

**West of England
Planning Homes and communities Board
1st July 2013**

Duty to Co-operate: Planning strategically across local boundaries

Purpose of Report

For members to give their views on and endorse the response to the consultation on the Duty to Co-operate schedule and proposed next steps.

Background

1. To demonstrate how the Authorities are planning strategically across local boundaries and to meet the requirements of the Duty to Cooperate a Schedule has been prepared. The Schedule was consulted on between 28th March and 31st May 2013.
2. The purpose of this Schedule is to:
 - i. identify the strategic planning issues affecting more than one unitary authority area in the West of England;
 - ii. define the processes for taking these issues forward; and
 - iii. document outcomes delivered.
3. The schedule will provide a framework to ensure effective co-operation throughout the plan-making process. It will ensure that strategic issues are concisely and consistently recorded, and will be regularly monitored and updated. It forms part of fulfilling the Authorities strategic planning responsibilities in preparing and keeping under review their local plan delivery programmes.

Consultation

4. The Duty to Co-operate schedule was sent directly to: the prescribed bodies under the Duty to Cooperate; neighbouring authorities; the Local Enterprise Partnership's Infrastructure and Place Group; the LEP Sector Group lead representatives, the Local Nature Partnership and other interested parties. It was also placed on the Duty to Cooperate section of the West of England website and presented to the South West Observatory Housing and Planning Evidence user group in April, and the West of England Housing Delivery Panel in May.
5. There were 13 responses to the consultation from 14 organisations or individuals. These are summarised in Appendix 1, which also sets out proposed officer responses.
6. The above issues were reported to the West of England Joint Scrutiny Committee on 7th June 2013. A summary of their views is at Appendix 2.

Next steps

7. It is proposed that an update on the Schedule is reported quarterly to this Board.

8. Given that the schedule has identified several duty to cooperate issues, in order to target resources effectively it is proposed that the following activities are prioritised for this quarter:

- Overall co-ordination of strategic growth and infrastructure provision consistent with Core Strategy objectives
 - Update of strategic infrastructure requirements in the strategic framework to be reported at the next Local Transport Body Board (LTB) and PHCB.
 - Taking forward the work of the Strategic Solutions Panel which is a forum for articulating the priorities of key agencies, with the remit of enacting MoUs (with Highways Agency, Defra and Homes and Communities Agency protocol) and enabling delivery.
- Co-ordination of other Local Plan documents
 - Coordination of other Development Plan Documents as appropriate
- Sub-regional housing requirements
 - Draft SHMA brief and undertake 'soft market' testing (as set out in agenda item 7)
 - Co-ordinate Strategic Housing Land Availability Assessments
 - Initial outputs of the Housing Delivery protocol work on stalled sites
- Joint monitoring and economic intelligence review
- Avonmouth/Sevenside- progress flood mitigation project with Defra and other partners.
- Major Transport proposals- confirm priority schemes to DfT by July through the Local Transport Body Board.
- Better Bus Area bid 21st June 2013.
- Engage in the LEP Strategic Growth Plan through the Directors of Development and Environment.

9. Members are asked to highlight if there any other issues on the Schedule that they would like officers to progress this quarter.

Recommendation

10. Members to endorse the responses to the consultation on the Duty to Co-operate schedule and the issues to be progressed this quarter.

11. Members to endorse that the Duty to Cooperate becomes a standing item and that progress is reported at each meeting.

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West of England Duty to Cooperate Schedule –draft response to consultation March 30th – May 31st 2013.

Ref	Respondent	Summary of key issues raised	Proposed action or changes to the Duty to Cooperate schedule	Reason?
1	Civil Aviation Authority	a. In order to reduce the time devoted to unnecessary consultations, the following guidance aims to clarify requirements. Other than the consultation required by Section 110 of the Localism Act 2011, it is not necessary to consult the CAA about: Strategic Planning Documents (e.g. Local Development Framework and Core Strategy documents) other than those with direct aviation involvement (e.g. Regional Renewable Energy Plans.)	None	No change required
		b. In all cases where the above might affect an airport, the airport operator is the appropriate consultee	DtoC Schedule sent to Bristol Airport for any comments.	No change required
		c. Where consultation is required under Section 110 of the Localism Act 2011 the CAA will only respond to specific questions (but will nevertheless record the receipt of all consultations).	None	No change required
2	South Somerset District Council	a. No specific comments to make regarding the West of England Duty to Cooperate Schedule and endorse its contents.	None	No change required
		b. Note and support the identification of Hinckley Point and Mendip AONB as issues on which there should be co-operation with Somerset Authorities.	None	No change required
		On publication of the final document a copy for the South Somerset Local Plan Evidence Base would be appreciated.	None	No change required
3	Office of Rail Regulation	The Office of Rail Regulation (ORR) only requires to be consulted if the transport plan, planning application, core strategy etc mentions or impacts on the railway or tramway.	None	No change required

