



Matter 1 – Legal Compliance, including the Duty to Co-operate
Issue 1 – Legal Requirements
Claremont Planning for Southern & Regional Developments Ltd
Representor No. 5800

HEARING POSITION STATEMENT

SOUTHERN AND REGIONAL DEVELOPMENTS LTD

REPRESENTOR 5800

**MATTER 1: LEGAL COMPLIANCE INCLUDING THE
DUTY TO CO-OPERATE**

**ISSUE 1: OVERALL, HAS THE LOCAL PLAN BEEN
PREPARED IN ACCORDANCE WITH RELEVANT
LEGAL REQUIRMENTS?**



This Statement for Matter 1: Issue 1 will seek to address the Inspector’s Questions identified below:

9. Do the strategic policies look ahead a minimum 15- year period from adoption, to anticipate and respond to long term requirements and opportunities as required by paragraph 22 of the NPPF?

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

Issue 1: Overall, has the Local Plan been prepared in accordance with the relevant legal requirements?

Introduction

1. Claremont Planning Consultancy Ltd previously provided responses to the Council’s emerging Local Plan on behalf of Southern and Regional Developments. The responses stated that the Submission Draft of the Local Plan was not sound in its approach to housing delivery over the plan period. This view is maintained and the reasons for this are set out clearly below.

Legal Requirement

2. If the Plan is to be found sound, then the legal requirements that underpin the application of the Plan must be established as being met. This includes the requirement set out in Paragraph 22 of the Framework, where strategic policies are required to: “*look ahead over a minimum 15-year period from adoption, to anticipate and respond to long-term requirements and opportunities*”.
3. The Council identifies that the ‘*Local Housing Need*’ figure for the plan period is 11,312 homes, equating to 707 dwellings per year, with the figures updated in the Schedule of Amendments. In accordance with national planning legislation set out in the Framework, this figure should be regarded as a minimum, with the plan seeking to deliver more than this number in order to satisfy the Government’s aim to ‘significantly boost the supply of housing’. Claremont Planning advance that as the plan is reliant upon sites within the Green Belt that are not proposed to be released through this plan, there is no methodology or delivery mechanism for the provision for some of this housing requirement. As such, the Plan’s policy fails to ensure delivery of the levels of housing required or identify a process by which allocations will be made once the plan is adopted.
4. Without assurance of delivering the housing requirements for the District, the proposed plan fails to contribute to the achievement of sustainable development, which is a legal requirement of Local Plans. The failure to allocate the housing requirements and specific locations for growth means that the plan has failed to account for its environmental impacts, specifically through an appropriate Strategic Environment Assessment. Therefore, it fails to meet the legal requirements as required by the Act.

The Plan’s Response to Long Term Requirements

5. The supporting text in the plan establishes that the Council has been unable to meet its housing requirement under the standard methodology, despite exploring a range of options including



Green Belt release. The Council's approach to Green Belt release will be considered in detail in the statement responding to Matter 2: Issue 5, however, Claremont Planning considers that the Council has not sought to adequately respond to the housing requirement through releasing sufficient sites from the Green Belt at this stage.

6. The plan also establishes that the Council attempted to address the shortfall through the Duty to Co-operate with neighbouring authorities, but at the time of submission this had not yielded additional sites to accommodate the District's unmet need in respect of housing or employment requirements. Whilst this may demonstrate that the Council have undertaken cross-boundary discussions to meet its needs as set out by the Planning Practice Guidance, the guidance suggests that if insufficient sites have been identified, 'the assessment should be revisited through a further call-for-sites'. The failure of the Plan to include a method for further site allocations/Green Belt release is a fundamental flaw and means it cannot accommodate the identified development requirements, let alone strategic long terms needs that should be considered at the time of any Green Belt releases. If the Council have been unable to meet the housing needs either within the district or through the Duty to Cooperate, the guidance states that the authority should demonstrate the reasons why during the examination. Claremont Planning does not anticipate that the Council will be able to suitably demonstrate why it has not met its housing requirement, given the opportunity provided by the plan to review the Green Belt and identify appropriate sites for release.
7. The consequences of failing to adequately release sites from the Green Belt and identify additional sites through the Duty to Co-operate are two-fold. Firstly, the Council is unable to fulfil its legal requirement by identifying sites for the housing requirement of 11,312 homes. Whilst this is not a significant issue for the early years of the plan period due to committed sites forming the initial years of the trajectory, failing to allocate sufficient sites at this stage will lead to challenges for housing delivery throughout the remaining plan period.
8. Secondly, the plan is totally reliant on delivery from proposed site allocations and unidentified windfalls for the later years of the plan period (12-16), with none of these sites currently benefiting from planning permission and no certainty that planning permission will be achieved. This is particularly relevant, when taking into account the SHLAA/Settlement Capacity, that have not identified sufficient sites to meet this level of need, demonstrating the further Green Belt releases are necessary.
9. In addition, the updated housing provision includes a shortfall of 1,902 dwellings as the Council has chosen to reduce their Objectively Assessed Housing Need, without any explicit justification. Sevenoaks DC is not the only LPA affected by Green Belt designation, with other LPAs providing their OAN as well as cross-boundary accommodation [Bromsgrove DC is meeting OAN/cross boundary needs from Birmingham CC & Redditch BC]. The failure to meet the OAN without adequate explanation is a significant issue and means that the Plan cannot be considered to be fulfilling its legal requirement to meet the District's needs unless it is able to demonstrate how this under-delivery will be dealt with. This under provision of housing is compounded by the Green Belt nature of the authority and the lack of potential for Neighbourhood Plans to allocate settlement expansions. The shortfall is compounded by the extent of Green Belt within the District, that limits the opportunity for other sustainable sites to come forward. Reliance upon the demonstration of exceptional circumstances for individual windfall sites to address a strategic housing need is contradictory to the Framework and



