

BIRMINGHAM DEVELOPMENT PLAN EXAMINATION

Examination Statement Matter A: Housing need and the housing trajectory

Main Issue: Does the Plan appropriately identify housing needs and does it seek to meet them in accordance with national policy?

Question 1: is the Plan based on an objective assessment of the full needs for market and affordable housing in the housing market area over the Plan period?

1. **Response:** The Plan is not based upon an objective assessment of the full needs for market and affordable housing and is therefore inconsistent with policy contained within the National Planning Policy Framework (NPPF). The Statement addresses the following issues:
 - What is Objectively Assessed Housing Needs;
 - Does Birmingham have an up to date NPPF compliant Strategic Housing Market Assessment (SHMA)?
 - Failure of the Council to consider all components of the Objectively Assessed Need

What is Objectively Assessed Housing Need

2. Before appraising whether the Plan is based upon an objective assessment of need (OAN) for housing, it is essential to get clarity from the authority on what it considers the OAN to be. At present this is not clearly stated. There are also mixed references in the Plan and its evidence base, particularly in relation to the terminology used in respect of **homes**, **households** and **dwellings**.
3. The NPPF (paragraphs 47 and 159 refer) defines the objectively assessed need for housing need in terms of **housing** and not **households**. The two are entirely different, with **housing** need being typically higher than **household** need. It is therefore necessary for the Council to make a clear statement on what its objectively assessed **housing** need is and not **household** need. In this context the following is observed:
 - The Plan does not contain a statement on what the OAN for **housing** is. It states in paragraph 4.4 that the SHMA indicates a need of 80,000 **households** over the plan period.
 - The Council's Housing Technical Paper (2013, paragraph 3.7) states that from the Council's 2012 Strategic Housing Market Assessment (SHMA) there is a need for 81,500 **households**, which equates to an OAN of 84,000 **dwellings**. This is different to the Plan at paragraph 4.4 above.
 - Paragraph 11.50 of the SHMA, however, expresses the **housing** need as a range from 81,500 to 105,200 **homes**. It is unclear as to whether this reference now relates to **households** or **dwellings**. It would appear to be **households** as it refers to the same figure as that set out in the bullet above of 81,500.

- The GBSLEP Joint Housing Study indicates that the OAN for Birmingham is 86,400 **dwelling**s¹.
4. It can be observed therefore that a range of figures are being provided alongside a mix of terminology that uses households, homes and dwellings, which in places refer to the same number but expressed using a different term.
 5. From reading the evidence it is assumed that the OAN range presented by the Council is **84,000² to 108,400³ dwellings**. However, the Council's response to the Inspector's initial questions on OAN set out clearly that the Council's evidence upon which the Plan is based is not based upon the most recent data, and an acknowledgement by the Council that the more recent data (GBSLEP study) is highly likely to give rise to a higher OAN.

“The GBSLEP Strategic Housing Needs Study will make use of more recent data than was available to inform the Council’s SHMA. The Council recognises that it may produce a different level of household growth for Birmingham – and that the general expectation is that this is more likely to increase rather than to reduce the level of objectively assessed need”.
City Council’s response to Inspector’s question 5

6. This is therefore a clear admission that the Council's evidence is already out of date and that the figure contained in the Plan cannot be OAN.

Does Birmingham have an up to date NPPF Compliant Strategic Housing Market Assessment (SHMA)?

7. Paragraph 159 of the NPPF sets out that the need for housing should be determined for the Strategy Housing Market Area (SHMA). The Birmingham SHMA states (paragraphs 10.10 to 10.13 and 13.1 to 13.3) that the OAN for Birmingham **should be set for a housing market area and that Birmingham operates in a housing market area wider than just the City**. Paragraph 13.3 of the SHMA specifically sets out the approach that should be taken by Birmingham City Council to be sound in meeting the requirements of paragraph 159 of the NPPF. It states:

“In the absence of a joint evidence base [for the wider housing market area authorities], we suggest that to achieve a sound plan Birmingham City Council should:

