

Matter 2: Duty to Co-operate

Issue 1: Whether the Council has complied with the duty to co-operate in the preparation of the Plan?

Duty to Co-operate

Q21. Have all Statements of Common Ground been provided consistent with the requirement of the Framework and the associated Planning Practice Guidance?

21.1 Whilst this is a matter for MSDC to address, we note that although the examination library does not include a SoCG with Crawley Borough Council, the Northern West Sussex SoCG (General (DC3) and Housing (DC4)) does in effect cover all the issues relating to relevant strategic cross boundary matters between MSDC and CBC. Both SoCG are dated July 2024 and provide the up to date position across the Northern West Sussex Housing Market Area (NWS HMA).

Q22. Has the Council co-operated with the relevant local planning authorities, and appropriate prescribed bodies, in the planning of sustainable development relevant to cross boundary strategic matters? If so, who has the Council engaged with, how, why, and when, with particular reference to the ability to influence plan making and the production of joint evidence and meeting unmet needs?

22.1 The Duty to Co-operate Statement of Compliance (DC1) is clear in terms of key relationships and bodies, co-operation with prescribed bodies, and cooperation with neighbouring authorities. DC1 together with the Statements of Common Ground paint a picture of detailed, effective, and ongoing discussions. Our response to Q26 references the approach to the production of joint evidence / common briefs for the SHMA and agreed methodology site selection process, which has helped influence the plan's approach to meeting housing needs.

22.2 In the context of the above, Planning Practice Guidance¹ is clear in that local planning authorities are not obliged to accept needs from other areas where it can be demonstrated that it would have an adverse impact when assessed against policies in the Framework. The issue is thus whether MSDC have demonstrated that the extent to which they have sought to address the unmet need of the NWS HMA is as far as they can go given the findings of the SHLAA and site assessment methodology, or whether there are additional sites that could help address the unmet needs that would not tip the balance.

22.3 In the context of the above we note that the Crawley LP Inspectors have, in their recent report of 6th September 2024, (Ref Other O9), in their assessment of CBC approach to the DTC highlighted in paras 19 – 30 that in their opinion the approach adopted was acceptable, that *'the focus for accommodating the unmet housing need is inevitably on the NWSHMA authorities given the need to secure sustainable patterns of development'*; and that in terms of addressing CBC unmet needs, that *'Whilst it will be for each authority to ultimately determine precisely how much housing development it can sustainably accommodate within the suitable land available, the cautiousness of NWSHMA authorities to*

¹ Paragraph: 022 Reference ID: 61-022-20190315

assist addressing the unmet housing need does not represent a failure against the DtC on Crawley's part'

Q23. Specifically, in relation to Mid Sussex Council, what are the matters of cross boundary strategic significance which require co-operation, and how have these matters been identified?

23.1 DC1 is, at para 46, clear in terms of strategic priorities, which include meeting housing needs, and issues associated with jobs and employment, transport, infrastructure, and environment. Paras 47 – 51, together with the accompanying table, set out the key strategic partners looking to address the static issues, and associated actions and outcomes. In terms of meeting housing needs, the key strategic partners are identified as Crawley, Horsham and Brighton and Hove. The actions are identified as addressing the under supply in the NWS HMA, consideration of meeting unmet needs in Mid Sussex, collaboration with neighbouring authorities on housing need, and review and preparation of site selection methodology. The outcomes for each action are clearly different, with that associated with the under supply in the NWS HMA including ongoing liaison, sharing of evidence, and challenging of each other's work, so that the authorities are able to agree that:

'- Each authority has undertaken an assessment of capacity for development within their boundaries, taking account of opportunities and constraints (including cross-boundary) and site suitability and achievability in accordance with the principles established in the NPPF.

- There are no further suitable and/or deliverable sites on or close to administrative boundaries which could contribute towards increasing housing supply within this plan period.

- Options for increasing supply have been explored.

- subject to meeting individual housing needs and establishing that there is potential to assist other authorities with unmet need, assistance should be prioritised as follows:

• Priority 1: Northern West Sussex HMA.

• Priority 2: Coastal West Sussex HMA.

• Priority 3: Other adjacent and nearby HMAs where it is justified by each individual authority.'