Ref	Respondent	Summary of key issues raised	Proposed action or changes to the Duty to Cooperate schedule	Reason?
		Looking at the schedule, we would be especially interested in the following themes: * Joint Local Transport Plan 3. * Major transport proposals. * Rail (this includes the Greater Bristol Metro).	None	No change required
		Future correspondence should be sent to ORR's Customer Correspondence Team	None	No change required
4	Cotswold District Council	I can confirm that Cotswold District Council has no comment to make on the attached schedule.	None	No change required
5	Downend & Bromley Heath Parish Council	In response to the recent email forwarded by South Gloucestershire Council, the Planning Committee of Downend & Bromley Heath Parish Council note the contents of the above, although this Parish Council is not directly involved at this point in time.	None	No change required
6	Campaign to Protect Rural England	Given the cross-boundary nature of food systems; the challenges facing our food systems; and the opportunities for cross-boundary local authority action to increase the resilience of food systems, we feel strongly that food systems should be included in the Duty to Cooperate Schedule.	Suggested wording accepted in full.	Suggested change made
		Suggested wording: Theme: Food Systems Issues and delivery outcome/benefit: To protect and enhance the resilience of the food system. LAS affected and other partners to have regard to: BCC, B&NES, NSC, S.Glos, LEP, LNP	Suggested wording accepted in full.	Suggested change made

Ref	Respondent	Summary of key issues raised	Proposed action or changes to the Duty to Cooperate schedule	Reason?
		<p>Actions Proposed:</p> <ol style="list-style-type: none"> 1. Explore opportunities for food systems planning to enhance the resilience of regional food systems 2. Create a common approach to food systems planning 3. Embed food systems planning approach into planning policy across the region 4. Explore other approaches to building food system resilience. <p>Action by: BCC, B&NES, NSC, SGC, LEP, LNP and partner organisations within voluntary / community sector</p>	Suggested wording accepted in full.	Suggested change made
7	The Blue Finger Alliance	<p>Given the cross-boundary nature of food systems; the challenges facing our food systems; and the opportunities for cross-boundary local authority action to increase the resilience of food systems, we feel strongly that food systems should be included in the Duty to Cooperate Schedule.</p> <p>Suggested wording: Theme: Food Systems Issues and delivery outcome/benefit: To protect and enhance the resilience of the food systemt. LAS affected and other partners to have regard to: BCC, B&NES, NSC, S.Glos, LEP, LNP</p> <p>Actions Proposed:</p> <ol style="list-style-type: none"> 1. Explore opportunities for food systems planning to enhance the resilience of regional food systems 2. Create a common approach to food systems planning 3. Embed food systems planning approach into planning policy across the region 4. Explore other approaches to building food system resilience. <p>Action by: BCC, B&NES, NSC, SGC, LEP, LNP and partner organisations within voluntary / community sector</p>	Suggested wording accepted in full.	Suggested change made

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8	Senior Lecturer in Human Geography UWE-Bristol	<p>I would very much like to support the attached document which suggests the addition of a theme concerning the resilience of the region's food systems.</p> <p>Such an addition would be timely and act to see all the West of England local authorities speaking with an integrated voice on matters relating to local food security.</p> <p>A measure which secures a duty to cooperate on food and land matters would be an excellent way to demonstrate that our region is being proactive in considering these important issues</p>	Suggested wording accepted in full.	Suggested change made
		<p>Suggested wording: Theme: Food Systems Issues and delivery outcome/benefit: To protect and enhance the resilience of the food systemt. LAS affected and other partners to have regard to: BCC, B&NES, NSC, S.Glos, LEP, LNP</p> <p>Actions Proposed:</p> <ol style="list-style-type: none"> 1. Explore opportunities for food systems planning to enhance the resilience of regional food systems 2. Create a common approach to food systems planning 3. Embed food systems planning approach into planning policy across the region 4. Explore other approaches to building food system resilience. <p>Action by: BCC, B&NES, NSC, SGC, LEP, LNP and partner organisations within voluntary / community sector</p>	Suggested wording accepted in full.	Suggested change made