- **Base its own target on an assessment of demand and need across the sub-regional housing market area, not just Birmingham on its own.**
- **Hold discussions with neighbouring authorities, aiming for revised housing targets across the housing market area that collectively meet that area’s total need as closely as possible.**
- **In these discussions, point out that if this aim is not [to meet] all the market area’s emerging Core Strategies / Local Plans risk being found unsound.**

¹ GBSLEP Board Report of July 2014 on Joint Housing Study Report Phases 1 and 2

² Paragraph 3.7 of the Housing Technical Paper (2013) converts 81,500 households to 84,000 dwellings by addition of 3% vacancy rate

³ RPS repeat of paragraph 3.7 of the Housing Technical Paper (2013) converting 105,200 sourced from SHMA para 11.50 to dwellings by adding 3% vacancy rate.

- ***Add that without agreement with neighbours it would be very difficult to set sound evidence-based targets for the future, because future demand in any one local authority area depends on provision in neighbouring areas” [RPS Emphasis]***
8. The Council's SHMA is therefore recommendations that to achieve a **sound plan** the Council should base its OAN on **the housing market area, not just its own.**
 9. Despite this recommendation, the Council has set out its OAN on the basis of its own need alone and the wider housing market area. This is inconsistent with paragraph 159 of the NPPF.
 10. In the context of the above, reference is made to the recent Charnwood Borough Local Plan Examination where the authority undertook an assessment of its own need and not that of the wider HMA, and was found unsound. The Inspector in his letter set out the following.

“18. Whilst some analysis of how the figure of 790 houses per year would accommodate in migration from Leicester City and elsewhere is undertaken, there is no assessment of the housing needs of the HMA as a whole or the role of Charnwood in accommodating them. The scope of the HRS [Housing Requirements Study] is therefore inconsistent with Paragraph 159 of the NPPF.

19. Taking all of the above into account, I consider that the Core Strategy is not based upon an up to date and robust assessment of the housing needs of the HMA. It is not clear how such needs will be met and if there will be unmet needs from authorities that will have to be accommodated elsewhere within the HMA. There is not an effective basis to determine what role Charnwood should have in meeting the needs of the HMA and what the appropriate level of housing provision should be to achieve this.

20. As it stands, the Core Strategy has not been positively prepared, it is not justified or effective and it is not consistent with national policy in respect of overall housing provision. It is therefore not sound.” Inspector's letter to the Charnwood Borough Council (1 April 2014).
 11. A similar conclusion was found in respect of the Aylesbury Vale Local Plan which was subsequently withdrawn with the Inspector finding that there was no viable SHMA for establishing housing needs produced jointly with other authorities, and that the evidence on which the plan was based was commissioned and produced solely on behalf of the Council.
 12. The Inspector at the North West Leicestershire Local Plan examination also reached similar conclusions in his letter to the Council in July 2013 where the Plan was subsequently withdrawn. The Inspector stated at paragraph 7(a) of his letter that:

“The 2007/8 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) does not appear to reflect recent market conditions and does not cover the full Plan period to 2031. It is a requirement of the Framework (paragraph 159) that Councils should prepare a SHMA to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. In the

absence of an up-to-date SHMA, it will be difficult to conclude that the CS meets the Framework's soundness requirements that a Plan should be justified and consistent with national planning policy".

13. In light of the above, the same is true of Birmingham City in that the SHMA does not reflect the most recent emerging evidence (Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Joint Housing Study) and only covers the administrative authority of Birmingham City.
14. In respect of the GBSLEP Joint Housing Study it has been confirmed that this is not a SHMA as stated at the recent 2014 Phase 1 and 2 findings presentation. In this context, and while being prepared jointly by the GBSLEP area authorities, the findings of the study do not constitute a SHMA for the purposes of the NPPF. **Given this and the fact that the most recent SHMA was prepared using now out of date evidence (that has been superseded) for Birmingham City only, there is no up to date SHMA for Birmingham City that meets the requirements of paragraph 159 of the NPPF.**

