

**ENVIRONMENT, PLANNING AND TRANSPORT
CABINET PANEL
FRIDAY, 5 MARCH 2018**

JOINT PLANNING ARRANGMENTS IN SOUTH WEST

Report of the Chief Executive and Director of Environment

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Executive Member: Derrick Ashley, Environment, Planning & Transport

Local Members: County wide

1. Purpose of report

1.1 To inform the Panel of proposals to prepare a joint strategic plan by the south west Hertfordshire Authorities (Dacorum Borough Council; Three Rivers District Council, Watford Borough Council; Hertsmere Borough Council and the City and District of St Albans) and to seek views on the proposed Memorandum of Understanding (MoU) for the preparation of the document.

2 Summary

2.1 The Local Planning Authorities in South West Hertfordshire have been discussing ways in which they can respond to the challenges of planning for growth and meeting the Duty to Co-operate, by examining options for an approach to joint strategic planning.

2.2 A proposal to prepare a joint strategic planning document has been developed and a Draft MoU is now being considered by each Authority. As the major strategic infrastructure provider, the County Council has been invited to be a part of this process and to sign the Memorandum of Understanding (MoU).

3. Recommendations

3.1 The Panel is requested to:-

1. Note the emerging proposals for a joint strategic plan for South West Hertfordshire
2. Give support in principle to the proposal
3. Advise the Executive Member on any matters in relation to the proposed Draft Memorandum of Understanding

4. Background

- 4.1 As Members will be aware, the levels of growth that individual Local Planning authorities are having to deal with in their local plans has been creating a number of challenges. This is particularly the case given the current plan making system, whereby each Authority has to meet its own needs within its boundaries, unless it can work jointly with other planning Authorities to share the burden. This discussion about strategic matters is meant to take place through the “Duty to Co-operate” which is very a loosely defined process, but which is fundamental to demonstrating that a plan has been properly prepared.
- 4.2 A number of Hertfordshire Authorities have struggled to cope with these challenges, particularly given the sensitivity over release of Green Belt to accommodate new development and the general concerns which communities and stakeholders have about infrastructure provision keeping step with growth. In the south west of the county there have been plans which were allowed proceed provided that they were subject to early review (Dacorum, Three Rivers), others that have tried and failed to progress (St Albans) which are now attracting the attention of the Minister for Housing Communities and Local Government.
- 4.3 The Hertfordshire Infrastructure and Planning Partnership (HIPP) has been trying to wrestle with these issues for a number of years and is currently examining how some of these strategic planning and growth issues could be more effectively confronted across the county.
- 4.4 Meanwhile the Authorities in the south west of the county, (Dacorum, Watford, Three Rivers, St Albans and Hertsmere) who are either starting to address Local Plan reviews or like St Albans are embarking on a very rapid process to deliver a local plan, have been examining options for addressing some of these issues by coming together to deliver a “sub regional approach” to spatial planning.
- 4.5 The imperative for this has come from the realisation that rolling forward growth to 2036 will start to generate very major challenges to all the local authorities and that the best distribution of growth in this area should not be overly constrained by having to respect District Council boundaries.
- 4.6 There is also the need to address the Duty to Co-operate, which is becomingly increasingly onerous to demonstrate. Also it is clear that the next round of reforms to the planning system, which will emerge later this year, will raise the bar again, by formally requiring a joint statutory approach to making sure that new housing is provided in the right places and is fit to meet a range of housing needs.
- 4.7 The Government has also made it clear that they will increasingly only financially support the funding of strategic infrastructure if a joint strategic approach has been adopted.
- 4.8 On the 23 January a workshop session took place for District Leaders and Executive Members of the 5 south west Authorities to consider a way forward. This workshop was facilitated by the Planning Officers Society who made it quite clear that the direction of travel of central Government was such that future local plans will have to adopt this more strategic approach to stand any chance of being approved.