Q24. In considering such matters, including the timing, has the Council co-operated with those identified above, constructively, actively, and on an on-going collaborative basis throughout the preparation of the submission plan?

24.1 DC1 and the Statements of Common Ground that appear in the examination library do in our opinion suggest constructive, active, and on-going collaboration with the relevant local authorities and prescribed bodies.

Q25. I am aware of a number of cross boundary groupings which involve Mid Sussex on a sub-regional level as set out in the various Statements of Common Ground. As a consequence of the Council's legal duty to co-operate, how has the effectiveness of plan-making activities relating to the identified strategic matters been maximised to enable deliverable, effective policies? In doing so, has joint working on areas of common interest been undertaken for the mutual benefit of Mid Sussex Council and its neighbouring authorities with tangible outputs?

25.1 Please see our response to Q26 and Q29 below.

Q26. Has Mid Sussex Council been diligent in making every effort to meet cross boundary strategic priorities, including addressing potential unmet development needs arising from neighbouring authorities as referenced in Policy DP5 of the Mid Sussex District Plan 2014-2031 and as requested by neighbouring authorities?

26.1 We note that paras 40 and 41 of DC1 highlight the extent to which, in terms of the housing needs in the wider area, MSDC, CBC and HDC sought to agree a common brief for their respective SHMAs, as well as common objectives and methodologies for the work and employed the same consultant to ensure that the findings were compatible. DC1 also explains that the findings of each of the authorities' SHMAs were shared as the work progressed, and that the SHMA confirms the position of the HMA, local housing need and makes recommendations on the housing needs of different groups to inform policies within the Plan.

26.2 As indicated above, each authority has undertaken an assessment of capacity for development within their boundaries, taking account of opportunities and constraints (including cross-boundary opportunities and constraints) and site suitability and achievability in accordance with the principles established in the NPPF, and agreed the approach to this and associated conclusions in the NWS Housing SoCG (DC4) – see below. The council's methodology is reiterated in DC1 which at paras 68 – 70 advises that the approach to the Site Selection Methodology was agreed between adjacent authorities and that the District Council held individual sessions with Crawley, Horsham, and Brighton & Hove to explain the early findings resulting from application of the Site Selection methodology. The purpose of this was to demonstrate the extent to which Mid Sussex could meet its housing need, the extent to which it could contribute towards unmet need arising elsewhere, and the environmental and infrastructure implications of this. Paras 47 – 60 of H5 also explain, in more detail, the site selection process as evidenced in the SHELAA (SSP5) and the site selection methodology (SSP1). In essence, sites having been identified through the SHELAA were then sifted in terms of their relationship to existing settlements², whether they included any showstoppers³, and their performance against the 14 site selection criteria. Para 57 of H5 explains that the 49 sites that reached the final stage (Stage 3) of the Site Selection process were then subject to additional testing and consideration, including “in-combination” testing, an assessment of overlapping⁴ and an assessment against the Plan Strategy to ensure they were consistent with the spatial strategy established within the submission draft District Plan. As a result of the above, the plan supply is set out in para 94 of H5 to be 8,600 dwellings, an oversupply of 1,042 which para 95 suggests will provide resilience / help address unmet needs of the NWS HMA, where there would still be an unmet need, such that the oversupply could not contribute towards other neighbours or housing market area groupings such as the Sussex Coast HMA, which includes Brighton and Hove.

26.3 The evidence set out in DC1 and H5 is supplemented by DC4 which explains, given the geography of the NWS HMA, the current scale of the housing need, and approach to

² Whether they would contribute to a sustainable pattern of development, or where remote or disconnected from existing settlements.

³ Whether they would have a 'Very Negative' impact on criteria which the NPPF says are the most sensitive, e.g. sites that would be concluded as Major development in the AONB, loss of Ancient Woodland, substantial harm to heritage assets, or significant flood risk.

