

James Stevens
Home Builders Federation

BATH AND NORTH EAST SOMERSET CORE STRATEGY EXAMINATION

WRITTEN STATEMENT: DUTY TO COOPERATE

BNES/25

The Duty to Cooperate is not only a statutory requirement of the Localism Act 2011, it is also a requirement of the Ministerial Statement *Planning for Growth* published in March 2011. Planning for cross boundary impacts is a material planning consideration and submitted plans must be able to demonstrate that they have had adequate regard for impacts that extend beyond their own immediate borders. Plans that cannot satisfactorily demonstrate this must be declared unsound since it is not possible for an Inspector to make a modification that would address this shortcoming.

The Council will also need to demonstrate that it has had met the requirements of S110(2) and engaged “constructively, actively and on an ongoing basis”.

The Inspector has stated the B&NES plan should not be made subject to the Duty to Cooperate test of soundness as it was submitted prior to the Localism Act receiving parliamentary assent.

Even so, current national planning policy, which includes PPS12 and *Planning for Growth*, requires local authorities to cooperate in the preparation of their local plans. Moreover, regional policy in the form of RPG 10 - which is currently still part of the development plan - and the South West RS Proposed Modifications - which reflects the most up-to-date analysis of sub-regional planning needs – clearly shows the need for B&NES to cooperate with adjoining local authorities to plan for cross-boundary impacts.

We would submit that the need for cooperation is compelling. Such cooperation is essential if the core strategy for B&NES is to play its part alongside others in the West of England area to address the future needs of the sub-region and support the Government’s growth agenda.

If it is correct that S110 of the Localism Act does not apply to submitted plans, then it must follow that the rest of the new planning regime of the Localism Act cannot also be drawn upon to defend the core strategy. The Council cannot pick-and-choose which bits of the emerging regime suits its purposes at this juncture. If it wants to set a different housing requirement before the RS is formally revoked then it must also comply with the other provisions of the new planning regime, including testing that the plan has had proper consideration for any cross boundary issues.

Thus PPS12, *Planning for Growth*, RPG 10 and the South West RS Proposed Changes must form the starting point for consideration of the soundness of the plan

and careful consideration must be given to the question of whether the submitted plan is in conformity with existing national planning policy and whether it has incorporated the cross-boundary provisions contained in the existing and emerging RS. If B&NES is to draw on the emerging changes to the planning process as justification for their actions then the emerging duty to co-operate, a clear intention of the new government since its election in May 2010, should also be taken into account. The duty was clearly set out in the Localism Bill and the Council has had ample opportunity to take into account this emerging statutory requirement.

It is inconceivable that merely because of the quirk of the timing of its submission the plan should not be tested for soundness against the duty to cooperate. This is a plan that will exert a profound influence on the future pattern of development within the district, will inform long-term investment decisions and will impact upon the economics of the city region for the next 15 years. It is essential that the plan is a sound one that is able to support growth. As a long-term plan it must be assessed for soundness on the basis of its ability to accommodate actual and also potential development needs (including contingency scenarios) that straddle local authority boundaries. The core strategy should be declared unsound or significantly modified if there is any doubt about the adequacy of the plan in this regard.

Collaborative planning is not a new policy requirement. Under the current planning regime everything in national and regional policy points to the importance of cross-boundary collaborative working. PPS12 highlights the benefits of joint working. RPG 10 and the emerging RS both identified the Bristol City sub-region as a distinctive economic and housing market area where cross boundary cooperation and the coordination of plan-making was essential (and this sub-regional planning is being continued by the West of England LEP). The Council cannot, therefore, realistically claim that it is merely the implementation of S110 of the Localism Act that places this requirement upon them.

PPS12

PPS12 describes the advantages of local authorities working in collaboration especially where housing markets and commuting catchments cover large areas (paragraphs 4.16-4.18).

RPG 10

RPG 10 clearly sets out the need for cross boundary working to accommodate future development needs, including a review of the Green Belt in Bath. The B&NES core strategy includes no such provision, so at one level the core strategy is unsound as it is not in conformity with the development plan.

RPG 10 sets out various policies for the sub-region and for B&NES itself that demonstrate that the district cannot assume that it can exist in isolation from the rest of the sub-region and that incursion into the Green Belt was considered likely in order to accommodate the district's development needs. More specifically the following RPG 10 policies set out:

Policy SS4: Green Belt requires the local authorities of the South West to critically review the Green Belt to meet their long term development needs.

Policy SS5: Principal Urban Areas identifies the Bristol urban area as one of the four South West capital centres and the need to carry out urban extension studies and/or Green Belt reviews to accommodate growth needs.

Policy SS8: The Bristol Area sets out how local authorities in the city region should work together with others to address a range of cross boundary challenges to accommodate growth, including a Green Belt review.

Policy SS9: Bath requires a Green Belt review in accordance with policy SS 4.

The RPG10 and the RS both marked the Bristol City Region as a Principal Urban Area (PUA). This denoted an urban agglomeration which would accommodate higher levels of housing growth (see policies SS4 and SS8) on the basis that it was held to be more sustainable to concentrate development in the city region and PUAs than allow for a more dispersed development pattern across the wider South West. The apportionment of housing followed this reasoning.

