

# HEARING STATEMENT

**Matter 1: Legal, Procedural and Other General Matters**

**On behalf of Redrow Homes.**

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Author: Sarah Hamilton-Foyn

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## Document Management.

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# 1. Matter 1: Legal, Procedural and Other General Matters

## Issue 1.1: Whether the Council complied with the Duty to Cooperate (DtC) in preparing the Plan

### *Housing need and requirement*

Q1.1. **Has the Council’s engagement with other local authorities on housing need, the housing requirement and the capacity of Bristol to accommodate housing (as set out in EXA036a), been carried out constructively, actively and on an on-going basis?**

The Reg consultation took place between 21<sup>st</sup> November 2023 and 26<sup>th</sup> January 2024. At this time no statement had been produced on the Duty to Co-operate, the only document that was available was a progress report, which explained the intention to prepare a Statement of Common Ground. Given the extent of the unmet need, it is considered this issue should have been given greater importance in the preparation of the plan. As set out in our Reg 19 reps there is a long history of unsuccessful collaboration around plan making and failure to meet the housing needs of the area which is now being compounded by the Bristol Reg 19 Plan. As set out in our response to Policy H1 there is significant housing shortfall of approximately 26,000 dwellings in the Bristol City area alone.

The essential point is that the duty to co-operate must be fulfilled when preparing the Plan and any failure in this regard cannot be rectified after the Plan has been submitted for examination.

The NPPF (September 2023) paragraph 35 requires that *“plans are positively prepared, providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs, and is informed by agreements with other authorities so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;”*

No evidence was provided by the Council at the time of the Reg 19 consultation and this information cannot be rectified once the Plan has been submitted. In our Reg 19 representations, we submitted that the Plan is unsound and that the Duty to Co-operate requirements had not been met, the duty had not been carried out constructively and actively on an ongoing basis before the Plan was submitted.

The Plan was submitted to the Secretary of State on 25<sup>th</sup> April 2024.

It is noted that in EXAM001 (July 2024) prepared in response to the representations to the Reg 19 Plan states that two statements of common ground have been published alongside the local plan and sets out the approach to strategic cross boundary matters and that Bristol City Council had requested neighbouring authorities consider accommodating a proportion of the unmet need. However, these Statements were prepared when the Plan was submitted so were not available at the time of the Reg 19 consultation.

It is also noted in EXAO 36a in paragraph 18 that the Council considers that:



***“the current duty to co-operate is now obsolescent and has evidently been considered by government as ineffective given the intention to introduce effective new measures as discussed in the 30 July 2024 paper on proposed reforms to national planning policy and other changes to the planning system.”***

We make two points in relation to this, which demonstrates the Council’s response to the Duty to Cooperate is that:

- 1) The Bristol Local Plan Review is prepared and examined under the NPPF September 2023, which explicitly states at paragraph 24 that:

***“Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”***

Paragraph 25. ***Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.***

Paragraph 27 ***“In order to demonstrate effective and on-going joint working, strategic policymaking authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.”***

As far as preparation of Bristol Local Plan is concerned the Duty to Co-operate is not obsolete. Whilst Schedule 7 of the Levelling Up and Regeneration Act 2023 includes a provision that will make changes to the plan making process in England, including the repeal of the duty to co-operate. The Schedule is not yet enacted and would need secondary legislation. Therefore, the Duty remains a legal requirement under the current local plans system and will continue to apply to local plans progressed within the current system which applies to Bristol City Local Plan.

- 2) Following the general election in July 2024 the new Labour Government has in fact retained and ***“is strengthening the existing Duty to Co-operate requirement but proposing to introduce effective new mechanisms for cross-boundary strategic planning. This will include short term measures which will strengthen cross-boundary co-operation, ahead of introducing formal strategic planning mechanisms through new legislation. It is our intention to move to a model of universal strategic planning covering functional economic areas within the next five years.”*** (paragraph 9 of the Government response to the consultation on the NPPF December 2024)

