

Day 1/ Issue 1 – Legal Requirements & Duty to Cooperate (Q1 & 2)

Question 2. – The Duty to Co-operate (DTC):

2.1 Has the Council worked collaboratively with other authorities and organisations during plan preparation on strategic planning matters that cross administrative boundaries?

2.1.1. Submission documents CD08 and PS/02/24 (the Duty to Cooperate Statements of Oct 2014 and May 2015 respectively) purport to set out how B&DBC have complied with the duty to cooperate (DTC).

2.1.3 Whilst Table 3 of CD08 provides a review of how stakeholders were engaged, when they were engaged, what issues the stakeholder engaged with, why they engaged, and key / notable outcomes, it does not provide any evidence that a robust framework within which 'co-operation' could be monitored has been established – for example in terms of frequency, issues to be addressed, outcomes to be anticipated and bodies to be involved; and that engagement has been on-going, collaborative and diligent. Nor does section 6 (Outcomes from Co-operation and way ahead) or section 7 (Future Partnership working) of CD08 provide sufficient information on this matter. Whilst Para 3.2 of CD08 indicates that '*The liaison process will continue as plans continue to evolve and memorandums of understanding/statements of common ground have and will continue to be produced as suitable*', we note that there is no memorandum of understanding or a jointly prepared strategy presented as evidence of an agreed position in either DTC document.

2.2 In particular has the Plan's approach to determining its housing requirements and provision been compatible with that of neighbouring authorities?

2.2.1 Para 2.3 of CD08 advises:-

'The requirement to identify and meet objectively assessed housing need for market and affordable housing is set out in the National Planning Policy Framework. This includes having consideration of any unmet needs from neighbouring authorities or neighbouring housing market areas. Therefore the Council has considered, through the Local plan process, whether there is a need for the Local Plan to accommodate growth from other areas or whether the Council cannot meet its own housing needs and therefore requires the cooperation of other local planning authorities. The council has worked with neighbouring authorities to consider and agree on how the needs of the housing market area are met.'

2.2.2 Paragraph: 022 Reference ID: 9-022-20140306 of the Planning Practice Guidance Note is clear on what a LP must do in terms of demonstrating co-operation. Likewise para 011 reference ID: 9-011-20140306 makes it clear that statements on the DTC '*should include details about who the authority has co-operated with, the nature and timing of cooperation and how it has influenced the Local Plan.*' Whilst it is clear from table 1 of CD08 that 'Housing need and supply (Objectively assessed housing need)' has been a strategic

issue identified for discussion with a number of adjacent LPA's, B&DBC's statements on the DTC do not comment on the issue of the plans approach to its housing requirement or how this relates to the approach adopted by adjacent authorities. As a result we have to conclude that the DTC has not been thorough, has not been collaborative and has not been diligent. It appears to us that B&DBC have adopted a 'we will meet our needs and you can meet yours' approach to determining its housing requirement. They have not looked at how they could 'boost significantly' the supply of housing by adopting a more pragmatic approach to their housing requirement and treating it as the starting point rather than a ceiling. In addition the council have not looked to address the potential implications of the Enterprise M3 LEP's views on housing development – as set out below.

- 2.2.3 Given the requirements of the NPPF, especially paragraph 159, we believe the B&DLP should have had regard to the implications of the housing land supply strategy of its neighbours, and believe the fact this matter has not been addressed in the DTC report demonstrates a flaw in the process. At the end of the day the neighbouring authorities cannot be relied upon to off-set B&DBC's housing needs or visa versa – there is however nothing in CD08 and PS/02/24 to demonstrate how the B&DLP has sought to address this point – if at all. Indeed CD08 indicates a holding objection from Hart, Rushmore and West Berks to the housing requirements as set out in the Pre Submission Plan and PS/02/24 does not provide any comfort that this has been lifted. Whilst we note in subsequent submission on the proposed Main Mods that these authorities have in fact lifted their objections, the DTC reports themselves are defective in their explanation of the situation.
- 2.2.4 It would in our opinion be helpful if the DTC report were updated to demonstrate what the housing land supply situation was in B&D relative to that of its neighbour's, so that the full implications of the housing strategy being adopted by the LPA's in the Enterprise M3 LEP /adjacent to B&D can be fully assessed and the extent to which the DTC has been followed and objectively assessed needs of the area/ adjacent areas reviewed in the context of the DTC. We suspect this will demonstrate significant problems with the areas ability to meet its objectively assessed housing needs longer term. In our opinion the B&DLP should take this into account when deciding on its own housing requirement relative to its OAHN and having regard to the need to boost significantly the supply of housing, improve affordability and address the imbalance between supply and demand, which itself impacts upon economic performance and commuting patterns.
- 2.2.5 The lack of any evidence that the BC have had regard to the housing requirements of the wider area, and debated the merits of a greater level of growth in the borough / the merits of reserve sites to help address any unmet needs that may arise in the longer term, thus negating the need for an early review – with all its attenuate costs and the associated delays this would bring about in housing delivery is in our opinion a significant shortcoming and contrary to the aims and objectives of paragraphs 156 and 1780-181 of the NPPF.

