



Erewash Borough Council: Examination in Public into
the Core Strategy Review

Hearing Statement from Varsity Town Planning on
behalf of Green 4 Developments

Matter 2: The Duty to Co-operate

21st December 2023

Issue

Whether the Council has complied with the duty to co-operate in the preparation of the Core Strategy Review.

Housing Provision

1. What are the inter-relationships with other authorities in terms of migration, commuting and housing markets.

Green 4 Developments will rely on Erewash Borough Council to respond to this question.

2. How have these been taken into account in preparing the Core Strategy Review and specifically in terms of Objectively Assessed Need for housing (OAN) and housing provision?

Green 4 Developments will rely on Erewash Borough Council to respond to this question.

3. Who has the Council engaged with in terms of overall housing provision and what form has this taken?

Participants rely on Core Documents in the Examination Library, specifically, CD3, 3a, 3b and 3c, to address this question.

It appears that Erewash Borough Council has engaged in preliminary discussions with the following organisations:

- Amber Valley Borough Council
- Nottingham Housing Market Area (comprising Broxtowe Borough Council, Gedling Borough Council, Nottingham City Council and Rushcliffe District Council)
- Derby City Council

As Participants, we cannot comment on the form of these discussions due to no evidence in the form of minutes or formal decisions from any of the authorities.

It is notable that the 'Statements of Common Ground' are unsigned. They are presented as simple 'word' documents, and the authorship and ownership of the Statements is unclear. Neither do they seem to have progressed in the last twelve months. Our specific concerns on each document are set out below:

'Statement of Common Ground' with Nottingham Housing Market Area (CD3a) - No progress is evident on Duty to Co-operate discussions since June 2022. The document fails to state whether either any of Erewash's neighbouring authorities have unmet housing requirements that Erewash would need to accommodate or whether Erewash have sought to establish if the NHMA authorities could accommodate their housing need as part of establishing the need for Green Belt release in the Borough. The document does recognise the importance of the Green Belt, but a comprehensive review, particularly for neighbouring Green Belt authorities has not been undertaken. Nottingham City Council's impact would be subject to the 35% 'cities and urban centres uplift', as defined in Step Four of the Housing and

Economic Needs Assessment section of the Planning Practice Guidance, but this is not referenced in the document. This lack of reference to the enhanced requirement means it is impossible to determine whether this creates an unmet need that may impact on Erewash.

‘Statement of Common Ground’ with Derby City Council (CD3c) - No progress is apparent since November 2022. The document only sets out the points of uncommon ground. Similar, to Nottingham, Derby is also subject to the 35% ‘cities and urban centres uplift’ and the same point applies regarding unmet need. Likewise, there is no evidence to suggest that Erewash sought to establish if Derby City Council could assist in meeting the Borough’s housing need as part of the consideration of Green Belt release.

4. Paragraph 141 of the National Planning Policy Framework identifies that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries the strategic making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This includes the strategy being informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need. How has this been demonstrated?

AND

5. Should the Core Strategy Review seek to address any housing needs from the wider Housing Market Area? If not, what are the reasons for this and is it justified.

There has been no assessment as to whether neighbouring authorities can accommodate Erewash’s growth needs nor whether Erewash Borough Council need to release additional Green Belt to accommodate the needs of their neighbours. This represents a failure of the Core Strategy Review process.

It is crucial to recognise that the extent of the Green Belt extends beyond Erewash’s boundaries. If there had been neighbourly agreements for the redistribution of housing growth set through Statements of Common Ground, then these are also likely to result in Green Belt releases. However, the lack of evidence of cooperation strongly suggests that the options selected within the Core Strategy Review may not represent the best and most sustainable locations for Green Belt release. This must cast significant doubt on both the legal validity and the planning soundness of the Review.

Referring to CD3a (an unsigned SoCG), it is stated that none of the other Authorities comprising the Nottingham Housing Market Area have offered to accommodate any of Erewash Borough Council’s housing growth. However, this statement is unsupported by any evidence that has been published, and so as series of unanswered questions remain:

- Did Erewash Borough Council actually make requests to neighbouring authorities to accommodate their housing numbers?
- What is the unmet need arising from neighbouring authorities?
- Do neighbouring authorities have the same Green Belt constraint as Erewash?

- Where is the assessment of the quality of the Green Belt across the region?

Green 4 Developments contend that, at best, the Duty to Cooperate discussions have proven inconclusive and stalled without proper resolution. At worst, there is scant evidence of any efforts to undertake the Duty as envisaged. Either way, these issues are not being dealt with strategically. The absence of evidence that Participants can reference indicates that the current position is entirely unjustified. We would reiterate that we consider that this goes to the heart of both legal compliance and planning soundness in respect of the Core Strategy Review, with both found wanting.

