

**Examination Statement
Matter 1 - Legal & Procedural Requirements
Issue 1 - Duty to Cooperate**

Horsham District Local Plan

Representations on behalf of Taylor Wimpey
(Ref 1211284)

22 November 2024

Lucid
Planning

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1. Introduction

- 1.1 This Statement has been prepared by Lucid Planning on behalf of our clients, Taylor Wimpey (TW), who have an interest in the land to the east of Henfield (SHELAA Ref SA693). This Statement is prepared in response to the Inspectors' Matters, Issues and Questions.
- 1.2 Representations have been made on behalf of our Client throughout the production of the emerging Local Plan and these representations expand upon earlier representations. While efforts have been made not to duplicate the content of previous representations, this Statement draws on previous responses where necessary.
- 1.3 These representations have been prepared in recognition of prevailing planning policy and guidance, particularly the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).
- 1.4 These representations respond to the Inspectors' MIQs but do not respond to all questions raised under this Matter but focuses on those questions of particular relevance to our Client's interests.
- 1.5 These representations have been considered in the context of the relevant NPPF that the District Plan is being examined under - NPPF September 2023 - and tests of 'soundness' as set out at paragraph 35 of that NPPF. This requires that a Local Plan be:
- **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 to do so and is consistent with achieving sustainable development;

- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- **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; and
- **Consistent with National Policy** – enabling the delivery of sustainable development in accordance with the policies in the Framework.

2. Response to Matter 1 – Legal and Procedural Requirements

Issue 1 – Whether the Council has complied with the duty to co-operate in the preparation of the Plan?

Q1. What are the strategic matters relevant to the preparation of the Plan (as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004)?

Q2. For each of these, who has the Council co-operated with during the preparation of the Plan, what form has this taken? What has been the outcome of this co-operation?

Q3. What substantial concerns have been raised in terms of compliance with the duty to co-operate?

Q4. How has the Council co-operated to establish and meet a housing need? How specifically have development constraints influenced that co-operation, particularly water neutrality?

Q5. In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Plan? Are the ongoing partnerships and joint working arrangements between all the relevant bodies accurately reflected in the Plan?

2.1 The Horsham Local Plan has been drafted on the premise that water neutrality limits the ability of the Plan, within the plan period up to 2040, to meet its own housing need, as well not being able to help meet its neighbour's substantial unmet housing need. TW is a member of the HBF and support the HBF's view regarding water neutrality that it is primarily an issue for the water companies and Environment Agency to ensure there is sufficient water supply to meet the needs of development whilst ensuring that there is no additional harm to the SAC and the wider environment from abstraction. Whilst it is recognised it is the responsibility of the LPA to ensure that there is no additional harm to the SAC, TW does not consider it to be the responsibility of the development industry to ensure neutrality through reduced standards and a payment to ensure offsetting. It is not for the developer either to anticipate those or to have to remedy this. The issue of water supply when considering planning applications is not a land use planning matter but one to be

resolved by the water company in conjunction with the relevant statutory agencies.

- 2.2 Notwithstanding this, TW addresses the issues raised in the Horsham Local Plan evidence as it relates to the tests of soundness of the Plan.
- 2.3 The duty to cooperate was introduced by the Localism Act 2011, and is set out in S33A of the Planning and Compulsory Purchase Act 2004. It places a legal duty on local planning authorities and county councils in England, and prescribed public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan and marine plan preparation in the context of strategic cross boundary matters. (author's emphasis).
- 2.4 Paragraph 10.26 of the Local Plan *'Prior to the requirement for this Plan to be water neutral, consideration was given as to what extent land may be available in this part of the District to accommodate the unmet needs from the coast taking account of the issues previously set out above. It was considered at that time that a small element of growth (around 20 homes) a year could meet the needs for Worthing. As set out in para 10.12 this is no longer possible due to water neutrality.'*
- 2.5 TW does not consider that the approach taken by HDC and its neighbours meets the requirements of S33A. As set out in these representations, there is currently significant unmet need in the Coastal West Sussex and Brighton and East Sussex HMAs, as well as that in NW Sussex HMA. This need will only increase with the Government's proposed new standard methodology, which will increase the housing need in each on the relevant authority areas. These significant shortfalls will exacerbate the housing crisis in this part of the south east making it more difficult for people to afford a home that meets their needs where they need it. The quantum of unmet need is not set out, nor an acknowledgement of the impacts of not addressing those needs, nor are any solutions presented or considered.

- 2.6 As acknowledged at the recent Mid Sussex Local Plan Examination, when the Inspector requested the appropriate authorities to attend the relevant Examination hearing sessions to present their latest unmet need figures and set out when they had requested assistance in meeting those needs, there is substantial unmet need in the neighbouring authorities:
- Crawley BC gave evidence to set out its unmet need of 7505 homes to 2040
 - Brighton and Hove CC has an unmet need “of no lower than 1000 dwellings per year”
 - The Coastal West Sussex authorities (which include Brighton and Hove) submitted evidence stating an unmet need of 30,000 homes up to 2050.
- 2.7 Horsham DC also appeared at the examination stating its unmet need to be 2377 homes (140 dpa).
- 2.8 As the Inspector at Mid Sussex stated these are not just numbers; these are families without homes. Using these figures, that equates to c100,000 people that will not be provided homes. It should be noted that these figures do not address the Government’s proposed new standard methodology figures, which without exception, increase the required number of homes in each authority.
- 2.9 This level of unmet need is unacceptable. Knowing this extraordinary issue is most likely going to getting worse with the Government’s increased housing requirements, it is only right and proper that HDC – as a minimum - plan properly for the whole of its own need for the whole of the local plan period now – and not kick the issue into the long grass of the next local plan review.

