

Home Builders Federation

Matter 1

ELMBRIDGE LOCAL PLAN EXAMINATION

Matter 1: Legal Compliance and Procedural Requirements (including Duty to Cooperate)

Issue 1: Have the relevant legal requirements been met in the preparation of the Plan and is the Plan legally compliant?

Has the Plan been prepared in accordance with the Duty to Cooperate (DtC) imposed by S33A of the Planning and Compulsory Purchase Act 2004 (as amended)? This applies to the preparation of Local Plans so far as relating to a strategic matter. It is necessary for Local Planning Authorities to demonstrate how they have complied with the DtC at the Examination stage of their Local Plan.

1.2 Has the Council maximised the effectiveness of the Plan by engaging constructively, actively and through an on-going basis with the prescribed bodies on the relevant strategic matters identified and how has this been undertaken?

No. The HBF accept that the Council have engaged with its neighbours. They have written to all neighbouring authorities and HMAs, indeed they have gone more widely and written across the whole of the South-East. From this work it is evident that no authority is willing or has the capacity to deliver additional homes to help Elmbridge meet its housing needs. However, the question that the Council has not asked as part of this local plan is what next? How has Elmbridge looked to work with its neighbours once it was aware that no one outside of the Green Belt has the capacity to help meet housing needs? How will these shortfalls in meeting housing needs be addressed if they can't be addressed elsewhere? Co-operation can only be considered to have been constructive and maximised the effectiveness of the plan if it also seeks to collectively consider and then work to address the outcomes of that engagement and reflect on whether this fundamentally changes the approach being adopted by the Council and its partners.

Much of the engagement appears to be authorities seeking to show that they have co-operated and engaged with each other. There have been meetings and correspondence on housing needs, but this would appear to be with the aim of showing



that the duty to co-operate has been addressed rather than as a constructive process of co-operation to try and resolve this strategic issue. Whilst EBC cannot compel others to take their unmet needs it is in the position to lead strategic discussions as to how needs could be met. This is both a failure of EBC to engage constructively on this matter with others and a failure of co-operation across HMA and neighbouring HMA to put in place mechanisms to actually engage positively on meeting housing needs in full.

This brings us to the outcomes of the co-operation with regard to the issue of unmet needs. The outputs are a range of letters and statements of common ground that show that no authority can help Elmbridge in meeting their housing needs. The only outcome from the duty to co-operate with regard to housing needs is that Elmbridge decided not to meet those needs and that there were no exceptional circumstances to support the amendment of green belt boundaries.

1.3 Has the DtC under sections 22(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 (2004 Act) and Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations (2012) (2012 Regulations) been complied with, having regard to advice contained in the National Planning Policy Framework (NPPF) and the PPG?

As set out above the HBF are concerned that the council has not maximised the effectiveness of the local plan through its co-operation. With regard to matters such as statement of common ground the HBF's representations highlighted that no Statements of Common Ground (SoCG) had been published. However, these were published as part of the submission of the local plan and as such the council have complied with the paragraph 27 of the NPPF and the relevant sections of PPG regarding SoCGs.

1.4 Elmbridge Borough Council has set out within its Statement of Compliance and associated update (CD014 and CD015) and associated appendices (CD016) how it considers it has complied with the DtC. The Council have also submitted a number of Statements of Common Ground (SoCG) in support of this position. What has been the nature of the cooperation undertaken and on what issues has it focused?

The Council has engaged with its neighbours and identify the strategic issues. However, the HBF's concern remain that this has not led to any outcomes where needs are met elsewhere or a strategy that recognises this and seeks to address this through the local plan itself. Indeed, the Council had a strategy that would have amended Green Belt boundaries to meet its housing needs, but this was rejected despite the fact that there was no support from other authorities to address some of Elmbridge's housing needs. The HBF recognises that this point is probably more appropriate to the discussion on the Green Belt and exceptional circumstances, but it is important to note at this stage that the outcomes, or lack of, should have informed plan making.

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