

Gladman Hearing Statement
Sevenoaks District Local Plan Examination

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

Issue 2: Duty to Cooperate

Representation ID: 5337



September 2019

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]?

Q10. What has been the nature and timing of the co-operation and on which issues?

1. Gladman raised concerns during the Regulation 19 consultation regarding the levels of supporting evidence in relation to the Duty to Cooperate and how the Council would comply with the requirements of the revised NPPF and updated PPG. Since this time the Council has published a Duty to Cooperate Statement (SUP006) which highlights the steps taken to address the Duty to Cooperate.
2. Section 4 highlights that discussions with various bodies have been ongoing since 2015 and that the various stages of plan making have resulted in further discussion between the relevant parties. It is unfortunate that the Council did not produce statements/topic papers on the Duty to Cooperate at key stages of the plan making process to highlight the work done as required by the PPG¹, however it should be noted that the plan was prepared within a period of flux for national policy and guidance.
3. SUP006 also clearly highlights the range of issues discussed and the evidence produced. Table B sets out where Statements of Common Ground (SOCG) have been agreed. The information in this table has now been supplemented by examination documents ED6 and ED7 which are completed SOCGs with Tonbridge and Malling Borough Council and the London Borough of Bromley.
4. Gladman therefore contend that whilst some of the outcomes of the Duty to Cooperate may give rise to concerns with other areas of the plan, in particular the levels of unmet housing need arising from Sevenoaks which are not being met, there is no failing of the Duty to Cooperate in this instance from a legal perspective. Section 33A (2) of the Planning and Compulsory Purchase Act (as amended) 2004 states:

“In particular, the duty imposed on a person by subsection (1) requires the person—

(a)to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and

(b)to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).”

5. Clearly in this instance there is evidence of active and ongoing engagement throughout the plan making process and whilst there may be issues left unresolved that is not a formal requirement of the regulations from a legal perspective.

¹ Reference ID: 61-020-20190315

Q11. Who did the Council co-operate with?

6. See Table A and Table B of SUP006.

Q13. Could the identified unmet housing need be accommodated in neighbouring authorities under the DtC?

7. The Council's response in SUP006 clearly identifies the discussions that have been undertaken with neighbouring authorities in relation to unmet housing need. Of the neighbouring districts Bromley, Bexley, Dartford, Gravesham and Tandridge experience similar levels of constraint and are in themselves likely to be seeking assistance in accommodating their own unmet housing needs in other districts. Wealden, Tonbridge and Malling and Tunbridge Wells are currently at different stages of plan preparation and in themselves are dealing with a range of issues relating to the need for increased housing delivery, and in the case of Wealden a perceived issue with nitrogen deposition on the Ashdown Forest.
8. Document ED3 sets out that the Council is proposing to deliver 9,410 homes against a minimum housing need of 11,312 dwellings (a figure in itself capped by the Standard Methodology). There is therefore a quantifiable unmet need of 1,902 dwellings from Sevenoaks which is currently not being addressed. Whilst therefore the evidence in front of the examination does not appear to have developed much beyond a request of neighbouring local authorities for assistance in meeting unmet housing needs, it seems clear that the adjacent districts are not likely (at this time) to have capacity to respond to the unmet needs of Sevenoaks. Clearly therefore there remains substantial unmet need from Sevenoaks to be addressed, even should all sites identified in the Local plan deliver their full proposed housing allocations during the plan period.