



Gladman Developments Ltd

Fylde Local Plan Examination

Matter 1 – Compliance with statutory procedures and legal matters

Issue 1 – Has the Council met the statutory duty to cooperate as set out under Sections 20(5)c and 33A of the Planning and Compulsory Purchase Act 2004?

Q1. What are the relevant strategic matters in relation to this duty?

1. The Duty to Cooperate (DtC) is a legal requirement established through Section 33(a) of the Planning and Compulsory Purchase Act 2004, as amended by section 110 of the Localism Act. It requires local authorities to engage constructively, actively and on an ongoing basis with neighbouring authorities to address cross boundary strategic issues throughout the process of Plan preparation.
2. The Planning Practice Guidance (PPG) provides guidance upon compliance with the DtC which makes clear that local planning authorities should explore all available options of delivering the planning strategy within their own area, and should approach other authorities with whom it would be sensible to seek to work to deliver the planning strategy¹. This should be achieved through co-operation between local planning authorities, county councils and other public bodies to produce effective policies relating to strategic cross boundary matters².
3. Whilst there is no definitive list of actions that constitutes effective cooperation under the duty, cooperation should produce effective policies relating to cross boundary matters. Local planning authorities and public bodies may enter into agreements on joint approaches, which may involve joint evidence and strategies to define the scope of the Local Plan.
4. The Council must be able to demonstrate that it has worked constructively with neighbouring authorities to address any strategic cross boundary needs, such as unmet housing need, and that this work has produced effective outcomes. It is clear that Fylde has connections to a

¹ PPG Reference ID: 9-003-20140306

² PPG Reference ID: 9-010-20140306

number of surrounding authorities within the Housing Market Area (HMA) and is affected by the influence of a dynamic market area. It is important to note that the DtC is a process of ongoing engagement and collaboration and that it is intended to produce effective policies on cross boundary strategic matters³. Therefore, the Council will need to continue to engage and work with its neighbouring authorities to satisfactorily address cross boundary strategic issues.

5. Whilst Fylde Borough Council (FBC) have sought to engage with its neighbouring authorities, Gladman has serious concerns regarding whether full objectively assessed housing needs and unmet housing needs arising from neighbouring authorities will be met. This matter is discussed further below.

Q2. Has the Council maximised the effectiveness of plan-making activities by engaging constructively, actively and on an on-going basis with the prescribed bodies, in the preparation of the Plan in the context of these relevant strategic matters? In particular:

- a. What has been the nature of any cooperation and have any mechanisms or formal agreements been established? Is the Memorandum of Understanding by authorities within the Fylde Coast Housing Market Area (HMA) up to date and effective in this regard?
6. Whilst the Council to some degree has sought to work with the wider HMA, Gladman do not consider the Memorandum of Understanding (MoU) prepared by FBC to be up-to-date. The DtC Statement of Compliance was prepared in August 2016 to support the publication version of the Plan and does not appear to be updated since this time. It is therefore difficult to consider whether agreements have now been reached in addressing unmet housing needs and other strategic issues of relevance.
7. As highlighted in our response to the authority's publication Plan, §3.23- 3.26 of the Council's DtC Statement of Compliance state that the Council is unable to assist in meeting unmet housing needs from Wyre Borough Council due to uncertainties relating to outstanding evidence studies for issues such as to highway capacity, flood risk and Green Belt. Table 13 of Appendix 1 also states that Fylde is unable to accommodate any unmet needs if such a request is made. This appears to be contrary to FBC's statement at §3.26 which suggests that the Council is committed to working with Wyre and its other neighbours, once the evidence base relating to Wyre's constraints is complete.
8. Given that the MoU has yet to be updated to take account of Wyre's request to meet unmet housing needs, and the current level of uncertainty as to whether this issue has been effectively addressed, it remains unclear whether the Council has effectively discharged the Duty.