Paragraph 25 of the above ***“The Government was clear in its manifesto that housing need in England cannot be met without planning for growth on a larger than local scale, and that it will be necessary to introduce effective new mechanisms for cross-boundary strategic planning. This will play a vital role in delivering sustainable growth and addressing key spatial issues – including meeting housing needs, delivering strategic infrastructure, growing the economy, and improving climate resilience.***



***Strategic planning will also be important in the delivery of Local Growth Plans and Local Nature Recovery Strategies.”***

In summary, the engagement with other neighbouring authorities has not been carried out constructively and actively and on an on-going basis. EXAO36a does no more than identify the strategic matters and refer to a historic statement of common ground (January 2022) again setting out the strategic matters at the time of the preparation of the SDS which could be addressed in the SDS or in LPs.

**Q1.2. Was there any discussion or engagement on the issue of unmet housing need prior to January 2023? Was this the first point at which the evidence determined there would be an issue in relation to this Plan?**

This is not clear, certainly at the time of the Reg 18 consultation in January 2023, no statement on the Duty to Co-operate had been produced. A progress report had been prepared (November 2023), which explained the intention to prepare a Statement of Common Ground which would be updated at each key stage of the local plan preparation.

The document should have been made available as part of the Reg 19 consultation.

**Q1.3. Between 31 January 2023 and the formal letter of 31 October 2023, what engagement took place between the local authorities on this issue? In addition, what engagement took place between October 2023 and submission of the Plan?**

This is not clear, the only information available at the time of the Reg 19 consultation in November 2023 was the Progress Report – Planning for Strategic Cross Boundary Matters (November 2023).

From the evidence available it appears that the Council did not consult neighbouring authorities until a month before the Reg 19 consultation commenced and expected the Council's to respond during the 6 week consultation (paragraph 3.9 of PALOO6 confirms that this was the approach).

The Statements of Common Ground are dated April 2024 prepared on submission of the Plan.

**Q1.4. Q1.4: Did the Council raise the issue of unmet housing need with any local authorities other than North Somerset, Bath & North East Somerset and South Gloucestershire? If not, why?**

This is a matter for the Council to explain.

**Q1.5. With regard to the Planning Practice Guidance (PPG4), has the Council reasonably done all it can to deal with its unmet housing need but has not been able to secure the cooperation of other authorities?**



Addressing unmet need is a long standing issue which has been discussed at various times throughout the preparation of the West of England JSP, the West of England SDS, neither of which progressed. The latter was halted in May 2022 when unanimous agreement on the Plan could not be reached by all participating authorities (para 1.11 of PAL006). Each time a Plan has been prepared it has failed to address the issue of unmet need. As we stated in our Reg 19 representations it is considered that the Plan is unsound, it does not set a direction which helps to deliver development needs today and shape the city to meet the needs of the future. There is a deepening housing crisis which the Council have failed to address. There are objections to the way in which the housing need is calculated as set out in response to Matter 2.

EXAO36a states at paragraph 41 *"the strategic matter that has the greatest prominence is that of unmet housing need which is being addressed the mechanisms described above."*

The point is there are no mechanisms in place to address the unmet housing need, and there is a dispute over the extent of the unmet need. The process is ongoing, but is never resolved, it appears that each authority at the time of plan preparation requests if its neighbours can assist in meeting some of the unmet need only to find that the neighbours decline (appendix 3 paragraph 6.17 of the EXAO36a.)

South Gloucestershire is not meeting any of the unmet needs arising from Bristol (as confirmed in its recent Reg 19 Local Plan) and North Somerset through the Reg 19 consultation confirmed that they were not able to accommodate any of Bristol's unmet need (EXA001).

Sites have been deallocated when they could have been brought forward to meet housing needs in Bristol City. The Local Plan will not help to deliver the homes and workspace needed as there is a significant shortfall of housing need which is not being addressed elsewhere. The lack of housing will have significant effects on the overall objectives of the plan, an aging workforce in Bristol, extending commuting due to the lack of housing.

**Q1.6. What is the current situation with regard to how Bristol's unmet need would be addressed? With regard to paragraph 35c of the National Planning Policy Framework (NPPF), have cross-boundary strategic matters relating to this issue been dealt with rather than deferred?**

At present there is no solution, the issue is discussed but never addressed, meanwhile there is a deepening housing crisis, and Bristol fulfils a fundamental role in the region. The current available information demonstrates that the full level of Bristol's housing needs will remain unmet, and no actions are being undertaken that would adequately address this issue in a timely manner.

