

Home Builders Federation  
Respondent No.  
Hearing Session : Matter 1

## **WEST SOMERSET LOCAL PLAN EXAMINATION**

### **INSPECTOR'S MATTERS AND ISSUES**

#### **Matter 1: Legal Compliance and the Duty to Co-operate**

- 1. The Council has been asked to publish a self-assessment document showing how it considers it has met the legal requirements. Other than with regard to the Duty to Co-operate (dealt with separately), if it has not, in what way has it failed and what now needs to be done by way of correction?**

A self-assessment document was not found on the Council's website so at this time the HBF submits no further comments but may wish to respond during the Hearing Session.

- 2. SD17 sets out how the Council considers it has met the Duty to Co-operate. However, this is dated December 2014 and cannot take into account what may have been continuing activity up to the submission of the Plan in July 2015 or, at the very least, the finalisation of that document. Would it be reasonable for me to conclude from the evidence in that document and any further evidence that the Council wishes to provide that the Council had engaged constructively, actively and on an ongoing basis with those prescribed in statute in maximising the effectiveness with which the preparation of the Plan has been undertaken? If not, in what specific ways has the Council failed to meet the Duty?**

The Duty to Co-operate (S110 of the Localism Act 2011 which introduced S33A into the 2004 Act) requires the Council to co-operate with other prescribed bodies to maximise the effectiveness of plan making by constructive, active and on-going engagement. In satisfactorily discharging the Duty it is important to consider the outcomes arising from the process of co-operation and the influence of these outcomes on the Local Plan. One of the required outcomes is the delivery of full OAHN for market and affordable housing in the HMA as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (NPPF para 182).

From the Council's evidence at the time of the pre-submission consultation (SD17) it would be reasonable to conclude that the Council had started the process of co-operating with neighbouring authorities via attendance at meetings and the commissioning of joint studies. However from the evidence it is not possible to conclude that any meaningful outcomes arose which maximised the effectiveness of plan-making or that these outcomes have influenced the preparation of Local Plans within the HMA.

At the start of the plan making process in 2008 West Somerset appeared to be part of two HMAs namely the North Peninsula HMA and Taunton & South Somerset HMA. By 2013 the Council had determined that it was most appropriate for West Somerset to be part of the North Peninsula HMA only. The reasoning for this decision is not obvious from the submitted evidence.

However the most serious flaw in the evidence of joint working is the absence of a calculation of OAHN for the North Peninsula HMA. Without this evidence it is impossible to determine if the housing requirements set out in respective Local Plans in the HMA will meet OAHN in full. Indeed even on the incomplete evidence available the Councils identified housing as a strategic cross boundary matter in particular affordable housing needs in West Somerset and market housing needs in Exmoor National Park. The identification of these particular housing needs and solutions to resolve meeting these needs in full under the Duty are somewhat confusing as West Somerset sought assistance from its neighbouring authorities of Taunton Deane and South Somerset outside the North Peninsula HMA rather than within its own HMA. Whilst Exmoor National Park sought to incorporate its market housing into West Somerset without a corresponding increase of housing numbers in West Somerset. Such actions are premature because an OAHN for the North Peninsula HMA has not been undertaken.

Furthermore until there is an OAHN for the HMA it is not evident if the Councils have co-operated with the Local Enterprise Partnership (LEP) to ensure successful delivery of policies for economic growth.

In conclusion the West Somerset Local Plan is unsound because the Councils have failed to work together to establish an OAHN for the HMA. As highlighted in Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) establishing the OAHN for the HMA is the first step in the process which underpins all subsequent work. This is the first and most fundamental outcome of joint working. The Councils have started a process of working together but not satisfactorily finished. Therefore the Examination should be suspended so the process can be concluded.

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