Reducing the housing targets in B&NES (as well as the other three local authorities forming the Bristol City Region – with overall housing provision falling from 117,000 set out in the emerging RS to just 76,000 based on emerging development plans) is therefore likely to compromise this strategic vision. This could rebound adversely upon other local authorities who will have to ‘pick-up the tab’ for the West of England’s undersupply.

This could have serious consequences for housing delivery across the South West especially when the impact of other local authorities reducing the scale of their own housing provision is factored-in. If the large urban areas are reducing their targets, it is unlikely that the deficit will be addressed elsewhere. Mendip Council has already expressed concern that undersupply in B&NES will rebound upon it. Mendip’s proposed housing requirement shows a modest increase on the RS but does not address the deficit.

The draft SW RS Proposed Changes

While RPG 10 is clearly part of the development plan for B&NES, serious attention should also be given to the Draft RS Proposed Changes as it represents the culmination of a more recent body of data and analysis looking at the issues confronting the region. The failure to adopt the RS was, ironically given the reliance that B&NES now places on the submission of its own plan, the victim of poor timing in changes to government policy rather than a fundamental flaw in its strategy or evidence base.

The RS was intended to provide a twenty year planning strategy. It is unconvincing, therefore, that the level of housing need that it had identified as necessary for that period has changed so radically within the space of just two years that the reduction in the level of housing provision now being considered is justified. Looking at each local authority in isolation from wider regional forces, and deriving a housing

requirement based on the estimated number of net new jobs to be created, rather than considering commuter flows and other drivers of housing demand, will distort the local picture (often up as well as down). As we have stated in our response to Issue 1, assuming that there is a link between jobs and homes is a weak basis for calculating the district's future housing requirement. It disregards B&NES role within a wider housing market and economic area.

The provisions of the RS, therefore, especially the overall level of housing needed and certain cross boundary matters including a Green Belt review, should be given serious weight when considering the future development needs of the district.

Specifically policy *HMA1: West of England HMA* required provision for 21,300 homes in B&NES and 20,200 jobs. This was to be achieved in part through the provision of 9,500 homes via an urban extension (or extensions) in Area of Search 1B to the south of Bristol's developed area, of which 8,000 were to be provided within B&NES.

Good and convincing evidence needs to be provided to show that the four local authorities of the West of England area have deliberated carefully on these questions, justifying why the strategic planning objectives embodied in the RS are no longer relevant. It needs to be clearly evident that the housing requirement proposed by B&NES is not the outcome of an isolated decision made without regard to the dynamics of the sub-regional area, but an informed one that supports the objectives of the LEP. We would submit that the evidence has not been presented by B&NES and that it has not given proper weight to these sub-regional questions.

The evidence of cross boundary cooperation

The work for RPG 10 and the RS provides the background policy context for consideration of whether the B&NES has discharged its responsibility to cooperate with adjoining councils and those who may be affected by the proposed planning strategy. This may extend further than just those authorities that comprise the West of England LEP, and other authorities not in the West of England LEP such as Mendip, Wiltshire, South Somerset and Sedgemoor – all of whom will face additional demand for housing as a consequence of decisions made in B&NES. Under the RS both Mendip and the former district of West Wiltshire were considered to form component parts of the West of England housing market area.

The evidence that has been provided by B&NES to demonstrate that it has addressed potential cross boundary matters is poor.

The foundation for the Council's argument that there are no cross-boundary issues is that it considers that the housing requirement for the district is much lower than the level previously assessed as necessary by the draft RS. The new housing requirement is some 50% lower than the level of need that had previously been considered necessary. The Council has made it clear in BNES 4, paragraph 11, that it considers that the recession means that the requirements identified in RPG 10 are no longer relevant and much lower levels of house building are justified. BNES 4 makes no reference to the RS targets, but we know from other submitted documents that the Council does not consider the growth targets contained in the RS as being credible either even though the draft RS represents the culmination of the

considered judgments of the Regional Assembly, the Secretary of State and representations duly made by others, including B&NES itself.

Secondly, B&NES justifies its departure from the growth targets contained in RPG 10 and the draft RS on the basis that this would compromise the Green Belt and this would have significant environmental implications. This is not a justification for diverging from the development plan as this impact would have been taken into account when the RS was devised and prepared. It was also the conclusion of RPG 10 that concentrating development in the PUAs would have a lesser environmental impact than a policy of dispersal and therefore a review of the Green Belt was justified.

Thirdly, the Council cites the need to take into account local views as a justification for departing from the level of provision indicated in the draft RS. This argument is specious as the views of the local community were duly considered through the formal consultative plan making process that lead-up to the adoption of RPG 10 and the draft RS. Furthermore, citing the need to take into account community views on the grounds that this accords with the new requirements of the 'localism' regime is to pick-and-choose which bits of the new system suits the Council while disregarding the need for the core strategy to be tested under the duty to cooperate.

Finally, even if it was concluded that it was feasible for the Council to derive its housing need on a jobs/homes ratio it still would not be realistic to ignore pressures that might impinge upon B&NES from without. In particular there are the housing pressures radiating from Bristol that need to be taken into consideration, especially if Bristol's recently agreed housing target proves inadequate and expansion to the South becomes necessary within the next ten years.

James Stevens
Strategic Planner

Email: james.stevens@hbf.co.uk
Tel: 0207 960 1623