It would appear that once again the matter is deferred.

***Other strategic matters***

**Q1.7. What other strategic matters have been identified, as defined by section 33A(4) of the Act, including any site allocations that may have strategic cross-boundary implications? This includes those which relate to engagement with prescribed bodies.**

No comment.



**Q1.8. In seeking to address these matters, has the engagement with other local authorities and prescribed bodies, as set out in the 'Managing effective cooperation' Topic Paper, met the requirements of the Duty?**

EXAO 36a does not meet the requirements of the Duty. The Topic Paper does not identify the strategic matters but refers to the Statements of Common Ground produced in April 2024. (PAL006 and PAL007).

It can be concluded from paragraph 1.4 of PAL006 that this document was prepared some time before it was published but has not been updated, as it clearly states that an updated statement will be published when the Plan is submitted for examination, however, this is the only SoCG.

PAL006 Paragraph 1.8 states: *"The purpose of the SoCG is not to provide a comprehensive record of every instance of cooperation and consultation undertaken both jointly between the three authorities and through bilateral working arrangements, during the preparation of each authority's new local plan is rather a means of providing key information as to how cooperation has been approached, regarding what issues, and how effectively."*

Clearly, this information is not available.

**Q1.9. With particular regard to prescribed bodies, where Appendix 1 to document EXA036a identifies consultation only having taken place at various stages of plan-making, is this sufficient to demonstrate that the duty has been met?**

Given the amount of time taken to prepare the Plan - Appendix 1 is very brief and insufficient. it does not meet the requirements of the NPPF paragraph 27 to demonstrate effective and ongoing joint working.

**Q1.10. Is the process of cooperation demonstrated with clear evidence, including Statements of Common Ground (SoCG) as expected by NPPF paragraph 27 and the Planning Practice Guidance?**

There are only two SoCG, both were first published at the time of the submission of the Local Plan in April 2024. In terms of the unmet housing need no progress was made, instead relying on neighbouring authorities to address this matter when their plans are prepared. However, North Somerset responded during the Reg 19 consultation that they were not able to accommodate any of Bristol's unmet need.

**Q1.11. Do the SoCG that have been produced identify relevant strategic matters, actions in relation to cross boundary issues, and the outcomes of actions taken?**

In PAL006 strategic matters are identified in paragraph 3.4. However, in terms of the actions taken e.g. in respect of unmet housing need, the only action was that Bristol city Council wrote to the neighbouring authorities a matter of week before the Reg 19 consultation commenced. There is no outcome - only that as the authorities prepared their local plans,



they would consider meeting some of Bristol's unmet need – but this only applied to B&NES and South Gloucestershire as North Somerset responded during the Reg 19 consultation that it was unable to assist.

Since then, South Gloucestershire have recently produced their Reg 19 Local Plan which confirms it will not be addressing any unmet need from Bristol City.

What this demonstrates is collective failure to address unmet housing needs when there is a housing crisis, which is in stark contrast to the authority's approach to other strategic matters as the SoCG outlines matters of agreement on employment and transport, flood risk, utilities and social infrastructure, climate change etc

**Q1.12. Has any local authority or prescribed body concluded the duty to cooperate has not been met?**

It is not clear from the evidence base or the report of the consultation but is it evident unmet housing need and the duty to co-operate is an issue raised in many representations.

*Overall*

**Q1.13. Does the evidence demonstrate that the Duty to Cooperate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to advice contained in the NPPF and the PPG?**

In summary, it is considered that the Council have not met the requirements of the Duty to Cooperate and that the plan is unsound. The Local Plan will not help deliver the homes and workspace needed as there is a significant shortfall of housing need which is not being addressed elsewhere.

**Issue 1.2: Whether the Plan prepared in accordance with all other relevant legal requirements.**

*Sustainability Appraisal (SA)*

**Q1.14. Is there any substantive evidence to demonstrate that the sustainability appraisal failed to meet the relevant legal requirements?**

No comments.

