

Decision maker:	Cabinet member Infrastructure and transport
Decision date:	Thursday, 9 April 2020
Title of report:	Shropshire Local Plan Review- Duty to co-operate meeting development need
Report by:	Senior planning officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

To agree a response to Shropshire Council which is seeking views from Herefordshire Council, as a neighbouring authority, about whether it could accommodate some of Shropshire's identified needs for development.

Recommendation(s)

That:

- (a) the Council responds to Shropshire Council's request by confirming that Herefordshire is not in a position to assist in meeting Shropshire's unmet development needs.**

Alternative options

1. There is no reasonable alternative in this matter. Herefordshire Council is not in a position to assist with meeting unmet development needs in Shropshire given that Herefordshire faces challenges in accommodating its own development requirements.

Key considerations

2. The National Planning Policy Framework (NPPF) states that as prescribed in the Localism Act 2011, local planning authorities are under a duty to cooperate with each other, on strategic matters as part of the plan making processes.. Strategic policy-making authorities should collaborate to identify any strategic cross boundary matters which they need to address in their plans e.g. helping to address unmet development needs. Whilst any such requests should be given proper consideration, local planning authorities are not obliged to accept needs from other areas where it can be demonstrated it would have an adverse impact when assessed against policies in the National Planning Policy Framework.
3. Shropshire Council is updating its local plan and is facing challenges in accommodating its housing requirement. This is because part of the county is covered by Green Belt designation. Shropshire Council consider that Green Belt constrains the ability to meet local needs and the growth potential of settlements in east Shropshire. In order to accommodate these needs, areas of land would need to be removed from the green belt and its boundary would need to be redrawn as a result. However, the Government attaches great importance to Green Belts as a way of preventing urban sprawl by keeping land permanently open and therefore Green Belt boundaries should only be altered where there are exceptional circumstances.
4. Therefore Shropshire Council need to demonstrate evidence of exceptional circumstances and that all other reasonable options have been explored before altering green belt boundaries. This includes considering the potential for neighbouring authorities to accommodate some of Shropshire's identified needs for development. Shropshire Council is now formally seeking the views from neighbouring authorities, including Herefordshire, about whether they could accommodate some of the identified needs for development. In particular they would like to gain an understanding of whether Herefordshire Council is able to assist in meeting the specifically identified development needs for:
 - Bridgnorth;
 - Albrighton;
 - Shifnal;
 - Alveley; and
 - RAF Cosford
5. Herefordshire Council is starting work on an update of the core strategy. Therefore it is at a much earlier stage in terms of plan preparation than Shropshire and is yet to establish the housing requirement for its revised plan period. However the council is already facing challenges in accommodating the current housing needs set out in the adopted core strategy. The Government's housing delivery test 2019 shows that only 80% of the housing required to meet Herefordshire's needs over the past 3 years has been delivered, putting us in the category of authorities where there has been a significant under delivery of housing. This situation would be compounded by a requirement to meet additional need from outside the county.
6. In addition, restrictions on development have arisen following the judgment in the case of Cooperatie Mobilisation handed down in November 2018 by the Court of Justice of the European Union (known as the Dutch Case). The judgement has required the council to review the approach to allowing proposals that could increase phosphate levels in the Lugg catchment. The consequence of this review is that there is currently a moratorium on granting planning permissions across the north of the County in the Lugg Catchment

Area, roughly 40% of the council's administrative area, including Leominster and Bromyard the market towns closest to the Shropshire border. Although a solution to address the situation is being sought as a matter of urgency, it is not possible at present to provide certainty that the additional growth from Shropshire could be accommodated within the Lugg catchment.

7. The national planning practice guidance states that with regard to duty to cooperate local planning authorities should take into account such factors as housing market areas when considering the potential to cooperate during plan making. Historically, under previous regional planning arrangements the Midlands regions was comprised of different housing market areas. Herefordshire and Shropshire together formed the sub regional West Housing Market Area (HMA). This represented the rural west of the region and the 2008 Strategic Housing Needs Assessment noted that: "Bridgnorth District is not an area that has distinct housing markets and it may well be that some parts of the district are better considered in relation to Telford & Wrekin, South Staffordshire and Wyre Forest." Furthermore the settlements are distant from Herefordshire and in particular its market towns and main city of Hereford. There are no tightly drawn administrative boundaries around urban areas where cross boundary measures would be more effective." (Page 189)
8. It is therefore considered that these factors both individually or in combination would be contrary to the NPPF's objective of achieving sustainable development should Herefordshire Council accommodate some of Shropshire's growth. It is therefore recommended that the following points are made in response to the request made by Shropshire Council in their letter attached at appendix 1:
 - Herefordshire Council is facing challenges in achieving a five year supply in meeting its own housing requirements.
 - Concern about the further impact of increased phosphate levels associated with new development on the Rivers Lugg and Wye SACs is currently affecting delivery of development a significant proportion of the county.
 - There is not a suitable functional relationship between areas within Herefordshire and the identified Shropshire settlements.
 - The plan making timetables of the two authorities do not align.

Community impact

9. Development plans aim to provide for the development needs of the community covered by the plans. The recommendation of this report will not have a direct impact on the Herefordshire community.

Equality duty

10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. All development plan documents aim to include policies to meet the needs of all sections of the Herefordshire community. Shropshire Council will be required to demonstrate the same as their plan progresses towards adoption.

Resource implications

12. There are no resource implications associated with this report.

Legal implications

13. This is an executive function which is a non key decision. Such decisions in the Constitution are normally delegated to the Chief Executive under Part 3 Section 3, to officers in exercise of its functions in Part 3 Section 7 (officer functions) and subsequently to named officers under the Directorate Scheme of Delegation Economy and Place. The cabinet member Infrastructure and Transport will be the decision maker in this instance and has the authority to do so in respect of all land use planning matters under the Town and Country Planning Acts, secondary legislation and any related statutory instruments.
14. Section 110 of the Localism Act 2011 introduced Section 33A into Part 2 of the Planning and Compulsory Purchase Act 2004 (local development) and requires that each person as the local planning authority is under a duty to cooperate with each other on strategic matters as part of the plan making process, more particularly Section 33A(2) which requires the person to engage constructively, actively and on an ongoing basis in any process by means of which activities are undertaken and to have regard to activities so far as they are relevant to activities within Section 33A(3).
15. The Council have actively engaged in accordance with statute and fulfilled the legal requirements.

Risk management

16. If some of the development needs of Shropshire were accommodated, then there would be a risk that it would not be possible to accommodate the development needs of Herefordshire residents. Therefore there are no risks associated with the recommended course of action.

Consultees

17. No consultation is required for this matter. Extensive public consultation will be carried out during the update of the Herefordshire Core Strategy

Appendices

Appendix 1: Letter from Shropshire Council dated 27 February 2020

Background papers

Strategic Housing Market Assessment 2008

(https://www.herefordshire.gov.uk/download/downloads/id/2261/strategic_housing_market_assessment_june_2008.pdf)

Please include a glossary of terms, abbreviations and acronyms used in this report.

HMA – Housing Market Area

NPPF – National Planning Policy Framework 2019

SAC – Special Area of Conservation