

Response to Documents Published in Respect of Matter 2 Duty to Co-operate Action Points 2.1 and 2.2

We welcome the Council's publication of documents related to the Duty to Cooperate. This is in response to representations made by Savills and others at the recent examination hearings, concerning a lack of evidence to demonstrate that the Duty to Cooperate had been met.

It is concerning that it has taken until the examination hearings began for such evidence to be produced, when Savills (along with other participants in the examination) requested more robust evidence of Duty to Cooperate during the following consultations:

- December 2019: Spatial Housing Strategy and Infrastructure Delivery Consultation;
- December 2021: Preferred Options Consultation;
- December 2022: Publication Plan (2022);
- May 2024: Publication Plan (2024); and
- April 2025: Matters, Issues and Questions Response.

The fact these documents have been published only following an intervention from the Inspector, is an indication of South Staffordshire's unwillingness to provide a transparent picture of on-going joint working between the HMA LPAs.

It is important to note that the PPG references a requirement for the Duty to Cooperate to be dealt with before submission of a Local Plan¹ The publication of evidence during an examination (late on in the proceedings) does not align with this requirement. The Duty to Cooperate should be a key thread running through plan preparation, and is not something that can be retrospectively corrected.

A number of the documents provided are redacted in part. This is understandable where confidential matters are discussed. However it should be explained why specific sections of text have been removed, or at least confirmation provided that the Inspector will be able to view full copies of the documents provided as evidence.

The HMA meeting agendas and minutes provide further evidence to what has been set out in previous representations by Savills, on behalf of Clowes; that engagement undertaken has not been effective. For example, a number of the minutes refer to updates being given on local plan status, rather than engagement regarding key duty to cooperate matters such as the HMA housing shortfall. Paragraph 24 of the Framework is clear on the obligation of LPAs, that: "Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries."

It is our conclusion that, although further evidence has been provided of cooperation, there is not sufficient evidence of the Duty to Cooperate has progressed maximising the effectiveness with which the local plan is produced, particularly in relation to the HMA housing and employment shortfall, and ultimately how this is measured and apportioned across the HMA LPAs.

The Plan submitted therefore does not meet this legal test² and nor does it demonstrate a positively prepared and justified strategy as required by paragraph 35 of the NPPF. The Duty to Cooperate having not been satisfactorily addressed in a clear and transparent manner presents a very real danger of this legal requirement not being met, which is potentially fatal for the plan and requires further careful review.

¹ Planning Practice Guidance - Paragraph: 031 Reference ID: 61-031-20190315).

² Localism Act 2011, Section 110