

Matter 1 - Legal Requirements.

Submission by Anthony Portal

From Going, Going by Philip Larkin

*And that will be England gone,
The shadows, the meadows, the lanes,*

1.1 Duty to Co-operate

The duty to co-operate is laid on the Council by Section 33A (1) (a) of the Planning and CP Act. 2004. This is addressed to all persons, which includes, for the purposes of this Act, all recognised bodies such as Residents' associations. The act continues at subsection (3) (a) to (c) to lay down the purposes for which co-operation is required, these include the preparation of Borough Plans.

At sub-subsection (d) the onus of co-operation is extended to cover any "activities that can reasonably be considered to prepare the way" for the preparation of a Borough Plan.

It is a requirement that such plans are positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs. (CD26 p.3).

It is arguable that the establishment of "need" for a plan which involves a significant and irreversible alteration to the nature of the Borough including the destruction of the few remaining green spaces is fundamental to the preparation of a Borough Plan. So far as I am aware, the only consultees regarding the need for increasing the built environment of the Borough on this scale were those who would be likely to agree with the Council's ideas.

Any suggestions from those outside this circle of consultees that the need for such a radical alteration of the Borough was yet to be established fell on deaf ears. No meaningful co-operation in the establishment of the need for this number of houses was experienced.

As the establishment of "need" is fundamental to the plan from the outset, I would argue that the plan does not fulfil the legal requirement under Section 33A of the P & CPA 2004.

For this reason, I contend that the submitted plan is not sound and could not be made sound by changes.

1.2 Statement of Community Involvement

The Statement of Community Involvement would seem to cover all the interested persons. It is not, however, the number of consultees which is important here but on what they were consulted.

There was much correspondence prior to the formulation of the plan and then there were a number of workshops, called charettes by the Council, to discuss various aspects of the plan. I attended the charette relating to Policy KP5

Attendees at this charettes were advised that the question of overall numbers of houses for each of the key policies was not on the agenda and that the question of need for these numbers of houses had already been decided. As the number of proposed dwellings and whether there is actually a need for these is fundamental to the Borough Plan and this was determined without reference to the many

participants of the charette, it is my view that the requirement to involve the community under Regulations 12 and 13 of the 2012 Regulations has not been correctly fulfilled. I understand that similar restrictions regarding the need for the houses specified in each of the key policies were made at each of the other charettes

I therefore contend that the legal requirement under Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012 has not been met and that the submitted plan is not sound and could not be made sound by changes.

Alternatively, should KP5 be dropped from the plan and an undertaking to re-think this policy from scratch be given by the Council, I contend that the submitted plan is not sound but could be made sound by changes, if necessary, following additional work.