Failure to consider all the NPPF/PPG components of OAN

15. The NPPF and the recently published national Planning Practice Guidance (PPG) set out the manner in which OAN for housing must be established. These in summary require the assessment to consider four components of objectively assessed need.
- Demographic (*NPPF paragraph 50(i) & PPG paragraph 015*)
 - Economic factors (*NPPF paragraph 20 & PPG paragraph 18*);
 - Affordability; (*NPPF paragraph 47 & PPG paragraph 29*); and
 - Market signals (*NPPF paragraph 17(iii) & PPG paragraph 19*)
16. Where the findings of an assessment of OAN draws upon evidence from each of the above, it can be considered an **objective** assessment of housing need. Where it fails to adequately consider one of the above, it cannot be considered an **objective** assessment consistent with the NPPF and PPG.
17. The combined evidence base that underpins Birmingham's OAN omits a number of the components identified above and is therefore not soundly based, as set out below.
- The Council's SHMA is based upon **demographic** and **affordability evidence**. Therefore the SHMA only considers two of the four components an OAN assessment.
 - Notwithstanding the fact that the GBSLEP Joint Housing Study (which claims to set out an OAN for Birmingham) is not a SHMA, it is also only a **demographic** based study.
18. On the basis of the above, both components of evidence on housing need, whether considered a SHMA or not do not assess all four constituent components of OAN.

Question 2: If not, what alternative objective assessment of housing needs should the Plan be based upon?

19. RPS is aware that others have submitted evidence on the range that the OAN should fall within and does not repeat those submissions here⁴. However, methodically, the OAN should be based upon an assessment that comprehensively appraises housing need from all four components of OAN.
20. The assessment should be informed by the latest demographic evidence (paragraph 15 of the PPG). This should be complemented by the economic component which embraces the economic growth plans and proposals for England's second City, linked to the economic growth expectations of the wider GBSLEP Economic Growth Plans (paragraph 18 of the PPG).
21. This should all be considered against market signals evidence from past trend evidence for the City to consider if an uplift of the demographic evidence is required (paragraph 19 of the PPG). It should then consider the capacity of the evidence to meet the full objectively assessed housing need for affordable housing (paragraph 47 of the NPPF and paragraph 29 of the PPG).
22. Only having considered all four components can a housing need assessment be OAN, which has not been undertaken by Birmingham City.

Question 3: Does the Plan meet the full needs for market and affordable housing, as far as is consistent with the policies set out in the National Planning Policy Framework?

23. At present it is clear that the authority is not meeting its OAN.
24. The NPPF sets out (paragraph 14 refers) that local planning authorities should meet their OAN for housing unless specific policies in the NPPF indicate that development should be restricted.
25. With regard to the Inspector's question and consistency with the policies contained within the NPPF, the NPPF refers to the Green Belt as a policy that indicates development can be restricted. It is therefore acknowledged that this can be provided as a reason for not meeting the OAN, whilst still being consistent with the NPPF. This is understood to be the essence of the Inspector's question. However, if this route is purposely chosen by the authority, it must explicitly state that it does not intend to meet its objectively assessed need in full and that the Green Belt is the reason on which it reaches this conclusion and the Plan examined on that basis.
26. In this context, and in reading the Plan submitted to the Examination, at no point does the Council set out that it does not intend to meet its OAN. Instead it refers to working with adjoining authorities and the GBSLEP to understand how this need **will be met**. This is supported by clear **strategic priorities** contained within the Plan (as are required and consistent with paragraph 156 of the NPPF) and a vision for Birmingham City that indicates that housing and other development needs will be met. These can be found as below:

⁴ Paragraph 2.17 of the representations made by RPS (February 2014)

“We will plan to ensure Birmingham’s residents will be experiencing a high quality of life, living with attractive and well-designed neighbourhoods. The choice of affordability will be meeting the needs of all and local jobs and services will be accessible by a range of transport choices”. (Paragraph 3.2)

“To develop Birmingham as a City of sustainable neighbourhoods that are safe, diverse and inclusive with locally distinctive character” (paragraph 3.5(i))

“The continued revitalisation and modernisation of the City’s economy will be central to the growth agenda ensuring that jobs and prosperity are generated for current and future residents” (paragraph 3.11)