2.2.6 In the context of eth above, and whilst also relevant to questions 4.4 and 4.12, we note that the PPGN is clear that *‘Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the ‘Duty to Cooperate’*

2.2.7 It appears to us, having regard to section 5 of the Updated Housing Land Supply Statement (PS/02/43) that the council do not have a 5 year HLS. Using their own figures, a 5% buffer and assuming all the predicted supply is deliverable, it appears to us, using the Sedgfield method of addressing past under supply that the council only have a 4.4 years supply. If the supply is discounted by say 10% the position becomes even worse. On this basis, and as there is no evidence that this point has been discussed in the DTC debate, the council would appear to have failed in meeting the terms of the DTC. Furthermore, the lack of a 5 year housing land supply is in our opinion a justifiable reason to look to allocate some small Greenfield sites (up to circa 250 dwellings each). As intimated in our response on issue 3.2, such sites have shorter lead in times and could, if allocated help address the 5 year HLS situation. In addition said allocations will also help provide a contingency for any potential under delivery/ flexibility that would allow the BC to react to any change in circumstances. Adopting this approach would also provide more certainty for developers and locals alike and negate the need for future site allocations DPD’s with their attenuate costs and delays.

JAA assessment of 5 year HLS situation

B&DLP Housing Requirement 2011 -2029 (18 years)	15,300 (850/annum)
Completions April 2011-March 2015 (4 years)	1,951 (487/annum)
Shortfall 2011-2015	-1449
Five Year Requirement 2015-2019	4250 (850/annum)
Plus 5% buffer required by NPPF	213
Plus shortfall 2006-2015	1449
Total Five Year Requirement 2015-2019	5,912 (1,182/annum)
Commitments at 1 April 2015 ²	5,275
Surplus/ shortfall	-637
No. Years supply	4.46 Years

¹ ID: 3-035-20140306 refers

² Normally one would expect a 10% discount for non-delivery – taking this figure to 4,747 and the overall supply down to -1164 (or 4 years supply)

2.3 Has the Council worked or liaised with the relevant bodies set out in the PPG? How has the Council also co-operated with the relevant Local Enterprise Partnerships (LEPs) and Local Nature Partnerships (LNPs)?

2.3.2 Enterprise M3 in their Strategy and Action Plan (May 2013) highlight in section 2.4 the shortage of housing for the local workforce, how the *'imbalances between supply and demand are a potential brake on economic development'*, and the need to deliver greater affordability. B&D are identified as an area that is very unaffordable (figure 2.9 refers), and the preceding paragraph highlights the fact that:-

'In order to advance a considerable elevation in the levels of affordable housing delivered, consideration will be required of the possibility of releasing a further supply of land within, or in close proximity to, those areas which continue to be identified as suffering from severe affordability issue'

2.3.3 Whilst it is clear that there has been on going liaison with Enterprise M3, and we note that the LEP have supported the increased level of housing growth proposed in the proposed main modifications, this support does not necessary mean that the DTC has been fulfilled. The DTC statements do not demonstrate how B&DBC have sought to address Enterprise M3's strategy for growth. As a result, given the concerns expressed in the Enterprise M3 strategy and action plan, we have to conclude that the DTC has not addressed the strategic priorities of the area as required by paragraph 156 of the NPPF and as such have to question whether B&DBC's LP is as a result sound.