

Barton Willmore on behalf of Metacre Ltd

Matter 2

Examination into the Telford and Wrekin Local Plan 2011-2031

November 2016 Hearings

Representor ID: 31

Matter 2 – Duty to Co-operate & Relationship to Other Plan Areas

2.1 Has the Council satisfied the Duty to Co-operate set out in section 33A of the Planning and Compulsory Purchase Act 2004?

1. The PPG sets out guidance [Reference ID: 9-001-20140306] on the duty to cooperate and that it places a legal duty on local planning authorities (and public bodies) to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters. It is for the Council to demonstrate how they have complied with the duty. The PPG states:

"The duty to cooperate is not a duty to agree. But local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination.... Local planning authorities will need to satisfy themselves about whether they have complied with the duty. As part of their consideration, local planning authorities will need to bear in mind that the cooperation should produce effective and deliverable policies on strategic cross boundary matters."

2. The Council have produced a Duty to Co-operate June 2016 and outlines the consultations that the Council have had with its neighbouring authorities and other public bodies which it can reasonably consider should co-operate on strategic cross boundary matters. We have no reason to doubt that the Council has undertaken appropriate consultations on its Local Plan with the required public bodies and has documented those consultations.
3. However, we consider that the Duty to Co-operate requires more than simply consultation and the PPG makes clear that, whilst not a duty to agree, the duty does require cooperation which should produce 'effective and deliverable policies on strategic cross boundary matters'.
4. Subsection (2) of S.33A imposes the duty to cooperate to require the Council to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken; which includes strategic matters. Subsection (4)

confirms that a "strategic matter" includes 'sustainable development or use of land that has or would have a significant impact on at least two planning areas'.

5. Paragraph 6 of the Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. It states "*The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system*".
6. Paragraph 182 of the Framework confirms that part of planning for sustainable development is whether Plan has been 'positively prepared' based on a strategy which seeks to "*meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development*".
7. In taking the above as a whole, whilst the Duty to Cooperate is not a duty to agree, we consider that a failure to plan effectively for unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development would constitute in a failure to engage constructively and actively in performing the Council's activities; namely, the planning for the strategic matter of sustainable development.
8. Clearly, one of the key cross boundary matter in relation to Telford and Wrekin is whether it should reasonably assist in meeting the unmet housing requirements of the West Midlands conurbation and South Staffordshire. For the reasons set out below in response to MIQ 2.2, we do not consider that the Council's approach has resulted in an effective and deliverable policy outcome and does not represent cooperation with neighbouring authorities but simply involves consultations with those authorities.
9. Moreover, as set out within our previous representations we raise objection to the Council's lack of meaningful cooperation with the Marches LEP in whose area the Council sits. The DTCP notes the Council's discussions with the Marches LEP who have written to support the Local Plan employment and housing targets proposed by the plan on the 24th September 2015. Notwithstanding the support of the LEP for the proposed employment target, as set out earlier in relation to Matter 1, the Council have since sought to reduce the proposed employment delivery target within the Local Plan. The reduction of employment land despite the support previously noted from the LEP which relies on Telford as being an 'Urban Powerhouse' for the wider area is considered to be illogical and counter productive to the aims of the plan and the Economic Strategy of the LEP. It has not been made clear

to what extent that decision has been discussed or agrees with the Marches LEP. It is therefore not clear whether the Council has discharged its Duty to Cooperate in this regard.

2.2 Given that the Plan seeks to set a housing requirement that exceeds its stated assessment of Telford & Wrekin's housing needs, is the Council's position of not seeking to meet any unmet housing demand from the West Midlands conurbation or South Staffordshire sufficiently justified?

[Inspector's note: the Council is also asked to comment on findings in paragraph 6.13 of the PBA Objectively Assessed Housing Need Report2]

