adverse impacts are unavoidable, have suitable mitigation measures to prevent, reduce, and as fully as possible, offset them, been identified?

The HBF's concerns with the Council's Sustainability Appraisal (LPR 1.4) is that it fails to consider any alternatives to deliver beyond the minimum housing requirement established using the standard method. Only one option appears to have been considered – delivering an additional 5,540 new homes to meet the minimum housing requirements of 17,355. The Council state in paragraph 4.6 of the SA that as this level of housing needs was ascertained by undertaking a SHMA which complied with national policy and planning practice guidance there was no other reasonable alternative. The HBF would disagree.

The Council's argument is not consistent with paragraph 61 of the NPPF which states that Council's should consider the unmet needs from neighbouring areas. This is a broad test that goes beyond the consideration of neighbouring authorities to look at wider influences on a housing market area. As we have set out above in relation to the duty to co-operate the Council were clearly aware of the impact of London's failure to provide sufficient housing to meet needs and consequential impacts on Maidstone. It was also clearly set out in the London Plan that the Mayor of London was seeking willing partners from across the south east and east of England to help address some of these needs. This should have been sufficient for the Council to consider a strategy that delivered more homes than the requirement of 17,355 dwellings over the plan period.

What is evident is that the Council have clearly failed to grapple with the issue of London's unmet needs either through the duty to co-operate or through the Sustainability Appraisal. Given the existing migration and travel to work patterns between Maidstone and London it clear that one reasonable alternative would have been to test a spatial strategy that looked to provide some uplift to its housing requirement to take account of unmet needs in London. The failure to do so indicates a lack of positive planning towards these wider regional concerns and the potential role Maidstone could have in alleviating to some degree the pressure on its housing market that is a direct result of London's failure to meet its own needs.

Q1.15 Has sustainability appraisal been undertaken as an iterative process to inform the preparation of the Local Plan Review, having regard to the flowchart at Planning Practice Guidance paragraph 11-013-20140306?

No comment.

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