6. In the Statement of Common Ground with the Derby Housing Market Area it was agreed that housing distribution is a strategic cross boundary issue between Erewash Borough and Derby Housing Market Area but that the Derby HMA were not able to progress any further wording for the Statement of Common Ground at the time of writing. Has there been any further updates since this time? Do the parties still take the same view?

In the first place we would comment that as the SoCG has been presented as an unsigned Word document without any reference to who or how it was produced, that it has not been demonstrated that the SoCG was agreed. We would expect the Council to provide evidence of this agreement before it should be taken as agreed.

No further updates or progress have been presented in the evidence, and Green 4 Developments can only rely on Erewash Borough Council to respond to this question. The failure of Erewash Borough Council to document or conclude matters goes to the heart of the Core Strategy Review and wholly undermines the plan's soundness.

Paragraph 36c of the NPPF reminds us that plans need to be effective ie. **“based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground”**. In this instance, it is evident that this effective joint working has not taken place, and it is challenging to draw any other conclusions.

7. In the Statement of Common Ground with Derby City Council reference is made to education, affordable housing and highways matters. In response to the Inspector's initial questions Erewash Borough Council identified that further engagement with the City Council would seek to agree to resolve the outstanding matters. What is the most up to date position of the parties on this matter?

Please see response to Q6, and we await the Council's response on this matter before we are able to provide further consideration of it.

8. The Statement of Common Ground with Amber Valley Borough Council and Derbyshire County Council identify a number areas of disagreement. Have any of the matters identified been resolved? Is it considered that the remaining matters of disagreement relate to matters of soundness rather than the Duty to Co-operate?

Please see response to Q6.

9. The Planning Practice Guidance (PPG) states that Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working and not deferred them to subsequent plan updates or are not relying on the Inspector to direct them. If agreements cannot be reached, the PPG advises that plans may still be submitted for examination but states that comprehensive and robust evidence of the efforts made to cooperate, and any outcomes achieved, will be required. Has the Council's approach been consistent with advice contained in the PPG?

No. Green 4 Developments do not have access to anything presented in evidence that would suggest that Erewash Borough Council have been working with their neighbours to attempt to conclude their duty to co-operate obligations. In fact, some discussions appear to have stalled in 2022. Agreements do not have to be reached but Authorities should continue to try and this effort appears to be lacking, or simply undocumented. Either way, this is contrary to the requirements of the PPG and goes to the heart of the soundness of the plan.

We would reiterate our concerns about the SoCG documents that have been provided as they constitute unsigned and unverified "Agreements" as presented. Unless there is some documentary evidence that both parties have seen and explicitly agreed these documents for use at the EiP, then we would contend that they should be treated with suspicion and given no weight in any event.

Other Strategic Matters

13. Are there any other strategic matters and if so how have they been addressed through co-operation and what was the outcome?

The Core Strategy Review of Erewash Borough Council lacks critical references to significant regional developments, and this oversight raises questions about the extent of cooperation and the plan's alignment with broader regional growth opportunities. The plan fails in fully leveraging the strategic potential offered by several influential projects, including the East Midlands Freeport, Smart Parc Proposals at Spondon, the Midlands Engine, and regional growth and infrastructure proposals that may come forward with the abandonment of Phase 2b of HS2. These are essential components of regional development and economic growth, and their absence in the plan may hinder Erewash's ability to capitalise on their strategic importance.

Notably, the East Midlands Devolution deal, a significant regional development, was also not adequately addressed in the plan. This deal, uniting Derbyshire, Nottinghamshire, Derby, and Nottingham for a £1.14 billion investment in the region, presents opportunities for substantial local projects benefitting 2.2 million residents. It signifies a shift of power and funding to the regional level, aiming to address historical underinvestment and foster economic growth.

The exclusion of the East Midlands Devolution deal and other regional strategic matters from the plan may hinder Erewash's ability to fully leverage these opportunities for growth and development. It would have underscored the plan's commitment to aligning with broader regional goals and capitalising on regional-level funding and control. By not addressing these regional opportunities, the Core Strategy Review may not fully contribute to the region's growth and development, and it may miss opportunities for more significant funding and local influence.

A more comprehensive plan should encompass and address these strategic matters, acknowledging Erewash's role and function within the broader regional context is vital for achieving effective and sustainable local development in the context of the East Midlands Devolution deal and similar initiatives.

Overall

14. Overall, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Core Strategy Review?

Green 4 Developments have been promoting a sustainable new community at a strategic scale within Erewash. During the preparation of the plan, they have tried to engage with the Council on numerous occasions, but this has not been welcomed and invitations to meet or discuss matters have been ignored or rebutted. This lack of engagement has resulted in an incorrect assessment of SGA27 as detailed in our Matter 3 statement). SGA27's significance at a strategic scale needs a thorough assessment of alternative growth options, a step that has been overlooked due to the absence of positive engagement. Consequently, the plan has not been positively prepared, as essential components and growth alternatives have not been adequately considered or addressed.