“In delivering the principles of sustainable neighbourhoods a wide choice of housing sizes, types and tenures will be provided to meet community needs including homes for families, for the elderly and appropriate levels of affordable housing” (paragraph 3.23)

27. There is therefore a clear commitment **to meet** local development needs. If this were not the case, and the Council chose not to meet its OAN and development needs in full, then the Plan would be required to set this out explicitly.
28. **If** the Council consciously made the decision not to meet 30,000 plus housing need as a result of the Green Belt, serious housing shortages would exist. As a result, it would have to clearly make a statement that it consciously decided not meet its needs and put in place policies that reflect this and seek to manage a significant increase in acute housing need for both affordable and market housing as well as associated economic impacts. No such policies or statements have been made. **Therefore it is clear that the City is fully intending on meeting its housing need, the question simply remains as to how it will achieve this. The choice is therefore:**
- 1) Demonstrate adjoining authorities will deliver unmet housing; or**
 - 2) Further development in the Green Belt.**
29. In circumstances where local planning authorities choose to meet their need and release sites from the Green Belt, the authority must demonstrate that exceptional circumstances exist to amend the Green Belt.
30. In the context of Birmingham City, the Council has undertaken an assessment of its urban capacity and identified that it cannot accommodate its need without amendment to the Green Belt. Paragraph 5.56 of the Birmingham Plan sets out that the Council considers that the ***“limited capacity of the urban area to meet the needs of the City’s growing population represents exceptional circumstances which justify the release of land from the green Belt for housing development”***.
31. The Council has therefore clearly established exceptional circumstances that justify the release of land from the Green Belt. Therefore while it is fully acknowledged that paragraph 14 of the NPPF provides the authority with the choice to as to whether to meet housing need within the Green Belt or not meet housing need, the Council has clearly demonstrated in the Plan that **it seeks to meet its housing need** and that exceptional circumstances exist in Birmingham to warrant the release of Green Belt land.

32. In conclusion, the decision **has been made to meet local need** and is clearly expressed in strategic priorities and the Plan. The decision is therefore entirely consistent with the NPPF. The Council has also made it clear that the level of housing need **justifies exceptional circumstances** to release land from the Green Belt rather than apply paragraph 14 and not meet housing need. Again, this principle is sound and meets the requirements of the NPPF. The question on soundness is therefore balanced on **the extent that the City Council is taking action** on its decision to meet housing need and release green belt sites. It is currently falling short of being found sound in that it does not make every effort to meet its housing need, having already determined that it **will** meet housing need and **will** release sites in the Green Belt to accommodate this need. It is this component of decision making and planning judgement that is unsound against the NPPF.

Question 4: What proportion of the assessed housing need should be met outside the Plan area, and by what mechanism should that proportion be distributed to other local planning authorities' areas?

33. At present there is no **agreement** or **mechanism** for meeting housing need outside of the Plan area. As such the Plan cannot be found sound.
34. The approach taken by the City Council is one of abdication of responsibility to Plan positively. Many of the local authorities neighbouring Birmingham have progressed with their Local Plans with a number adopted or reaching latter stages in their plan processes. In doing so, many have incorporated review mechanisms into their Plan to potentially accommodate the need from Birmingham. However, they have not categorically stated how much they are prepared to accommodate **and many of these are Green Belt authorities themselves**. Much of this stems from a lack of cooperation and positive planning under the Duty to Cooperate, and despite being introduced in 2011 there is still no arrangement in place to address the housing need of the country's second city's housing need.
35. The position is now that surrounding authorities have had to plan on the basis of review mechanisms to address the lack of information coming from Birmingham City. This has left great uncertainty on how a significant catalyst of housing need will be met. It is now proposed by Birmingham City to exacerbate this situation by publishing a Plan that contains no strategic policy on where over 30,000 (based upon the Council's evidence) new dwellings will be met.
36. It cannot be sound that a location that generates a self-admitted need for over 30,000 houses can consider its Plan sound without **any** cross boundary policies and mechanisms in place within the Plan to establish where its unmet need will be met.
37. While the Council presents the case that this issue is being address within the GBSLEP Joint Housing Study (phase 3), it is not. Furthermore, even if it were, the simple fact is that the Plan, as submitted, does not include any positive cross boundary policy or agreement in respect of meeting a minimum of 30,000 new homes of unmet need.
38. In this context reference is made to Brighton and Hove and Stevenage Plans that have been found unsound on the basis that no firm evidence / agreement has

been provided on how unmet need will be met from the exporting authority by adjoining authorities. The same principle exists at Birmingham to an exaggerated scale. As such and despite any reference to ongoing GBSLEP evidence, the simple fact exists that the Plan has been submitted with a significant omission in its strategy.