⁴ Overlapping sites as were alternate versions of sites (differing boundaries or yields) have been submitted and where only one version can realistically be taken forward, and

prioritising housing need, how the councils within the NWS HMA have sought to approach their assessment of their housing land supply in terms of site selection principles, and constraints. Section 5 of DC4 concludes with a clear set of agreed principles to be adopted for the assessment of the housing land supply process, with section 6 then looking at the current housing land supply position as set out in the respective authorities' local plans, the scale of the unmet need, the factors influencing this, such as water neutrality, and the options for cross boundary development to help address unmet needs. Table 4 of DC4 goes on to indicate that the land at Crabbet Park (DPSC2) is a potential cross boundary site located within Mid Sussex that could contribute to unmet needs, along with Heathy Wood, Copthorne and Woodgate, Pease Pottage. Para 6.31 confirms the latter have been completed, with para 6.33 advising that following careful consideration of site options on or close to administrative boundaries by the three HMA authorities, there are no further site options that could be delivered within this plan period. Section 6 of DC4 concludes at para 6.35 that: *'the authorities agree that housing need within the Northern West Sussex Housing Market Area will not be met by the emerging set of plans. The authorities will continue to work together to identify options for increasing housing further. However, it is recognised that there will continue to be an unmet need for housing in the HMA.'* Para 7.4 of DC 4 concludes:

'The three authorities have been meeting on an on-going, regular basis as each of their Local Plan Reviews progress. This has enabled each authority to understand the current position in relation to housing supply and the ability (or not) for each authority to meet its own needs and (where possible) increase supply to assist with meeting unmet need in accordance with the priority hierarchy. The authorities have considered options for increasing supply, as well as the outcomes from wider sub-regional groupings (such as the West Sussex and Greater Brighton group which all three HMA authorities are part of). This co-operation will continue.'

26.4 We also note that para 9 of the Brighton and Hove SoCG (DC5) indicates that: *'There are currently insufficient available, suitable and developable sites in the southern area of Mid Sussex (within the Coastal West Sussex HMA) to meet unmet needs from Brighton and Hove beyond those already proposed for allocation.'*

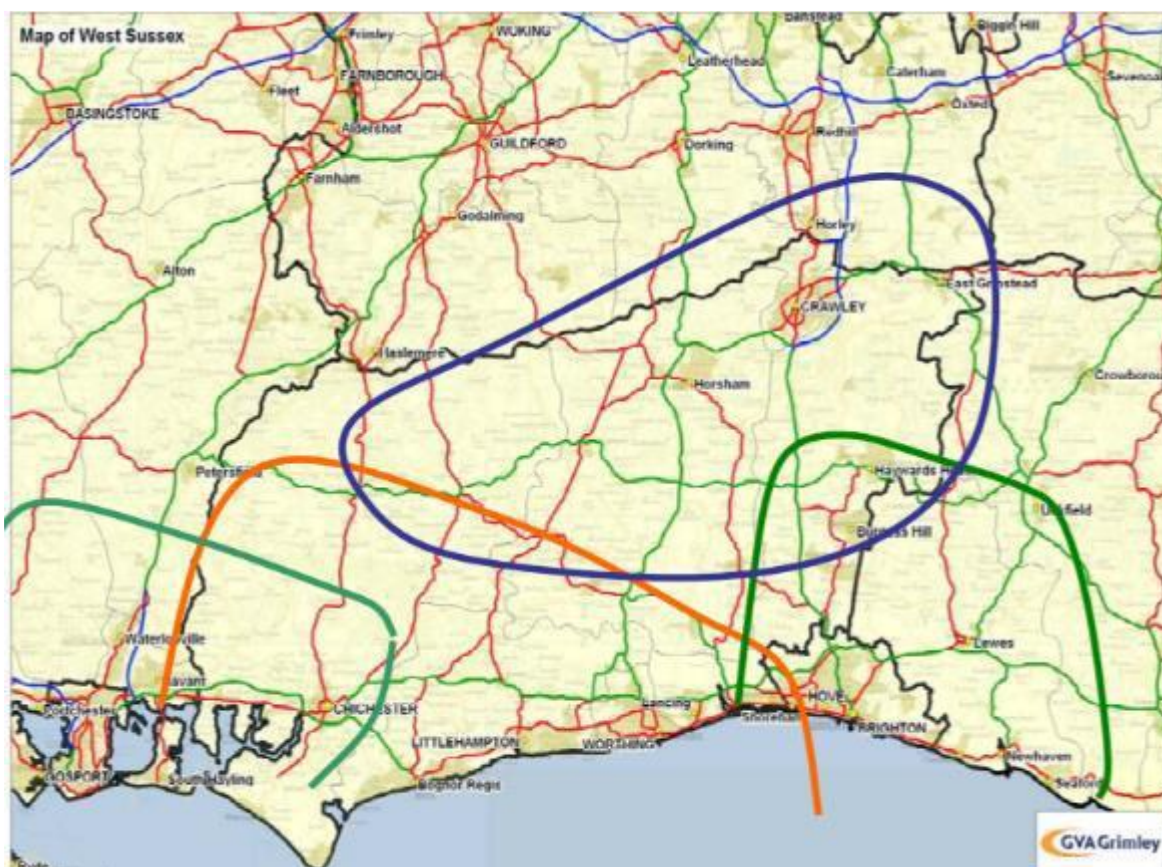
26.5 Overall the evidence base demonstrates a collaborative approach to the assessment of the housing needs of the area and the housing supply, and how both in term of strategic allocations and the overall supply the unmet needs of the NWS HMA can be addressed in this plan period and the approach to ongoing co-operation and governance moving forward.