- 4.9 The general policy context of the Government has been set out in a number of statements and publications including the Housing White Paper; the Right Homes in the Right Places consultation document; the Government's first intervention letters sent to 15 Authorities; the Budget announcements on infrastructure investment and new towns; the Planning Delivery Grant launched in November 2017 to support joint planning; and the imminent revisions to the National Planning Policy Framework.
- 4.10 It has been suggested that the plan making system is likely to move to a more "portfolio" based approach comprising a mixture of joint strategic plans, local delivery plans, and implementation plans.
- 4.11 In addition to give the Duty to Co-operate more teeth, the Government will effectively be looking for Joint Plans to deal with Strategic Planning issues and the approach to be used to those strategic issues being set out in a "Statement of Common Ground"
- 4.12 In terms of the test of soundness local plans will be expected to be prepared on a strategy "informed by agreements over a wider area" and also be based on "effective joint working on cross boundary strategic priorities"
- 4.13 The Workshop also examined examples from around the country of other joint planning arrangements and examined the pros and cons. The examples examined in more detail were South Essex; the Oxfordshire Joint Spatial Plan; and the west of England Joint Spatial Plan;
- 4.14 The conclusion was that the five Districts should move forward proposals to start the preparation of a statutory joint strategic planning document. Each Authority committed to consider these proposals during February and March, with a view to commencing this work as soon as was practicable. One of the major tensions in this process is that some Authorities have already commenced their local plan reviews e.g. Dacorum, and others have an imperative to progress to satisfy the Minister (St. Albans)
- 4.15 To start to flesh out what would be involved in terms of governance and resources, a Draft Memorandum of Understanding has been produced (see Appendix A). This would inevitably be the first of a number of documents prepared to set out how the partnership would work and at this stage is really a commitment to work together on the project.
- 4.16 After setting out some context, and the principles of joint working and co-operation, the MoU sets out what the key outputs of this exercise will be :-
- A joint strategic plan setting out spatial and infrastructure priorities across South West Hertfordshire
 - A Delivery strategy
 - A Statement of Common Ground , which is likely to become a key document in the planning system in the future
 - A monitoring process to chart the delivery of the Joint Strategic Plan.
- 4.17 The MoU is clear that it cannot override the statutory duties and powers of the parties and is not legally binding. However it is a public statement about committing to joint working.

- 4.18 The other matter covered by the MoU is Governance. The proposed structure is that there will be Joint Member and Officer Board to steer the preparation of the Joint Spatial Plan. This is to consist of the Leader and Chief Executive from each of the District and Boroughs and the Portfolio Holder and lead Planning Officers from the County Council. Under this there will be a Strategic Planning Members Group, comprising political representatives from each of the partners, with appropriate authority to take decisions to progress the Joint Strategic Plan. Finally there will be an Officer Group comprising heads of service and Heads of Planning Policy.

5. Conclusions

- 5.1 This is the first step on the road to the preparation of the joint strategic plan for part of the county. At this stage what is being sought is agreement in principle to work together on the Joint Plan, on the basis of the arrangements set out in the Draft Memorandum of Understanding.
- 5.2 The County Council is not a Local Planning Authority for the purpose of the preparation of such a joint plan, but quite correctly has been identified as a key strategic partner which is required to make the exercise successful. Therefore at this stage the obligations we are agreeing to, are to support the process in terms of Member and Officer participation in the Governance and steering arrangements and to respond in a timely fashion when requested to feed in a perspective from a strategic infrastructure perspective. The latter is in fact no more than the County Council is required to do under the Duty to Co-operate.
- 5.3 The County Council has been exhorting District Councils to work more strategically on spatial planning and infrastructure matters for a number of years. It is therefore encouraging to see the formation of this grouping and the proposal for the Joint Plan. It will of course be critical that the process works for the County Council as strategic infrastructure provider and this must be a fundamental condition of our participation.
- 5.4 It also has to be recognised that any arrangements put into place at the moment will need to be sufficiently flexible to adapt the next round of reforms to the Planning system, which will take place over the next twelve months.

