

Canterbury Local Plan Public Examination

Duty to Co-operate

Statement by Pentland Properties Ltd

Introduction:

1. This note is prepared on behalf of Pentland Properties Ltd. It provides comments on the bundle of 'Duty to Co-operate' documentation handed to the Inspector by the Council at the end of the hearing session on the 17th July 2015.
2. As a prior point, it should be noted that some of the documentation relates to matters which occurred after the submission of the plan on the 20th November 2014. Since the Duty to Co-operate is a legal requirement which has to be fully discharged prior to submission, those papers which post-date the 20th November 2014 are irrelevant. It should also be noted that the plan was authorised for public consultation by the Full Council on the 24th April 2014. This represented the end of the preparation period of the plan. Any co-operation after that date was too late to influence the contents of the plan.

The Papers:

3. There are three issues that arise from the submitted papers and each of these is dealt with below.

First Issue

4. Whilst the documentation, at almost 400 pages, is voluminous, it does not satisfactorily demonstrate that the duty to co-operate has been discharged by the City Council. In contrast, it blurs the issue by referring to the many meetings that a local authority would

have in any event (eg. Kent Planning Officers Group and the Kent Chief Executives Forum), but fails to demonstrate positive outcomes on strategic cross boundary matters.

5. Whilst a number of meetings may have taken place over a period of years, it is effective outcomes that are sought through the Duty to Co-operate. The Planning Policy Guidance (PPG) states

“Co-operation between Local Planning Authorities, County Councils and other public bodies should produce effective policies on strategic cross boundary matters. Inspector’s testing compliance with the duty at examination will assess the outcomes of co-operation and not just whether the Local Planning Authorities have approached others” (ID:9-010-20140306).

6. The submitted documentation does not demonstrate positive strategic outcomes from co-operation.

Second Issue

7. A second point to arise from the submitted documentation is that there are no references to any contacts with either the Office of Rail Regulation (ORR) or the Greater London Authority (GLA). Paragraph 9-005-20150402 of the PPG confirms that both the ORR and the GLA are prescribed bodies under the regulations. The PPG confirms that

“... These bodies play a key role in delivering local aspirations, and co-operation between them and Local Planning Authorities is vital to make Local Plans as effective as possible on strategic cross boundary matters”.

8. The City Council has sought to argue that consultation with both of these bodies does not relate to a ‘strategic matter’ as defined in S33A(4) as **“development or use of land that has or would have a significant impact on at least two planning areas”**. Consultation with the ORR is a strategic matter since it affects all the local authorities along the route of HS1 to London. Consultation with the GLA is self-evidently strategic since it relates to the issue of cross boundary housing needs.

9. The absence of any contact, let alone substantive co-operation, with two bodies which are regarded as ‘key’ to successful strategic plan making by the Government guidance, must lead to the conclusion that the statutory duty to co-operate has not been discharged.

Third Issue

10. At Appendix 5, page 281 of the documentation (as numbered on screen) there are the minutes of the meeting of the East Kent Chief Executives Forum on the 1st October 2014. The date of the meeting is important since it is only one month prior to the submission of the Local Plan in November 2014.
11. Item 3 of the minutes refers to a collaborative agreement being agreed between the three authorities by the end of October 2014. This clearly confirms that no formal structure of collaboration was in place during the period of the preparation of the Local Plan. It is also relevant to note that no evidence has been provided by the City Council that an agreement was ever signed.
12. Item 5 refers to a report on the Duty to Co-operate presented by Richard Alderton (Head of Planning at Ashford BC) to the Ashford BC Cabinet. This states that whilst an East Kent plan was not necessary “**strands of work can be pulled together to produce a **shared evidence base**” (emphasis added). This indicates that these strands of work had not been pulled together prior to October 2014. The notes attached to the minutes set out details of how a Memorandum of Understanding could be prepared by the authorities. There is no evidence that the Duty to Co-operate Memorandum of Understanding was ever signed by the City Council (p283).**
13. Under the heading ‘Housing’ (p285) it is stated that

“Given the general hiatus likely between now and next year, attention is turning to the new household projections due to be published this autumn. These will provide the most up to date basis for SHMA assessments of objectively assessed need. There is a reluctance in some authorities to indicate their likely future housing requirement until this data is available. Hence little progress can be made now in looking at the sub regional picture

of plan provision in East Kent and Ashford in relation to objectively assessed housing need”.

14. This confirms that no substantive co-operation on housing need was taking place in the period immediately prior to the submission of the Local Plan.

15. The final point that arises under the heading ‘Housing’ on page 296 where it is stated that

“Thanet is currently considering the need to carry out an updated SHMA, with the first stage of work looking at defining the appropriate housing market area for the study. Involvement of Canterbury and Dover will be required in some form even if it is not possible to carry out a joint study. Discussions have begun at officer level”.

16. This text confirms that at October 2014, there was no settled agreement on the extent of housing market areas.

Conclusions

17. For the reasons set out above, it is considered that the papers provided to the Inspector by the Council on the 17th July 2015 do not demonstrate that the legal Duty to Co-operate has been discharged. As the PPG says, the duty is

“to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters” (9-001-20140306).

18. The submitted plan has clearly not met the tests set out in the PPG or complied with the law.