Ref	Respondent	Summary of key issues raised	Proposed action or changes to the Duty to Cooperate schedule	Reason?
9	Yate Town Council	Yate Town Council is extremely surprised that there is no mention at all in the document of Parish and Town Councils, which, outside of the City area cover most of the WEP area, and represent an essential public democratic voice. The Localism Act specifically placed duties in Unitary Authorities to cooperate with their parishes, so it is essential WEP also accepts that duty: otherwise the basic Unitary Authority statutory duty can be circumvented by tasking WEP to do things.	Make reference to Parish and Town Council throughout the schedule as appropriate	Suggested change made
		So right through the schedules the other democratic tier: Parish Councils should be mentioned.	Make reference to Parish and Town Council throughout the schedule as appropriate	Suggested change made
10	Somerset County Council	The following officer response is provided in accordance with our role as statutory highways and transport authority for Somerset, whilst also taking into account statutory responsibilities for strategic planning, waste and minerals planning, the provision of educational and social services, emergency planning, rights of way, economic development and others.	Noted	No change required
		From a 'strategic' perspective, I agree with the proposed cross-boundary issues to be addressed which are: *Joint Waste LDF - (SCC contact given) *Mendip AONB - SCC and Mendip (SCC and MDC contacts given) *Green Belt - Mendip DC (MDC contact given) *The impact of Hinkley Point C nuclear project (SCC contact given)	Noted and all contained within Schedule	No change required
		In addition to this, I believe that it may be useful to make a specific mention our continuing engagement with regards to ecology matters especially bio- diversity offsetting (SCC contact email given)	Suggested issue added to the Schedule.	Suggested change made
		As always we look forward to working with you on all these issues in order to positively prepare effective local plan coverage for the area.	Noted	No change required

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11	South Glos Waste policy	As a result of comments received on the draft LAA, please can a reference to other mineral planning authorities be added to the schedule. In particular the mpas concerned are Glos, Somerset, Dorset, Oxon county councils, Wiltshire and Swindon UAs	Other MPAs added to Action by in the Waste and Minerals theme	Suggested change made
12	Barton Wilmore on behalf of Taylor Wimpey UK Ltd and Bovis Homes	We welcome the commitment of the Authorities working together in the preparation of evidence to inform the future Plan Making Process, however we have a number of concerns relating to the SHMA, Duty to Co-operate and Strategic Framework documents could undermine the stated intentions of the Authorities commitment to working together	Notes	No change required
		The Localism Act, including the Duty to Co-operate was enacted on 15th November 2011. The intention of the government to introduce the Duty to Cooperate was well established before this, as a firm component of the Conservative Planning Framework included in their Green Paper 'Open Source Planning' in February 2010. The West of England Authorities have therefore had more than 18 months from the Duty to Cooperate becoming a legal requirement (and originally since the new government were elected in May 2010) in which to respond and put measures in place to guide their joint working together	The West of England have a well established partnership and joint working arrangements. The Authorities have a commitment to joint working irrespective of the duty to cooperate. The duty to cooperate schedule is a continuation of this joint working, and is a tangible demonstration of it.	No change required
		The Duty to Co-operate is intended for situations exactly like that in the West of England: to provide a mechanism for joint working between local authorities on strategic and cross boundary issues, such as economic growth and housing provision in the absence of Regional Plans. It is particularly relevant to the West of England, given the tightly constrained boundaries that the core City of Bristol has which restricts its ability to address strategic planning matters within its own Council's limits.	The West of England have a well established partnership and joint working arrangements. The Authorities have a continued commitment to joint working irrespective of the duty to cooperate	No change required
		It is therefore disappointing that the Authorities are only now putting measures in place to formally guide the scope and application of the Duty to Co-operate in the West of England, particularly as the evidence to be prepared through joint working comes after all Local Authorities have submitted their Core Strategies and have undergone Examination	The West of England have a well established partnership and joint working arrangements. The Authorities have a continued commitment to joint working irrespective of the duty to cooperate.	No change required 8

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		<p>Whilst we recognise that the current brief is to establish joint working and prepare additional evidence on a West of England basis to inform the early reviews of these Core Strategies, there is a need for the detailed West of England SHMA to be undertaken as quickly as possible to inform the ongoing Examinations and to enable the LPA's to respond to the findings of the new evidence in a constructive and collaborative manner.</p>	<p>The West of England have a well established partnership and joint working arrangements. The duty to cooperate schedule is a continuation of this joint working, and is a tangible demonstration of it.</p>	<p>No change required</p>
		<p>The joint working of Local Authorities to plan positively for the levels of housing growth required to meet the evidenced housing needs of the area is more important in the West of England than anywhere else in the Country.</p>	<p>The NPPF applies to all LPAs, there is no importance attached to the West of England above 'anywhere else in the country'.</p>	<p>No change required</p>
		<p>The Authorities of the West of England have shown few signs of working positively together to determine the housing requirement for the area to date and the Core Strategy Examinations for the West of England Authorities were only able to proceed due to the technicality that the Duty has been determined not to apply to Plans which have been submitted.</p>	<p>The West of England have a well established partnership and joint working arrangements. The Authorities have a continued commitment to joint working irrespective of the duty to cooperate. The Authorities have taken their Core Strategies through the Core Strategies process fully in accordance with national policy and PINS guidance and requirements.</p>	<p>No change required</p>
		<p>The introduction of formal measures to guide the Duty to Cooperate is therefore welcomed; so too is the acknowledgement that there is a need for a West of England wide Strategic Housing Market Assessment, but this work is required urgently</p>	<p>The West of England Authorities are committed to engaging with neighbouring authorities on the best way to undertake the SHMA and the appropriate timetable (informed by the Census TTWA information).</p>	<p>No change required</p>
		<p>To meet the requirement of the Duty to Co-operate, the West of England Authorities should:</p> <ul style="list-style-type: none"> - Assess the economic growth potential of the West of England area; - Assess the overall level of housing required to meet the economic growth and demographic needs of the area; - Assess existing capacity within the West of England Authorities; and 	<p>Noted</p>	<p>No change required</p> <p>9</p>