6. Financial Implications

- 6.1 The majority of the financial burden for the preparation of the proposed Joint Strategic Plan will fall on the five local planning authorities, in that they will have to lead the preparation of the document, including public consultation and public examination, together with the creation of the evidence base and carrying out relevant studies.
- 6.2 For certain topics there may be some cost to the County Council in terms of leading on pieces of work which help to assess the best way forward for the strategic infrastructure that is the county council's responsibility.
- 6.3 The most immediate financial implication will be in the form of officer time to participate in this exercise. However, this is where the extra resource identified to develop the new Growth and Infrastructure Unit can be used to support the objectives of the County Council.

7. **Equalities Implications**

- 7.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered, the equality implications of the decision that they are making.
- 7.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 7.3 The Equality Act 2010 requires the County Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 7.4 There is no EqIA relating to this report, but in the case of the proposed strategic joint planning document a full Equalities Impact statement will be prepared as part of the plan preparation process.

**MEMORANDUM OF UNDERSTANDING
FOR STRATEGIC PLANNING
IN SOUTH WEST HERTFORDSHIRE**

February 2018

STRATEGIC PLANNING IN SOUTH WEST HERTFORDSHIRE

Memorandum of Understanding

between

Dacorum Borough Council
Hertsmere Borough Council
St Albans City & District Council
Three Rivers District Council
Watford Borough Council
Hertfordshire County Council

This Memorandum of Understanding (MoU) sets out how cooperation between the five local planning authorities in South West Hertfordshire and Hertfordshire County Council will be managed in respect of strategic planning issues.

The Localism Act 2011 places a Duty to Cooperate on local planning authorities and county councils¹ (amongst other public sector organisations), requiring them to engage constructively, actively and on an on-going basis in the preparation of plans where this involves strategic matters. Local planning authorities will be tested in relation to legal compliance with the Duty at examination, as well as whether strategic cooperation has resulted in a ‘sound’ and robust approach to delivering strategic objectives.

The Neighbourhood Planning Act 2017² requires local planning authorities to “identify the strategic priorities for the development and use of land in the authorities’ area and set out policies to address those priorities in the development plan documents, taken as a whole. This clause was included to allow greater flexibility in the way that local planning authorities prepare local planning documents, and specifically to support the preparation of ‘strategic’ local plans, whether prepared individually or jointly with neighbouring authorities. However, several recent announcements from Government on proposed planning reforms indicates strongly that the Government’s preferred approach is for strategic priorities to be managed on a joint basis across housing market areas through the use of joint spatial plans.

Building on the existing strong foundations of cooperation developed through the Duty to Cooperate, the Local Authorities have agreed to move to a more formal approach to strategic planning. This will be developed through a ‘portfolio’ of plans, with a Joint Strategic Plan (JSP) setting out strategic spatial and infrastructure priorities that are considered to be of mutual benefit, prepared alongside a suite of Local Plans to manage delivery within each of the local planning areas.

¹ Localism Act 2011, Section 110.

² Neighbourhood Planning Act Part 1, Section 8

Work on the JSP will be steered within the governance structure of the Joint Member and Officer Board (JMOB) to ensure that it aligns with other strategic priorities. Although the JSP will be prepared on the basis of collaboration, formal decisions on the JSP at key stages in its preparation (identified in each local planning authorities' Local Development Scheme) will be taken by the individual local planning authorities which will continue to retain the statutory local planning duty (as set out in the 2004 Planning and Compulsory Purchase Act and the 2017 Neighbourhood Planning Act).

A Statement of Common Ground (SoCG) will be prepared by the Authorities, setting out the process and timetable for the plan, what local delivery plans will be needed (and how current local plans will be managed through the transition process), governance and working arrangements, and the key evidence needed to support the JSP. Although the focus will be strategic development (housing and economic development) and infrastructure, other strategic priorities may be included where they are required to support delivery of the long term shared vision for South West Hertfordshire. The Statement will be reviewed on an ongoing basis and updated as and when needed. This will form key evidence to support the JSP and individual Local Plans and should therefore be made available on each of the partner authority's websites.