39. If the Birmingham Plan were to be found sound with an omission of over 30,000 dwellings with no agreement on how this will be distributed and no agreement in neighbouring plans on who will accept unmet need, with the only mechanism being proposed being the GBSLEP Joint Housing Study that has no empowering mechanism within it, then the unmet housing need of at least 30,000 new dwellings will not be met for a significant length of time, if at all.
40. There is the serious potential for a prolonged hiatus of meeting 30,000 dwellings to exist. This is not sound and **would amount to a fundamental sub-regional failing on the statutory Duty to Cooperate.** It is therefore imperative that Birmingham establish within its Plan exactly how unmet housing need will be met.
41. In respect to what proportion should be distributed to other authorities, this cannot be established until the Council has exhausted all options (which it has failed to do) within its own administrative boundary as the first locations to be developed. After this, the full remaining unmet need needs to be accommodated. Additional land should be released from the Green Belt before considering distributing unmet need elsewhere.

Mechanism

42. There is no mechanism in place for distributing housing need within the GBSLEP area. The Birmingham and surrounding GBSLEP authorities have set out that the GBSLEP Joint Housing Study (phase 3) will be the mechanism for identifying distributions options for unmet need. However, this study has emerged as nothing more than an academic exercise and powerless of any mechanism to ensure that unmet housing need is addressed.
43. It has been confirmed at the recent 2014 Presentation of Phases 1 and 2 of the GBSLEP Joint Housing Study that any actions arising from Phase 3 of the Study would be entirely voluntary by the adjoining authorities, **many of which are Green Belt authorities and are similar restricted by the NPPF.** In essence the neighbouring authorities will be asked whether they will accommodate additional growth from Birmingham. If they choose not to then there is no mechanism in place to ensure that this housing need is met. This position has been confirmed at the 2014 presentation referred to above. If this is how the authorities perceive the Duty to Cooperate functioning then it is a significant failing of what is necessary to meet that requirement.
44. **On the basis of this arrangement no mechanism exists to deliver unmet need.** The Joint Housing Study (and Phase 3 of it) is simply an academic exercise to seek to understand unmet housing need and engage with authorities within the GBSLEP area to seek a voluntary action to accommodate some of Birmingham's need. As such it has not formal mechanism.
45. The only formal mechanism that can and does exist is the statutory Duty to Cooperate (DtC). It is therefore through this mechanism that unmet need should

be met and the GBSLEP study is a way of circumventing the requirement of the statutory DtC process that requires a positive action and outcome.

46. The Council should have undertaken its Plan on the basis of the DtC and have in place firm arrangements for accommodating its unmet need in place in advance of submitting its Local Plan. The Plan is therefore unsound and currently not legally compliant.

Question 5: Is there justification for the staged housing trajectory set out in Policy TP28?

47. There is no justification contained within the Plan for a staged housing trajectory. The Plan sets out at 8.13 that this is based upon economic conditions of a recovering economy. The NPPF sets out that the OAN should be met in full in so far as is consistent with the policies of the NPPF read as a whole. There is no policy within the NPPF that sets out that housing delivery should be phased due to economic circumstances. Equally, the economic circumstances that are perceived to exist are a remnant assumption of a poorly performing future economic recovery for the UK and its housing market. However, as we are currently observing the UK's economy is now at pre-recession levels and performing well with equally good performance in the housing market. The Plan is therefore not reflective of the current position and the real reason the trajectory is phased as such is to seek to demonstrate a five year supply of housing with the introduction of low housing target figures in the early years.