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Sent: Mon, 12 May 2014 16:42

Subject: RE: Bromsgrove District Local Plan & Redditch Local Plan Examinations

Dear Helen

The only observation on the Inspector's MIQs Paper is to highlight the context provided by the recent case in the High Court of Gallagher Homes Ltd v Solihull MBC [2014] EWHC 1283 (Admin), copy attached, with regard to the proper assessment of full and objectively assessed need for housing, the relationship to the Duty to Co-operate and in turn the review of green belt.

The extent to which Bromsgrove DC have followed the approach clearly explained by Mr J Hickinbottom is not clear.

In particular, it seems to me that the full objectively assessed needs for housing in the Housing Market Area has not been identified. Paragraphs 85 – 99 of the Judgment sets out the approach that should be adopted. In summary, there needs to be a distinction between the full objectively assessed needs figure and the 'policy on', housing requirement figure fixed by the Local Plan.

Paragraph 37 of the Judgment states:

“As a preliminary point, it will be helpful to deal briefly with the different concepts and terms in play.

i) Household projections: These are demographic, trend-based projections indicating the likely number and type of future households if the underlying trends and demographic assumptions are realised. They provide useful long-term trajectories, in terms of growth averages throughout the projection period. However, they are not reliable as household growth estimates for particular years: they are subject to the uncertainties inherent in demographic behaviour, and sensitive to factors (such as changing economic and social circumstances) that may affect that behaviour. Those limitations on household projections are made clear in the projections published by the Department of Communities and Local Government (“DCLG”) from time-to-time (notably, in the section headed “Accuracy”).

ii) Full Objective Assessment of Need for Housing: This is the objectively assessed need for housing in an area, leaving aside policy considerations. It is therefore closely linked to the relevant household projection; but is not necessarily the same. An objective assessment of housing need may result in a different figure from that based on purely demographics if, e.g., the assessor considers that the household projection fails properly to take into account the effects of a major downturn (or upturn) in the economy that will affect future housing needs in an area. Nevertheless, where there are no such factors, objective assessment of need may be – and sometimes is – taken as being the same as the relevant household projection.

iii) Housing Requirement: This is the figure which reflects, not only the assessed need for housing, but also any policy considerations that might require that figure to

be manipulated to determine the actual housing target for an area. For example, built development in an area might be constrained by the extent of land which is the subject of policy protection, such as Green Belt or Areas of Outstanding Natural Beauty. Or it might be decided, as a matter of policy, to encourage or discourage particular migration reflected in demographic trends. Once these policy considerations have been applied to the figure for full objectively assessed need for housing in an area, the result is a “policy on” figure for housing requirement. Subject to it being determined by a proper process, the housing requirement figure will be the target against which housing supply will normally be measured.”

Paragraph 97 of the Judgment states “As I have emphasised, in terms of housing strategy, unlike its predecessor (which required a balancing exercise involving all material considerations, including need, demand and relevant policy factors), the NPPF requires plan makers to focus on full objectively assessed need for housing, and to meet that need unless (and only to the extent that other policy factors in the NPPF dictate otherwise. That, too, requires a balancing exercise – to see whether other policy factors significantly and demonstrably outweigh the benefits of such housing provision – but that is a very different exercise from that required pre- NPPF.”

The BDC response dated 8 April 2014 to the Inspector’s is not clear in this respect and does not make a distinction in a clear way between stages ii) and iii) above. The Bromsgrove approach appears to leap straight to a ‘housing requirement’ i.e. a ‘policy on’ approach rather than the full objective assessment of need for housing, namely the ‘policy off’ approach.

As regards the duty to co-operate in the context of Section 33A of the 2004 Act and paragraph 179 of the Framework which states: “... Joint working should enable local planning authorities to work together to meet requirements which cannot wholly be met within their own areas – for instance, because of lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework...”.

With reference to the attached High Court Judgment, in particular paragraphs 103 to 108, it is contended that the full objectively assessed needs for housing in the Housing Market Area has not been identified and as such it is impossible to assess whether the Council will meet its own objectively housing needs i.e. if there is any shortfall between that need and the provision made.

If there is, and depending on the amount of that shortfall, it is impossible at this stage to identify whether or not there is any breach of the duty to cooperate. Certainly, if and insofar as there is a shortfall, there does not appear to be any evidence of any attempts to cooperate with adjacent authorities, as might be required by section 33A.

I have no doubt that the examination will address these matters but it may helpful to highlight them at this stage.

With kind regards,
Greg Mitchell
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