

Savills on behalf of Arbury Estate

Respondent ID: 106

Matter 1: Compliance with statutory procedures and legal matters

Issue 1: Has the Council met the statutory duty to co-operate ('DtC') as set out under sections 20(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 as amended?

1. Has the Council submitted robust evidence to demonstrate that the duty to co-operate has been met?

No. We consider that the Council has not submitted sufficient evidence to demonstrate that the duty to co-operate has been met.

At the two Regulation 18 and Regulation 19 consultations, Savills, on behalf of Arbury Estate questioned the level of evidence provided by NBBC regarding the Duty to Cooperate. In response to the Regulation 19 consultation, we concluded that we did not consider that NBBC had met the legal tests to ensure compliance with the Duty to Cooperate. Our position has not changed having reviewed additional documents submitted at submission stage, and set out in the Duty to Cooperate Compliance Statement itself.

The PPG states that: ***"As the duty to cooperate relates to the preparation of the plan it cannot be rectified post-submission, so if the Inspector finds that the duty has not been complied with they will recommend that the local plan is not adopted and the examination will not proceed any further"*** (PPG paragraph: 031 Reference ID: 61-031-20190315).

The Duty to Cooperate should therefore be a key thread running through plan preparation, and is not something that can be retrospectively corrected. If Duty to Cooperate is not dealt with upfront during the plan preparation process in a clear and transparent manner, there is a danger of this legal requirement not being met, which is potentially fatal for the plan.

NBBC's response to the PAS Tool kit proforma for LPA's submitting their Local Plans is published for review, a response from NBBC highlights that: ***"The quantity of Coventry City Council's unmet housing need, as part of the preparation of their Local Plan and the apportionment of the unmet need through the agreement of a Statement of Common Ground, may impact upon the strategic planning context for Nuneaton and Bedworth Borough."*** (PAS Toolkit Form Response – Part 1, Page 10).

The lack of an agreed position in relation to unmet housing needs is highlighted in paragraph 10.2 and 10.3 of the Duty to Cooperate Compliance Statement as an ongoing issue facing the Council. We consider until this is suitably resolved, the Local Plan examination should not proceed, and that the Council should go back to Regulation 18 stage and rectify the deficiencies in the Duty to Cooperate, and consult on a potentially revised version of the Regulation 19 plan to take account of any unmet need from neighbouring authorities. The current approach that has been taken is to "kick the can down the road" and seek to adopt a local plan which has not been given time to take into account potential unmet needs from neighbouring LPAs.

2. Has the Council carried out effective engagement with neighbouring local authorities and other prescribed bodies on all relevant strategic matters? In particular has effective engagement taken place in respect of housing and employment needs and provision in a cross border context?

The Statement of Common Ground with Coventry City Council makes reference to NBBC leading on a draft memorandum of understanding with other LPAs within the Coventry and Warwickshire HMA. A

draft of this document has not been published, nor has a clear timetable on when it is to be finalised and signed.

In relation to employment, Statements of Common Ground from both Coventry and Rugby make reference to the unknown outcome of the emerging West Midlands Regional Strategic Employment Sites Study, which we understand is due to be published in late summer 2024, so therefore during the Borough Plan Review examination.

The Statement of Common Ground with Rugby states that: ***“RBC consider that the submitted plan underestimates the proportion of the allocated employment land in the plan, that would be developed for strategic warehouses, and thereby contribute to the Coventry and Warwickshire HEDNA sub-regional strategic distribution need.”***

These two factors combined suggest that a) the potential for unmet employment need from neighbouring LPAs is unknown and b) that one LPA at least is suggesting that NBBC should be allocating a higher proportion of land for strategic warehouses. Both matters should be addressed in the plan, and through an MoU with LPAs within the Coventry and Warwickshire Functional Economic Market Area. There is therefore a clear need for NBBC to consider how it may accommodate unmet employment need from neighbouring authorities, particularly for strategic warehouses.

Progress on the MoU regarding housing need appears to be slow, as alluded to in paragraph 10.2 and 10.3 of the Duty to Cooperate Compliance Statement. It is also telling that no SoCG has been signed with North Warwickshire Borough Council, and instead a letter setting out issues around meeting unmet housing need in the HMA. No SoCG has been signed by either Warwick or Stratford-on-Avon District Councils.

NBBC are therefore not in compliance with PPG Paragraph: 020 Reference ID: 61-020-20190315, which requires a Statement of Common Ground to be prepared and maintained on an ongoing basis throughout the plan making process. As a minimum it should be published when the area it covers and the governance arrangements for the cooperation process have been defined, and substantive matters to be addressed have been determined. We would therefore suggest that NBBC engage with ALL Coventry and Warwickshire HMA authorities, and agree a Statement of Common Ground regarding Coventry's expected unmet housing and employment need. This statement can then be updated and refined throughout the plan making process, as required by the PPG.