³ PPG Reference ID: 9-011-20140306

- b. Has the Council tried to resolve any issues through cooperation and what have been the outcomes? and
 - c. Is there robust evidence to support the cooperation activities that have taken place
9. It is Gladman's view that FBC and the authorities in the wider HMA will be able to respond to this issue more effectively. However, from the evidence supporting the Plan it does not appear that these issues have yet been resolved.
10. Gladman consider that, on the basis of the FBC's Duty to Cooperate Statement, there is evidence to demonstrate that cooperation with the relevant authorities and bodies has taken place to some degree. However, in the absence of firstly a finalised and agreed SOCG or an updated MoU and secondly the completion of the ongoing and important studies relating to wider strategic issues, it is difficult to reach any conclusions as to whether this engagement has actually been constructive and indeed effective.
11. Certainly, it is the case that in terms of positive outcomes from this engagement, the Council has sought to provide some unmet needs relating to employment land but it remains unclear whether the Council will assist in meeting the housing needs of authorities in the wider HMA. The position that we now see is therefore somewhat out of kilter with the National Planning Policy Framework's aspiration of cooperation resulting in a 'final position where plans are in place to provide the land and infrastructure needed to support current and projected future levels of development'⁴.

Q2. Has the Council maximised the effectiveness of plan-making activities by engaging constructively, actively and on an on-going basis with the prescribed bodies, in the preparation of the Plan in the context of these relevant strategic matters? In particular:

- a. Has the cooperation led to an agreed mechanism for the delivery of unmet housing needs within the HMA?
12. The Local Plan does not make any provision to accommodate the unmet housing needs of neighbouring authorities. The DtC Statement of Compliance has not been updated and is therefore assumed that no mechanism for the delivery of unmet housing needs within the HMA has been agreed.
13. Whilst it is acknowledged that Wyre's unmet housing needs figure in particular has yet to be established, the Plan as currently proposed does not allow for any effective mechanism to accommodate unmet housing needs and is therefore unsound.

⁴ NPPF Paragraph 181

b. Is there an obligation for Fylde Council to ensure that the objectively assessed need for the HMA as a whole is met?

14. Yes. The Framework makes clear that to boost significantly the supply of housing, local planning authorities should 'use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.'

c. Should the Plan include a commitment to help meet any unmet housing needs or to review the Plan?

15. The Local Plan should make a commitment to ensure that the Council will assist neighbouring authorities in the HMA to meet any unmet housing needs or to review the Plan.

16. Whilst Gladman do not in general support the use of early plan reviews, particularly where there are serious concerns regarding unmet housing need, it is acknowledged that this may be pragmatic in a situation when the scale of unmet housing need is yet to be fully identified.

17. To ensure effective cooperation, the Councils across the HMA will need to sustain joint working with concrete actions and outcomes i.e. through the immediate review of the Local Plan working together with the wider HMA to identify strategies to accommodate the HMA's unmet housing need. Should the Plan proceed in its current form this should only be on the basis of a firm commitment to an immediate review of the Plan with an accompanying revised Local Development Scheme which makes clear the Council's intentions and objectives and what timeframe the review process will be enacted upon.

Issue 2 - Has the Plan been positively prepared in accordance with other legal and procedural requirements?

7. Does the sustainability appraisal (SA) adequately assess the environmental, social and economic effects of the Plan? In particular:

b. Does the SA adequately consider the likely significant effects of reasonable alternatives where these exist, including in respect of the scale of housing and employment provision and the balance between them?

18. Gladman question whether the Council's Sustainability Appraisal (SA) has adequately and fully assessed the reasonable alternatives to the submitted Local Plan strategy. In this regard we query whether the Local Plan meets the requirements of the Planning and Compulsory Purchase Act (2004) and whether it has been developed in accordance with the Environmental Assessment of Plans and Programmes Regulations (2004).

19. Whilst the SA was undertaken through the preparation of the draft Local Plan and tested alternative spatial distribution scenarios it has not assessed the impact of delivering a higher level of housing, other than that currently proposed despite the availability of evidence identifying a higher level of need based on economic projections. As such, there is a lack of clarity as to how the Local Plan strategy has evolved and taken account of reasonable plan alternatives.

20. Earlier iterations of the SA report tested the ability to deliver alternative housing scenarios at various settlements. To ensure legal compliance, Gladman submit that the Council must undertake further SA testing on the impact of delivering the higher end of the OAN range.

21. Gladman remind the Council that there have now been a number of instances where the failure to undertake a satisfactory SA has resulted in plans failing the test of legal compliance or led to an Examination suspension. If it cannot be robustly demonstrated that the development of the Local Plan has taken place with full regard to the requirements for SA, this should be viewed as a legal failure in the Plan's preparation.