In preparing the JSP, all partners agree to:

- Engage constructively, actively, openly and on an on-going basis in relation to strategic planning matters under the Duty to Cooperate (or equivalent processes);
- Ensure a broad and consistent approach to strategic planning and development issues in South West Hertfordshire;
- Support better alignment between strategic planning, infrastructure and investment priorities in South West Hertfordshire;
- Adhere to the governance structure set out in this document and ensure that activities are delivered, actions are taken and communications are made as required;
- Be accountable for ensuring that the role and responsibilities as agreed in the Statement of Common Ground are adhered to;
- Be open and communicate about concerns, issues and opportunities in respect of collaboration and joint working;
- Act in a timely manner, recognising the time critical nature of consultations, technical projects and plan preparation;
- Adhere to statutory requirements. Comply with applicable laws and standards, data protection and freedom of information requirements;
- Encourage, develop and share best practice in strategic planning matters;

- Ensure adequate resources and staffing are in place to undertake effective collaboration and joint working (resources to be agreed by the South West Hertfordshire Authorities through the Statement of Common Ground).
- Seek to align informal and formal decision making to ensure the completion of key stages works effectively for all partners

Area Covered

For the purposes of this MoU the geographic area of South West Hertfordshire applies to the administrative areas of Dacorum Borough Council, Hertsmere Borough Council, St Albans City & District Council, Three Rivers District Council and Watford Borough Council.

Status

This MoU cannot override the statutory duties and powers of the parties and is not enforceable by law. However, the parties agree to the principles set out in this MoU. This MoU is not a development plan, nor a legally binding document, but will be used in the consideration of how the local authorities have jointly approached strategic planning issues and legal compliance with the Duty to Cooperate.

This MoU may be supported by other documentation, and other subject specific MoUs, which set out in more detail how the parties will work together to tackle more detailed matters with respect to strategic planning in South West Hertfordshire. It is accepted that an individual party or group of parties that are signatories to this MoU may also be signatories to other MoUs between themselves, or with other parties outside South West Hertfordshire in respect of the Duty to Cooperate.

Key outputs of this MoU are:

- A Joint Strategic Plan (JSP) setting out strategic spatial and infrastructure priorities across South West Hertfordshire;
- A Delivery Strategy setting out how the strategic policy framework of the JSP will be delivered, accompanied by a risk assessment and risk management plan;
- A Statement of Common Ground setting out how a JSP will be delivered, what the evidence base is, including identification of various development needs;
- A JSP monitoring process to chart and monitor delivery of the JSP.

Governance, Roles and Responsibilities

Preparation of the Joint Strategic Plan and associated Delivery Strategy will be steered under the governance arrangements of a Joint Member and Officer Board (JMOB). Formal decisions on the JSP at key stages (to be set out in individual Local Development Schemes) will be taken by individual Local Planning Authorities on the advice and recommendations of JMOB. The JMOB will comprise the Leader and the

Chief Executive (or equivalent) from each of the District/Borough authorities and the Portfolio Holder and Lead Planning Officer from Hertfordshire County Council. A Strategic Planning Members Group (SPMG) will be accountable for the overall project management of the JSP, supported by a Strategic Planning Officers Group (SPOG). The SPMG will comprise political representatives from each of the partners (to be appointed by individual authorities) with appropriate authority to make key decisions on progress with the SoCG and JSP. The SPOG will comprise the Heads of Service (or equivalent) from each of the partner authorities, and the lead officer for strategic planning. 'Task and finish' groups will be used to develop specific policy areas, to be identified by the SPMG as and when needed.

Terms of Reference for all groups will be established, setting out the roles, responsibilities and administration. These will be agreed by all partners and reviewed annually to ensure they remain relevant.

Local authorities should ensure that adequate resources are provided in order to undertake the joint work programme as set out in the Statement of Common Ground. Additional resources may be provided by other relevant bodies, as agreed to undertake specified tasks under the work programme.

Review of the MoU

This MoU is effective from the date it is signed by the Chief Executive and Leaders of all parties. It will be reviewed as and when indicated through the Statement of Common Ground.

Table of Signatories

Signature	Role	Authority	Date
	Leader of Council		
	Chief Executive		

DRAFT