10. We agree that, on a best fit basis, Telford and Wrekin can be considered to be its own HMA. However, as noted in relation to Matter 1, it is clear that it has a strong functional relationship with other areas outside of its boundaries including the West Midlands conurbation which relies on commuters from Telford and Wrekin. This is not something that the Council appears to dispute within its evidence base. Indeed, as noted at paragraph 6.13 of the PBA OAN Report, Telford & Wrekin, *"has grown historically as an overspill town for the Black Country"*. Equally, Telford's role as an area for growth for the region does not appear to be a point of contention between the Council and its neighbouring authorities as set out within the DTCP 2016.
11. The PBA report notes that Telford and Wrekin *"may be well placed to resume this role as unmet housing need ripples outwards from Birmingham. Importing need in this way could benefit both areas – the donor areas by relieving capacity constraints, and Telford & Wrekin by helping to make more sustainable settlements, pay for affordable housing and support necessary infrastructure."*
12. We agree with the above statement and, as set out in our representations to Matter 1, we consider that Telford has additional capacity to accommodate growth and achieve sustainable development which will bring with it additional benefits in terms of meeting housing needs. We consider that it is reasonable for Telford to accommodate additional growth from the West Midlands conurbation in line with the policies of the Framework.
13. In March 2015, paragraph 6.13 of the PBA report goes on to state that the option of Telford accommodating growth from the West Midlands will *"be considered in Stage 3 of the Greater Birmingham, Solihull and Black Country Strategic Housing Study, which has just started"*. Stage 3 of the HNS was published in August 2015 and also produced by PBA.
14. The HNS notes the distribution of growth to other settlements as one of its spatial options for consideration (including Telford). However, the report does not then go on to consider whether Telford could or should accommodate growth from the conurbation. Chapter 9.1 of

the HNS states that whilst PBA were asked to consider Telford, it has subsequently been excluded by the Steering Group because Telford falls outside the HMA for the conurbation.

15. Bafflingly, the next chapter in the HNS then contradicts its previous conclusions when looking at the matter of whether housing requirements can be exported. It states:

*"10.34 The NPPF is clear that the HMA is the main geography for which housing need should be met. **But the Duty to Co-operate does not end at the HMA boundary. Where unmet need is a strategic issue, as may be the case here, the Duty can be used to help meet strategic housing needs in a sustainable way beyond the HMA.** This can include to those authorities inside GBSLEP but outside the HMA (East Staffordshire and Wyre Forest) but also others further afield.*

*10.35 We cannot look at this in detail, because the 'export option' is not part of our study brief. But from the analysis we have undertaken we know that within GBSLEP East Staffordshire and Wyre Forest have capacity which could help offset Greater Birmingham's strategic housing shortfall. Wider afield, **Telford may have also potential capacity to accommodate part of the shortfall.** The current consultation version of their Local Plan (August 2015) suggests they are considering providing around 5,500 more homes than their local need". (our emphasis)*

16. In summary, Telford is acknowledged by the Council and PBA as historically being an overspill area for the growth of the West Midlands Conurbation (WMC) and PBA note that requirements from the wider area may be accommodated in Telford and could enhance sustainability. PBA note that this is something which will be considered in a report that PBA themselves are producing. That report, produced 5 months later then subsequently omits an assessment of whether Telford should be accommodating some of the shortfall from the WMC because it falls outside the HMA despite the Framework stating that authorities should look beyond the HMA. We consider that the above represents a clear lack of constructive, active and on-going engagement on the above matter which fails the discharge the authorities' involved Duty to Cooperate.
17. In light of the above, the Council's position of not seeking to meet any of its neighbouring authorities housing need shortfall cannot be considered as sufficiently justified.
18. We do note, at Appendix 2.4 of the DTCP 2016 that the Council and the Black Country Authorities (BCA) have agreed that 2,000 houses from the BCA shortfall of 38,000 homes. However, this has not been translated into the Plan as submitted as far as we can see. Without being represented in the Council's Local Plan this agreement is considered to be

meaningless. Indeed, the Council's SHMA 2016 makes it clear that the proposed housing requirement of 15,555 homes has been proposed to meet its own housing and economic growth projections as well as being uplifted to meet its own affordable housing needs.

19. In line with the PPG guidance on the Duty to Cooperate, the Council should be working beyond its administrative boundaries for example, in travel to work areas. We consider that the borough has intrinsic links with the West Midlands conurbation in terms of both in and out commuting. As addressed in Matter 1, the Council also has capacity to accommodate more growth than it is currently proposing. We consider that Telford is uniquely and ideally placed to assist the WMC in meeting its unmet housing needs.
20. Indeed, the Council appears minded to agree with this assertion based on its agreement with the BCA that it will accommodate 2,000 homes from the BCA's shortfall. However, in the first instance, that agreement should not simply be a 'number trading' exercise and Council (in co-operation with the BCA) should be planning constructively to increase its housing requirement to meet the unmet requirements from neighbouring authorities, including an assessment of the levels of additional growth which it is reasonable and sustainable to accommodate in line with the requirements of the Framework. This exercise has not, in our view, been undertaken.