



Acres Land & Planning Ltd

'Acres of space'

British & Continental Co. Ltd
Respondent No. 1045
Duty to Co-operate

DERBY CITY LOCAL PLAN PART 1: CORE STRATEGY EXAMINATION

Legal Compliance: Has the Council complied with the Duty to Co-operate?

a) Has the Council engaged constructively, actively and on an on-going basis on strategic matters with neighbouring authorities and other prescribed bodies in the preparation of the Local Plan?

Yes. I would agree that the Council has engaged constructively and on an on-going basis with neighbouring authorities and prescribed bodies in preparing the Local Plan. There has been a consistent record of the Derbyshire LPA's working together with their close neighbours across the Derby Housing Market Area to secure agreement with each other. This is spelled out in the DTC Compliance Statement.

However, my main concern is that the agreed Derby Housing Market Area (including Derby City, Amber Valley and South Derbyshire Districts) does not genuinely represent the true housing and economic market area of Derby. The Derby HMA (as agreed within the GL Hearn report and acknowledged by the three authorities) forms a strange area which is drawn very widely from north to south but somewhat narrowly from east to west. This is a product of trying to adhere rigidly to existing LA boundaries. The attached Plan indicates how this contrasts with the previous Housing Market Sub-areas within the Derbyshire Structure Plan which were rather more representative of Economic Market Areas.

As a consequence areas of South Derbyshire (such as Swadlincote and Melbourne) and areas of Amber Valley (such as Belper and Alfreton) which are well outside the 'actual' housing market area of Derby are captured within the HMA, whilst areas of Erewash and to a lesser extent Derbyshire Dales which abut the Derby City area and are well within the sphere of influence of the City are excluded from the Derby HMA.

This is having a detrimental effect on the strategic planning policies for the wider market area and resulting in the rejection of land which is closely accessible to Derby (for example parts of Erewash) which happen to lie in green wedge or green belt, whilst much less sustainable and more distant sites (in South Derbyshire and Amber Valley) which are unrelated to Derby are allocated for development.

b) Has the Council made every effort to secure the necessary co-operation on strategic cross boundary matters before the Local Plan was submitted for examination?

We are satisfied that Derby City has used its best efforts to secure necessary co-operation across LPA boundaries. Paragraph 2.5 of the Council's Duty to Co-operate statement explains that:-

'Joint working at an officer level has been formalised across the period through the HMA Co-ordination Group. This is a group consisting of senior planning officers from each authority and, up until April 2015, the HMA co-ordinator officer (discussed below). The group has met regularly over the past six years. Since being established, the group has addressed progress on Local Plans, the joint evidence base and other relevant matters. The Co-ordination Group has facilitated discussion regarding future infrastructure and service provision and policy formulation, particularly regarding housing, economic growth and cross-boundary allocations. It has also procured and managed the production of a large number of joint evidence base documents'.

We also support the Councils' approach in undertaking Aligned rather than Joint Core Strategies which have proved a more practical solution to planning for their areas, whilst still maintaining a co-ordinated and comprehensive strategic approach across the broad market area (such as it is defined) – against a background where formal regional and strategic planning has been dismantled.

We remain concerned however that the site allocations between the three HMA authorities have not been assessed jointly and comprehensively through integrated Sustainability Appraisals. Despite the recommendations of the South Derbyshire and Amber Valley inspectors that the three authorities should combine their assessments of sustainability – to ensure the most logical sites were allocated – in practice this hasn't happened. The Sustainability Appraisals have been conducted separately.

Paragraph 3.27 of the Duty to Co-operate Compliance Statement states that:-
'Through formal and informal discussions with Erewash Borough Council, it has been established that they did not require any assistance from the Derby HMA to help meet their objectively assessed need or the provision of employment land. Equally, it has been agreed that there is no requirement for Derby HMA housing needs to be met in Erewash or any other part of the Greater Nottingham HMA at this time'.

We do not find this 'convenient no knock' statement entirely convincing, since Derby City is woefully short of identified housing land to meet its identified housing requirement and hence Derby should be looking to Erewash to help meet its needs.

Erewash is on the periphery of the Derby HMA. Indeed, some of Erewash's Green Belt land is so close to the edge of the City, is it actually within the line of Acorn Way which joins Chaddesden with Oakwood, both well within Derby City's own territory. This anomaly badly needs to be addressed through a thorough review of Green Belt.

Has the Local Plan complied with other legal requirements?

c) Has the Local Plan been prepared in accordance with the LDS?

It has taken much longer than anticipated for the Derby City Local Plan to emerge as a result of joint working with the other Councils and hence it has not been possible for the Council to adhere to its original Local Development Scheme programme.

d) Is the Local Plan in general accordance with the Statement of Community Involvement and public consultation requirements?

We have no reason to assume that the Local Plan hasn't been prepared in general accordance with the SCI and public consultation requirements.

e) Has the Local Plan been subjected to Sustainability Appraisal?

Yes. The plan has been subject to a Sustainability Appraisal. However, as indicated under point b) above, this has not been integrated with other authorities to provide a logical and co-ordinated Sustainability Appraisal across the whole HMA.

f) Has the Local Plan had regard to national policy?

The Local Plan broadly conforms to National Policy within the NPPF. However, we have raised major concerns over the blanket coverage of Green wedges within the City which have remained broadly unchanged since 1989 when they were originally established through the Derbyshire Structure Plan.

Neither the concept (nor the terminology) of Green wedges is mentioned within the NPPF, yet large areas of the City remain 'out of bounds' to development, without being properly justified on either environmental, landscape or planning grounds. In our view the Derby City Green wedge policy is no longer compliant with national policy and needs to be reviewed as a matter of urgency through this Local Plan EIP.

The recent Court of Appeal decision between Richborough Estates and Cheshire East Council has determined conclusively that policies such as Green Wedge are now regarded as 'relevant policies for housing supply' in the context of Paragraph 49 of the NPPF. Since Derby City currently lack a 5 year housing supply, that leaves the authority extremely vulnerable in potentially having an out of date Local Plan

g) Has a Habitat Regulations Assessment been prepared? Yes.

h) Does the Local Plan comply with the 2012 Regulations (as amended), particularly in terms of consultation arrangements?

No further comments.

John Acres. March 2016