**Q1.15. Did the sustainability appraisal consider and compare reasonable alternatives as the Plan evolved, including for housing and employment need and distribution, local plan policies and site allocations?**



We did not submit any comments on the SA at the Reg 19 consultation. We did however, object to the absence of a comprehensive review of the Green Belt, in which case this would have affected the reasonable alternatives that were considered in the SA.

**Q1.16. Is the overall spatial strategy an appropriate strategy, taking into account reasonable alternatives?**

No, the evidence base on which the appropriate strategy is based is fundamentally flawed. There is no evidence that the Council have demonstrated that they have examined fully all reasonable options for meeting its identified need for development. Given the absence of a comprehensive review of the Green Belt. It is therefore unclear how sites have been assessed.

**Q1.17. Have the areas of regeneration and growth been identified on a robust and consistent basis, having regard to reasonable alternatives?**

No comment

**Q1.18. What is the reason for having Assessed Scenarios in the Sustainability Appraisal and how did they inform the findings?**

No comment.

**Q1.19. The SA states that appraisals of allocations and policies carried forward from earlier Plans were not subject to SA. Is this approach justified and does it meet the relevant legal requirements?**

No comment.

Habitats Regulation Assessment (HRA)

**Q1.20. Has the Habitat Regulations Assessment (HRA) been carried out in accordance with the Conservation of Habitats and Species Regulations 2017?**

No comment.

**Q1.21. Is there any substantive evidence to suggest the findings of the HRA are not robust?**

No comment

**Q1.22. Does the Plan include the mitigation recommended by the HRA?**



No comment

**Q1.23. Have Natural England been consulted on the preparation and content of the HRA and any associated Appropriate Assessment, as required by the relevant regulations?**

No comment

***Local Development Scheme (LDS)***

**Q1.24. Has the Plan been prepared in accordance with the provisions of the LDS?**

No comment

***Public Consultation and Statement of Community Involvement (SCI)***

**Q1.25. Has the consultation process undertaken by the Council been in accordance with its Statement of Community Involvement and the relevant Regulations?**

No comment

***Equalities***

**Q1.26. In what ways does the Plan demonstrate that due regard has been had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a protected characteristic?**

No comment

***Climate Change***

**Q1.27. Does the Plan, taken as a whole, include policies designed to ensure that the development and use of land in Bristol contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended)?**

The failure to meet housing needs will lead to further commuting to employment in Bristol, consequently undermining the objectives of the Plan.

***Superseded policies in existing plans***



**Q1.28. Does the Council's suggested main modification, as set out in EXA002.1 ensure compliance with Regulation 8(5)?**

No comments

***Monitoring framework***

**Q1.29. Is the proposed modification following paragraph 1.1.5 set out in document EXA02.1 necessary to make the Plan sound? Would the resulting monitoring framework be effective?**

The NPPF September 2023 states in paragraph 33 that reviews should be completed no later than five years from the adoption of the Plan and take into account changing circumstances etc. Plans are likely to require earlier review if local housing need is expected to change significantly in the near future.

The Council's proposed modification (EXA002) to add a new paragraph after 1.15 which states that the Council will review the local plan within three years of its adoption is not clear. This is not consistent with the NPPF, it is not clear whether the review means simply the action to review and consider whether further action is required e.g. a full review or partial review or is the commitment to the preparation of a new Plan, in which case any policy should include the timescales for achieving the Reg 18, Reg 19 and Reg 22 milestones.

It is not clear where the unmet housing need will be monitored. Any failure of the neighbouring authorities to plan for (which seems that this will be the case) and deliver their part of the unmet need requirement will result in Bristol's unmet housing needs remaining unmet, and remedial action of some kind will be needed. The issue needs to be addressed if the unmet housing needs are not delivered what actions are to be taken.

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

**Cirencester**

33 Sheep Street, Cirencester,  
Gloucestershire, GL7 1RQ

T 01285 641717

E [Cirencester@pegasusgroup.co.uk](mailto:Cirencester@pegasusgroup.co.uk)

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