Q27. Notwithstanding the Housing Needs Statement of Common Ground (SoCG) (DC4), signed by the Northern West Sussex authorities, what is the rationale for the prioritisation of meeting the unmet needs of the Northern West Sussex HMA over those of the unmet needs of other relevant HMAs?

27.1 The Strategic Housing Market Assessment (Oct 2021) (H1) explains at para 1.5 that: *"The Crawley and Horsham SHMA, published in November 2019 and prepared by Icen, included a review of the housing market geography to determine whether the previously identified 'Northern West Sussex' Housing Market Area ("HMA") comprising Mid Sussex, Crawley and Horsham remained appropriate and sought to examine spatial inter-relationships with surrounding areas."* Para 1.9 concludes: "This study endorses the

analysis set out in the Crawley and Horsham SHMA and the conclusion that a Northern West Sussex HMA remains appropriate.”

27.2 In the context of the above we note that paras 3.8 and 3.9 of the Crawley and Horsham SHMA (O10) explains that the geography of the NWS HMA was originally identified in a report prepared by DTZ Pieda in 2004. This defined a “Crawley/Gatwick Housing Market Area” which covered Crawley and the northern parts of Horsham and Mid Sussex (essentially to the north of the A272). The southern parts of Horsham and Mid Sussex were identified within a Sussex Coast Housing Market Area extending from Chichester to Lewes. The definition of a NWS HMA was then endorsed by both the 2009 SHMA and the 2014 SHMA Update. The 2009 SHMA, prepared by GVA Grimley, identified this HMA as focused on Crawley and Horsham and extending to East Grinstead, Haywards Heath, and Burgess Hill and west to Billingshurst, Petworth and Pulborough (see Figure 1 reproduced below).



27.3 The 2009 SHMA went on to identify the ‘best-fit’ to local authority boundaries as comprising Crawley, Horsham, and Mid Sussex. At a more fine-grained scale, the 2009 SHMA identified Haywards Heath and Burgess Hill as falling within an area of overlap with a Brighton and East Sussex HMA; with Steyning, Storrington and Pulborough falling within an area of overlap with the Coastal West Sussex HMA defined therein.

27.4 The Inspectors report on the last Mid Sussex Local Plan (Ref BD4) accepted within para 28 the need to prioritise the Northern West Sussex HMA, as this was established as the primary HMA, albeit recognising the need for the Council to work with the Gatwick Diamond and the West Sussex and Greater Brighton Strategic Planning Board to address unmet housing need in the sub-region, a position that led to policy DP5 of the adopted Local Plan (ref DB1).

27.5 Section 2 of DC4 confirms the Strategic Geography: Points of Agreement for the NWS HMA authorities are that:

- The evidence regarding Housing Market Area boundaries is robust and fit-for-purpose.
- The latest studies (Crawley and Horsham, 2019 and Mid Sussex 2021) are consistent with each other, and the conclusions are sound.
- The primary Housing Market Area for the three authorities is the Northern West Sussex HMA.
- There are overlaps with the Coast in the southern parts of Horsham and Mid Sussex districts, and with areas in Surrey lying to the south of the M25. However, the evidence points to the NWS HMA being the primary HMA for planning purposes, including the consideration of cross-authority unmet need.