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		<p>Identify a new requirement for housing to be provided within the West of England Area, which should include:</p> <ul style="list-style-type: none"> - The level of housing required to meet the economic and demographic growth of each of the LPA areas; - The level of unmet need within each LPA's existing or emerging Core Strategy, which can then be appropriately apportioned; and - A Joint Green Belt Review. 	<p>The next steps required will be dependent on the outcome of the review, it is not appropriate at this stage to pre-determine what interventions/next steps will be required.</p>	<p>No change required</p>
		<p>This evidence is needed urgently to support the economic growth aspirations of the LEP; and inform the ongoing Core Strategy Examinations. WE therefore urge the West of England Authorities to progress this work as a priority.</p>	<p>The work is being progressed as a priority to inform future local plan reviews.</p>	<p>No change required</p>
		<p>The definition of the duty to co-operate in section 2 of this document should make reference to the requirements in s.33A of The Planning and Compulsory Purchase Act 2004 "to engage constructively, actively and on an ongoing basis". Similarly, it should be made clear (as in the Act) that this duty extends not only to both the preparation of DPDs and other local development documents, but also in "activities that can reasonably be considered to prepare the way for" or that support the preparation of such documents, in each case so far as they relate to a strategic matter</p>	<p>Noted.</p>	<p>Suggested change made</p>
		<p>We also consider that the Duty to Cooperate schedule should set out and put specific measures in place to achieve the strategic priorities outlined in paragraph 156 of the NPPF:</p> <ul style="list-style-type: none"> - the homes and jobs needed in the area; - the provision of retail, leisure and other commercial development; -the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat); - the provision of health, security, community and cultural infrastructure and other local facilities; and - climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape. 	<p>Noted. The schedule does include this content.</p>	<p>No change required</p>

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		With regard to the specifics of the schedule, item 1 suggests that overall coordination of strategic growth and infrastructure provision should be 'consistent with Core Strategy objectives'. This statement seems to us to be incorrect. In order to ensure that growth and infrastructure is planning in a strategic way across LPA areas, its consideration cannot be constrained by a requirement to be consistent with pre-existing Core Strategies. Such an approach would involve subordinating strategic planning to existing local plans, which is the opposite of the approach the Act and the NPPF envisage. Genuinely strategic positive planning would be hamstrung by such a requirement.	This objective relates to delivery-which is expected to be consistent with Core strategy Objectives as with a plan led approach. Theme to be clarified on the schedule.	Clarification required
		Item 2 in the schedule, sub-regional housing requirements, reflects a similar inversion of priorities. Whilst we recognise the timing implications and necessity for B&NES to prepare a SHMA within a set timescale to allow their EiP to proceed, the preparation of the B&NES-only SHMA in advance of the West of England SHMA demonstrates the flaws of the West of England Authorities not adopting a cooperative approach to planning previously.	The West of England have a well established partnership and joint working arrangements. The duty to cooperate schedule is a continuation of this joint working, and is a tangible demonstration of it. The Authorities have a SHMA, and are proactively seeking views on the review of the SHMA.	No change required
13	English Heritage	Plan making in the WOE is an on-going process which helps shape and facilitate growth over time, across a wide and varied geographical area and engages a broad range of community interests. The WOE is characterised by a rich historic legacy of highly significant and valued international, national, regional and locally important heritage assets.	Noted	No change required
		English Heritage will continue to work constructively with all four local authorities to secure their conservation, the delivery of sustainable development in accordance with the NPPF and a successful city region.	Noted – English Heritage continued support in our joint working is welcomed.	No change required

Appendix 2: Initial Joint Scrutiny views given at their meeting on 7th June 2013.

- Support the inclusion of food systems as a strategic cross boundary issue.
- Will Minerals include the issue of fracking? If not can this be included as a specific issue particular in neighbouring authority areas such as Mendip.
- How do we effectively engage with AoNB- especially given many issues are of a landscape scale.
- Linkages with environmental partners through Local Nature Partnership but should also be recorded as a separate activity on the schedule.