



# **MATTER 1 'LEGAL COMPLIANCE, INCLUDING THE DUTY TO CO-OPERATE'**

SEVENOAKS DISTRICT COUNCIL  
STAGE 1 - LOCAL PLAN EXAMINATION

STATEMENT PREPARED BY QUOD  
(RESPONDENT REFERENCE: ID-5156)

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

**Issue 2:** *Is the Local Plan's preparation compliant with the Duty to Cooperate [DtC] imposed by Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) [PCPA]?*

Question 10. What has been the nature and timing of the co-operation and on which issues?

Question 11. Who did the Council co-operate with?

Question 12. Are there any failures in the DtC?

Question 13. Could the identified housing need be accommodated in neighbouring authorities under the DtC?

Question 14. Were any standing arrangements / protocols / memorandums of understanding in place?

Question 15. How has the co-operation influenced the preparation of the Local Plan?

- 1.1 Section 33A(2)(a) of the Planning and Compulsory Purchase Act 2004 requires that local authorities “engage constructively, actively and on an ongoing basis” in the plan-making process.
- 1.2 The NPPF (paras. 24-27) also highlights the need for effective and on-going collaboration on strategic policies. Paragraph 35 of the NPPF goes on to outline that effective joint working must also be reflected in the assessment of soundness, including being:
  - Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical and is consistent with achieving sustainable development; and
  - Effective – deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.
- 1.3 It is in this context that this important cross boundary issues, such as housing needs, must be addressed. However, we do not consider the requirements of the DtC have been fully met.
- 1.4 Sevenoaks District Council’s (SDC) evidence<sup>1</sup> identifies that there is cross boundary interaction between a number of neighbouring authorities, including but not limited to, Tunbridge Wells, the northern part of Wealden, together with Dartford and London. Consequently, the Sevenoaks Housing Market Area is not a standalone housing market area.
- 1.5 In acknowledging that SDC is unable to meet their own housing needs, the Sevenoaks District Local Plan Proposed Submission Version (SDLP) (SDC001) (para. 1.9) identifies that they have consulted with neighbouring authorities to understand whether they can help to meet some of the unmet need.

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<sup>1</sup> HOU001and HOU015

- 1.6 Details of the current position of neighbouring authorities in terms of meeting their own needs was provided within our original representations<sup>2</sup>. This confirmed that the Local Plans that are being progressed or recently adopted by the respective authorities fail to meet their own housing needs. This also confirmed that they are unable to assist in meeting any unmet needs of SDC. This position has since been reinforced within Examination documents prepared by SDC, including within ED6 and ED7, together with SUP006. These documents further demonstrate that neighbouring authorities are unable to assist in meeting SDC's unmet need, and themselves have an unmet need.
- 1.7 There is an onus on SDC, under the requirements of the DtC, to seek to identify how it can assist in meeting unmet needs. The housing needs will not simply disappear, they are real needs with direct economic and social implications for the region.
- 1.8 At the time of issuing the SDLP, no up to date DtC Statement of Common Ground was published. The most recent being published in September 2017. As such there was no up-to-date arrangements / memorandums of understanding in place at the time of preparing the Regulation 19 SDLP.
- 1.9 Post consultation of the SDLP, SDC published a number of documents in relation to the DtC<sup>3</sup>, in which SUP006 confirms the neighbouring authorities that have been consulted on and the various meetings that have taken place.
- 1.10 Under the requirements of the DtC, it is evident that some discussions have taken place with neighbouring authorities to understand if they could help to meet some of SDC's unmet need. However, the SDLP (at paragraph 1.9) confirms that none of these discussions have led to any neighbouring authority being able to assist SDC with their unmet housing need. Likewise, SDC has indicated that they are unable to assist in meeting any of the unmet need of neighbouring authorities.
- 1.11 When considering cross boundary issues, the supporting Planning Practice Guidance (PPG) (Reference ID: 61-015-20190315) advises that:

*“Strategic policy-making authorities are expected to document the activities undertaken when in the process of addressing strategic cross-boundary matters whilst cooperating. These will include (but are not limited to):*

- *working together at the outset of plan-making to identify cross-boundary matters which will need addressing;*
- *producing or commissioning joint research and evidence to address cross-boundary matters;*
- *assessing impacts of emerging policies; and*
- *preparing joint, or agreeing, strategic policies affecting more than one authority area to ensure development is coordinated, (such as the distribution of unmet needs or policies relating to county matters).”*

- 1.12 In this context, SDC and the neighbouring authorities have not outlined a clear process to identify cross-boundary matters. No evidence of successful joint working has taken place to understand the

<sup>2</sup> Paragraphs 4.25 to 4.36, Representations dated February 2019

<sup>3</sup> SUP006; SUP006a; SUP006b; SUP006c; SUP006d; SUP007a; SUP007b; SUP007c; SUP007d; SUP007e; SUP007g; SUP007h; and SUP007i

scale of unmet need, or any agreement to how the cross-boundary matters will be practically addressed. The co-operation that has taken place has not influenced the preparation of the Local Plan and the unmet needs, which are acknowledged by all parties, are simply ignored – contrary to the requirements of the DtC.