- 2.10 In 2021, the Council produced a local plan, prior to the need for water neutrality, that not only met its own housing needs in full but went above its standard methodology and proposed a ‘balanced’ annual housing figure of 1,100 dpa. It would not have been enough to assist in meeting its neighbours unmet need in a significant way, but it did indicate that in HDC’s own opinion, providing for that number of dwellings is sustainable and that the potential adverse impacts were not significantly and demonstrably outweighed by the benefit of meeting needs in full. Further, HDC’s build rate has exceeded this figure in 2015/16 (1,201); 2017/18 (1,125) and 2018/19 (1,369) showing it is possible. The only issue with regard to adverse impacts is in relation to the Arun Valley SAC, an issue that the Council say can be resolved on the basis of the proposed mitigation strategy. If these impacts are resolved, then the assumption must be that there is no justification for not meeting housing needs in full and meeting at least some unmet need of its neighbours.
- 2.11 Disappointingly, however, since the need for water neutrality, no solutions have been presented with regard to these unmet needs by Horsham or its neighbours as part of the Duty to Cooperate. In fact, it is notable that whilst there is significant correspondence between authorities stating that they cannot meet the needs of others due to water neutrality, the evidence base on this issue failed to even consider these needs as part of the mitigation strategy. This would suggest that this strategic issue was not given the necessary weight or considered at the right time/in the correct sequence when preparing this local plan.
- 2.12 The duty to cooperate is a legal requirement for local planning authorities and other bodies in England **to work together to improve the effectiveness of local plans. Authorities must work together constructively, actively, and on an ongoing basis** (author’s emphasis). No active engagement appears to have been undertaken to try and resolve this particular issue and in effect consideration of unmet housing needs has become a tick box exercise. TW question whether this co-operation meets the test set out in 33A(2)(a) of the PCPA which

requires to the LPA to engage constructively. For engagement to be constructive it needs to move beyond writing to each other and actively engage in identifying solutions.

- 2.13 Authorities should use a Statement of Common Ground (SoCG) to show that they have worked together effectively, under the Duty to Cooperate, **to produce a strategy**. It is acknowledged this has been done in finding an off-setting mitigation for the water neutrality issue (although that has been further delayed and is not actively in use yet) but this has not been done with neighbouring authorities in regard to unmet housing need.
- 2.14 For co-operation to be constructive and active - and for solutions to be found - Councils need to comprehend the issue and actively try and address it. As set out in paragraph 10.26 and others in the Local Plan, there appears to be an acceptance that housing needs of HDC will not be met and that the act of writing to other authorities is therefore sufficient for the duty to be met.
- 2.15 Given that there are no positive outcomes with regard to unmet housing needs, or indeed an understanding of exactly what the unmet housing need is, TW can only conclude that the co-operation that has taken place has certainly not maximised the effectiveness of plan making in Horsham or indeed across the HMA. **As such, TW do not consider the Plan to be legally compliant.**
- 2.16 The residents of Horsham and the wider HMAs deserve a more cohesive, collaborative and strategic Plan that more comprehensively addresses the unmet need in the district as well as helping to meet the substantial unmet housing need in neighbouring authorities.
- 2.17 Horsham is a very large, and relatively unconstrained district in terms of planning constraints. As set out in paragraph 2.1 above, TW considers that the issue of water supply when considering planning applications is not a land use planning matter but one to be resolved by the water

company in conjunction with the relevant statutory agencies. Further, there are water neutrality solutions available now that can mitigate the impact on the SAC, in addition to SNOWS, and the housing need should be considered strategically, and addressed appropriately in the Horsham Local Plan (see TW Hearing Statement 2, Plan Period, Vision, Objectives and Spatial Strategy for more detail and suggested policy changes).

- 2.18 Not addressing these issues only serves to exacerbate the housing crisis in the Coastal West Sussex authority areas and in the North Sussex HMA. It is the responsibility of HDC to not just acknowledge there is a need but to actively and constructively work with its neighbours to find solutions for this significant unmet need. Only by doing this can this Plan be considered to have planned positively and be effective and justified.
- 2.19 HDC's approach of starting from the bare minimum of meeting its own need and then not planning appropriately for that, so the authority itself exacerbates the housing crisis by generating an unmet need of its own (2377 new homes), is a fundamental flaw in the soundness of the HDC Plan, as the Plan cannot be considered to be positively prepared, justified, effective or consistent with national policy.
- 2.20 **As such TW considers this does not meet the requirements of S33A(2)(a) of the PCPA which requires to the LPA to engage constructively and actively. As such, TW does not consider the Plan to be legally compliant.**
- 2.21 **The Plan must:**
- **fully consider reasonable alternatives that cover the Council's full housing need for the Plan period up to 2040, and how it can help provide for the substantial unmet need of its neighbours**

- **fully consider how that need could be brought forward within the Local Plan either by allocating more sites and/or providing a criteria-based policy to allow alternative water neutrality mitigation other than SNOWS, because other mitigation solutions are available now**
- **fully consider policies to provide for developable sites or broad locations of growth for the latter part of the plan period when water neutrality mitigation may not be required.**