27.6 In the context of the above para 2.4 of DC4 makes it clear that: *'The three respective Inspectors examining the authorities' adopted Local Plans have supported the principle of the Northern West Sussex HMA being the primary HMA for each of the three authorities. Despite evidence of overlaps, the Inspectors (in particular, those for Horsham and Mid Sussex) concluded that meeting housing need arising within the Northern West Sussex HMA should be a priority ahead of other overlapping areas.*

27.7 The above is expanded upon in section 3 of DC4 (Housing Need: Prioritisation) which indicates that the NWS HMA authorities agree that, subject to meeting individual housing needs and establishing that there is potential to assist other authorities with unmet need, assistance should be prioritised as follows:

- Priority 1: Northern West Sussex HMA.
- Priority 2: Coastal West Sussex HMA.
- Priority 3: Other adjacent and nearby HMAs where it is justified by each individual authority e.g. Surrey authorities (CBC and HDC), East Sussex authorities (MSDC) and, following those, London (all).

27.8 The above, as reiterated in section 3 of DC3, para 3.7 of H4, and paras 31 to 46 of H5, demonstrates that there is a clear rationale for prioritising the unmet needs of the NWS HMA over and above those of other HMAs that fall within and adjacent to Mid Sussex. In addition, we would highlight the fact that there is no national policy requirement which in our opinion would require MSDC to prioritise one HMA over another. The NPPF and PPG are silent on prioritisation. Thus, it is a matter of policy judgment for MSDC to determine where the priority lays in terms of the HMA and the DTC.

27.9 In the context of the above we note that the Crawley LP Inspectors have, in their recent report of 6th September 2024, (Ref Other O9) accepted that the NWSHMA SoCG *'clearly establishes an agreed hierarchical approach that should capacity arise then unmet needs within the Housing Market Area (HMA) would take priority over any other anticipated requests to accommodate unmet need'*; and that they were *'satisfied that at the time of the*

preparation of Crawley's Local Plan this is as far as the authorities can practicably go in establishing a strategy in respect of Crawley's unmet housing needs'. Para 30 of the Inspectors report concluding: 'the plan preparation process for Crawley has generated a very significant unmet housing need. At the time of Plan submission there was no clear mechanism or agreement as to how the unmet need could be accommodated. We are satisfied that Crawley has made appropriate efforts to engage with others on the issue. It is evident, however, in an area where housing need figures are significantly increasing and the capacity to accommodate growth is subject to various policy and environmental considerations that a resolution to meeting Crawley's unmet needs was not going to be straightforward. The NWSHMA SoCG provides a constructive approach but ultimately the DtC does not extend as far as a duty to agree that some or all of Crawley's unmet housing need must be accommodated.'

Q28. Are there strategic matters which have not been adequately considered on a cross boundary basis? If so, what are they and how is this the case?

No comment

Q29. Specifically, has the Duty to Co-operate been discharged in a manner consistent with Paragraphs 24- 27 of the Framework?

29.1 Yes. MSDC have demonstrated that they have collaborated with the necessary bodies to identify the relevant strategic matters they believe they need to address in their plan. DC1 and the SoCG demonstrate that this collaboration has been effective and ongoing. Liaison with WSCC (education)⁵ for example has, as set out in DC1, enabled on site education requirements to be reflected in master planning work for the significant sites at an early stage, albeit this is evolving through the plan process as education needs change, as reflected in the proposed modifications (DP2). Similarly, liaison with WSCC (Highways) and National Highways⁶ on modelling the cumulative impacts of the proposed growth on the highway network has, as set out in DC1, influenced the spatial strategy and the package of highway mitigation works associated with the Significant Sites. Again, this is ongoing as the model is refined and the sustainable travel mitigation packages for the significant sites are clarified and tested.

⁵ See p 29 of DC1.

⁶ See p24 of DC1.