- 1.13 SDC has failed to even positively consider seeking to meet any unmet need of other neighbouring authorities.
- 1.14 We therefore question how SDC can demonstrate effective co-operation under the requirements of the DtC. Whilst it is well documented that there is a substantial unmet need in the District and wider area, the SDC approach is one that seeks to allocate just a very few Green Belt sites for release within the SDLP. Such an approach significantly curtails SDC’s housing (and inevitably its affordable housing) delivery. SDC’s own evidence demonstrates that the adverse environmental impacts of releasing additional Green Belt land for housing as not materially different to the preferred approach outlined within the SDLP and one that is deemed acceptable by SDC – albeit this fails to meet the identified needs. Furthermore, no evidence has been provided by SDC to demonstrate that the adverse impacts of releasing more Green Belt land would demonstrably outweigh the benefits of more housing – as required under Paragraph 11 of the NPPF.
- 1.15 Likewise, no mechanism is proposed and committed that provides a realistic prospect that their unmet needs will be seriously addressed anywhere else.
- 1.16 Collectively, the approach of SDC represents a failure in the DtC.
- 1.17 Concern with regard to the approach adopted by SDC in meeting housing needs and the limited release of Green Belt land is reflected in the representations from neighbouring authorities.
- 1.18 This includes the submission by Tonbridge & Malling Borough Council (T&MBC)<sup>4</sup> to the Regulation 19 Consultation of the SDLP (letter dated 1<sup>st</sup> February 2019). This correspondence states that:

*“At the last Duty to Cooperate meeting in September 2018 all three West Kent Authorities confirmed that they were seeking to meet as much of their needs as possible and acknowledged the practical difficulties of taking any unmet need from each other. At that time the draft Sevenoaks Local Plan included options that could have met the vast majority of its need for housing. The best case scenario resulting in approximately 600 dwellings of unmet need across the plan period.*

*The Local Plan for Submission is worded in a way that recognises that there will be some unmet need, however the scale of that deficit has increased significantly.” (our emphasis)*

- 1.19 T&MBC raises legitimate concerns about the shortfall in unmet need in Sevenoaks District and how this has increased since September 2018 due to the removal of a number of the allocations proposed in earlier iterations of the Local Plan. This significant concern further highlights the lack of a standing arrangements and memorandum of understanding, in place in preparing the SDLP.
- 1.20 The approach of latest SDC Local Plan has been adopted by the Council despite previous assurances at the September 2018 meeting that they were seeking to meet as much of their needs as possible. No robust justification has been provided by SDC to support identifying such a low housing target within

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<sup>4</sup> Respondent Reference ID-6201)

the SDLP and not seeking to at least meet the District's need in full. Instead, the preferred strategy of SDC is to not act positively but to curtail development.

- 1.21 T&MBC also rightly raised concerns with regard to the 'deliverability' of some of the future housing supply assumptions (including Pedham Place) and the 'very few' sites that have been recommended for the inclusion from the Green Belt. Again, there is no robust justification to support the approach of the SDLP, and there is a clear possibility that the identified housing shortfall already identified through the SDLP will increase.
- 1.22 Against this background, it cannot be considered that every effort has been made in seeking to address the unmet needs of neighbouring authorities, or that every effort is made to meet as much of their needs as possible (as suggested would be the case at the September 2018 meeting with neighbouring authorities).
- 1.23 Any suggestion by SDC that they cannot assist in meeting unmet needs of neighbouring authorities (a number of which have similar or greater constraints to development than Sevenoaks) has not been supported by robust evidence. Further opportunities do exist to deliver additional housing in the District on sites that will not have a detrimental impact on the landscape. This includes strategic opportunity on land to the west of Hale Lane, on the edge of Otford near Sevenoaks.
- 1.24 Given this, under the requirements of the DtC, SDC needs to further review its ability to accommodate future growth, above and beyond its objectively assessed need. The current approach of the SDLP fails to do this and leads to a strategy that is not 'positively prepared' or 'sound'.
- 1.25 In summary this review will require:
  - A clear understanding of the unmet needs and clear strategy of how this can be met, which include positive and effective cross boundary working; and
  - A further appraisal of how additional allocations of land within the SDLP can assist in meeting the unmet needs.
- 1.26 Undertaking this exercise will lead to a need for the housing target in the SDLP to increase.