

Greater Nottingham - Broxtowe BC, Gedling BC and Nottingham City Council – Aligned Core Strategies (ACS) Examination Inspector’s Matters, Issues and Questions

Matter 1: The Duty to Co-operate and other Legal Requirements

The main issues are (i) whether the duty to co-operate has been met, and (ii) whether the legal requirements have been complied with.

Questions

Duty to Co-operate

Section 33A of the Planning and Compulsory Purchase Act 2004, as amended by s110 of the Localism Act 2011, imposes the duty to co-operate in relation to the planning of sustainable development. Neighbouring local planning authorities, County Councils and bodies prescribed in the Town and Country Planning Regulations 2012, must engage constructively, actively and on an ongoing basis in the preparation of development plan documents. Section s20(7B) of the 2004 Act establishes that the duty to co-operate is incapable of modification at examination. Where the duty to co-operate has not been complied with, the Inspector has no choice but to recommend non adoption of a local plan. The National Planning Policy Framework (NPPF) describes what is expected for plan-making in paragraphs 178-181.

1. Have the Councils met the duty to co-operate in the preparation of the Aligned Core Strategies plan (ACS), having regard for the Statement of Compliance, CD/REG/04? In particular, has constructive, active and ongoing engagement taken place with Ashfield and Newark and Sherwood District Councils?

Other Legal Requirements

CD/BACK/09 – Planning Officers Society (PAS) Local Plan Legal Compliance Checklist June 2013 sets out the Councils’ evidence suggesting the legal requirements have been met. Are there any reasons to disagree? – see detailed questions below.

2. Local Development Schemes (LDS) – Has the ACS been prepared in accordance with the LDSs, in respect of timing and content?
3. Public Consultation - Has the plan been prepared in accordance with each authority’s statement of community involvement, and in accordance with the 2004 Act and the Regulations 2012?
4. Sustainability Appraisal – Was this carried out adequately having regard also for Strategic Environmental Assessment requirements¹?
5. Appropriate Assessment –are Habitats Regulations’ requirements met?
6. Is the ACS in general conformity with sustainable community strategies for the area?
7. Is the plan consistent with national policy in the NPPF, with the 2004 Act (as amended) and 2012 Regulations? If not, state very briefly (with a cross-reference to other matters if necessary) in what way it departs from national policy.
8. Planning should empower local people to shape their surroundings with succinct local and neighbourhood plans setting out a positive vision for the future of their area (paragraph 17, NPPF). The ACS Proposed Changes June 2013 adds paragraph 1.3.8 which describes the potential role of Neighbourhood Plans. Is there any evidence that this plan is unlikely to aid delivery of neighbourhood plans?

Jill Kingaby Inspector

¹ European Directive 2001/42/EC included in Planning and Compulsory Purchase Act 2004