Guidance. The amendment of Green Belt boundaries should be fully evidenced and justified and revised so that they will not need to be further altered at the end of the plan period, let alone during the plan as is currently proposed. As such the plan neglects to address strategic housing requirements, suitably revise Green Belt boundaries to address long-term development needs and therefore fails to deliver sustainable development.

10. The majority of the housing for the latter stages of the plan is anticipated to be delivered at a single allocation, 'Pedham Place ST2-28', identified in the plan as a broad location for growth. This strategy is reliant on the delivery of housing in a location that has not been rigorously assessed in terms of feasibility or suitability, hence the inclusion as a 'broad location'. The allocation identifies a specific site within a single ownership that cannot be considered to be a 'broad location'. A 'broad location' would be to identify the settlement and surrounding areas of Swanley where further development opportunities would be considered through a specific Development Plan Document or timetabled Local Plan Review. Due to the Green Belt affecting Swanley the justification for Allocation ST2-28 is not evidenced, referencing Pedham Place as being able to regenerate Swanley despite its locational separation, duplicating leisure and GP surgery facilities that are already provided at Swanley. Insufficient explanation is provided as to why ST2-28 proposes new development within the AONB, undermining this national designation and providing no evidence that the harm attributed through the allocation would be overcome by any resulting benefits. The Framework advises that 'Great Weight' should be given to preserving AONBs, which have the highest status of protection in relation to landscape. As such other areas around Swanley that are not AONB would be preferable. Account of this weighting has not been demonstrated and therefore the proposed allocation and strategic approach is undermined and not legally compliant.
11. The fact that 'ST2-28' is not released from the Green Belt through the policy does not ensure delivery of this site. Delaying its removal until a later plan review stage means that the proposed strategic approach does not meet its OAN. The Council's approach and reliance on Pedham Place to deliver housing in the plan period is inappropriate and does not provide any certainty of delivery. Through the recently examined Hart Local Plan, modifications have been proposed by the Inspector, removing a designation for an 'Area of Search' for a new settlement due to its failure to be appropriately evidenced, not justified by an assessment of reasonable alternatives or adequate Sustainability Appraisal. All of these factors are considered to equally apply to the 'ST2-28' allocation and will undermine the soundness of the plan as well as its legal compliance. The consideration of alternative areas for the allocation, covering a wider area to the east of Swanley has not been justified; with no case demonstrated as to why the only area of AONB neighbouring Swanley is the most suitable for development.
12. In relation to windfalls, the Council's housing trajectory includes a 'windfall allowance' of 84 units per year for the plan period, except for the first three years, contributing a total of 1,092 dwellings to the housing supply figures. The Framework, in paragraph 70, acknowledges the contribution that windfall sites can make, however this is caveated with the requirement that any such reliance must be supported by compelling evidence that it is ensured. Given the failure to provide a thorough review of settlement boundaries and Green Belt releases, the potential of windfall sites is constrained over the plan period; particularly given that no settlement capacity has been demonstrated and that all opportunities to deliver housing have already been



identified. As such the reliance upon windfall delivery is misplaced and does not present a sound approach that accords with the Framework or provided evidence base.

13. The proposed windfall allowance includes an allowance for rural exception sites, despite such proposals requiring exceptional circumstances within the Green Belt. The scale of delivery anticipated from windfall and rural exception sites is not realistic, given that 93% of the district lies within the Green Belt, where most types of residential development is considered to be inappropriate within such locations. As the Green Belt status has been given as the main reason that development should be constrained and has restricted the authority's ability to allocate sufficient sites to meet the needs of the district, it is incongruous that the same authority should be providing for such a high level of unplanned growth. The reliance upon delivery of over 1,000 dwellings on windfall sites during the plan period is considered to contradict the proposed strategy of maintaining the Green Belt and is not effective in terms of providing a plan-led strategy.
14. Claremont Planning therefore considers that by submitting a plan for Examination that does not identify sufficient sites to deliver the entirety of the plan's housing requirement, the Council has failed to respond to long term requirements and opportunities and fulfil the obligations of paragraph 22 of the Framework. As a result, the Plan should not be found 'sound', as it has not been positively prepared in accordance with paragraph 35 of the Framework.

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