

BATH & NORTH EAST SOMERSET CORE STRATEGY EXAMINATION**COUNCIL'S RESPONSE TO INSPECTOR'S NOTE ON
SECTION 110 LOCALISM ACT – DUTY TO CO-OPERATE (ID23)**

Whether, if Section 20(5)c is subsequently found to apply to the submitted plan, the duty to co-operate would in practice, have been met in its preparation.

Introduction and the Duty to Co-operate

1. As set out in BNES/21 the Council does not consider that the duty to co-operate in section 110 of the Localism Act applies to the preparation of the submitted Bath & North East Somerset (B&NES) Core Strategy. The Inspector and DCLG are also of the view that the duty should not be applied retrospectively to the B&NES Core Strategy. However, given the threat of a legal challenge by Pegasus Planning (representing Robert Hitchens) the Council has requested that compliance with the duty to co-operate is considered by the Inspector.
2. Section 110 of the Localism Act inserts two new clauses into part 2 of the Planning & Compulsory Purchase Act 2004. Section 20(5) c requires that the Inspector (as the independent examiner of the Development Plan Document) should consider whether the local planning authority has complied with any duty imposed on the authority by section 33A in relation to its preparation. Section 33A is the new section inserted into the 2004 act relating to the duty to co-operate.
3. Section 33A requires that a local planning authority engages constructively, actively and on an ongoing basis in the preparation of development plan documents with other local planning authorities and to have regard to their activities in Development Plan Document (DPD) preparation so far as relating to a strategic matter.
4. In this context engagement is defined as including:
 - a) Considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to DPD preparation; and
 - b) Considering whether to prepare joint Local Development Documents
5. The duty to co-operate also covers a number of public bodies in addition to Councils. The public bodies are listed in draft changes to Regulations required to implement the Localism Act. Whilst not yet confirmed this draft list includes the following of relevance to B&NES: Environment Agency, Natural England, Homes & Communities Agency, English Heritage, Primary Care Trust and Highways Agency. Local Enterprise Partnerships (LEPs) are not covered by the duty to co-operate but the draft changes to the regulations suggest that regard should be had to them in preparing the DPD.

6. Paragraphs 44 to 47 of the draft National Planning Policy Framework (NPPF) (CD2/27) also gives further guidance on planning strategically across local authority boundaries.
7. The Council considers that it has and continues to engage constructively and actively with other local planning authorities on the preparation of the Core Strategy, following the approach set out in the draft NPPF, as well as engaging with other public bodies. The mechanisms for and evidence of engagement is set out below.

The West of England Partnership (WEP)

8. As set out in BNES/4 (especially paragraphs 15 to 17) the West of England Partnership (WEP) has provided the primary mechanism for co-operation and constructive, active and on-going engagement with adjoining planning authorities. The WEP has acted as the focus for cross-boundary working on spatial planning, and alongside formal and informal engagement with individual authorities on their respective Core Strategies has resulted in either adopted or emerging Core Strategies for each of the four authorities that are broadly aligned. Engagement through the WEP is at both an officer and Member level (see paragraph 16 of BNES/4).
9. The WEP also facilitated the drawing up and signing of the Multi-Area Agreement (MAA) by the four authorities with Government (see paragraphs 18 and 19 in BNES/4). This is an agreement on delivery of sustainable development which is of direct relevance to the preparation of Core Strategies across the sub-region and demonstrates constructive engagement and co-operation of the West of England authorities.
10. Section 33A states that engagement also includes considering whether to prepare a Joint DPD. When the West of England authorities decided to prepare individual Core Strategies the duty to co-operate did not exist. However, as set out in BNES/4 and through this statement the preparation of the individual Core Strategies has involved significant constructive engagement and co-operation between the authorities. The four authorities did agree and collaborated successfully in preparing and adopting a Joint Waste Core Strategy covering the sub-region.
11. Further evidence of constructive engagement between the West of England authorities directly related to Core Strategy preparation is successful collaboration with the HCA in preparing a Delivery and Infrastructure Investment Plan (DIIP) (see also paragraphs 20 to 22 of BNES/4). The DIIP identifies the place based priorities (drawn from and reflecting the emerging Core Strategies of the four authorities) for public investment to support infrastructure and affordable housing provision. This forms an important output of joint working in accordance with and as referenced in paragraph 47 of the draft NPPF (CD2/27).

12. The constructive engagement of the four authorities facilitated through the West of England Partnership has resulted in a clear, coherent and agreed approach to delivering sustainable development across the sub-region that prioritises the regeneration of urban brownfield sites (see also Topic Paper 9 and BNES/5). This approach forms the framework for and is reflected in the adopted or emerging Core Strategies of the four authorities.
13. The WEP has recently been replaced by the West of England local Enterprise Partnership (LEP). As set out in paragraph 5 above the LEP is not covered by the duty to co-operate. However, in accordance with the draft changes to the Local Planning regulations regard has been had to the LEP (in its role of supporting and co-ordinating sustainable economic growth (in preparing the Core Strategy. The Core Strategy plans for significant economic growth, focussed on high value added economic sectors.

Engagement with Adjoining Local Authorities

14. In addition to joint working via the WEP B&NES has liaised closely with the individual adjoining local planning authorities in preparing the Core Strategy. Of the area covered by the WEP B&NES has a particularly close spatial and functional relationship with the Bristol City Council area. Therefore, significant levels of constructive engagement have taken place with the City Council. Much of this work, focussing particularly on preparation of the Spatial Options document, is summarised in a document prepared by Bristol City Council for its Core Strategy Examination (available as CD3/28). Since that time engagement has continued both informally and formally. Confirmation of this engagement from Bristol CC and the position resulting from it is set out in BNES/33.
15. The position of Pegasus Planning (in their statement on compliance with statutory and regulatory matters, representor no. 170) appears to be that constructive engagement and cross boundary working of the West of England authorities on their respective Core Strategies has not taken place because it did not result in a significantly higher sub-regional housing requirement to help address the perceived inadequacy of Bristol to meet its housing needs, thereby necessitating provision of urban extension development on the south-east edge of Bristol. However, it is clear from the correspondence set out in BNES/33 that an agreed and consistent position between the two authorities has been reached that accords with the approach set out in paragraph 47 of the draft NPPF (CD2/27). Bristol CC have confirmed that there is no development requirement related to Bristol's needs which it cannot meet and that it does not support development within the Green Belt on the south east side of the city. Consistent with this the B&NES Core Strategy does not plan for an urban extension in this area and focuses development to meet its needs on Bath and the other urban areas within the District.
16. In September 2011 the Council considered the possibility of identifying a contingency area in the Core Strategy. During discussions on this issue Bristol CC

expressed great concern at a potential contingency proposal at either Whitchurch or Hicks Gate (see BNES/33). Given the current spatial strategy for both Bristol and B&NES it is likely that Bristol CC would object if such a proposal were pursued at this time. As set out in the proposed change to paragraph 7.05 of the Core Strategy (see change number 53 in CD6/E2.2) it is proposed that the B&NES Core Strategy be reviewed 5 years after its adoption. If monitoring demonstrates that there is no reasonable prospect of 11,500 homes being delivered by 2026 steps will be taken to rectify this shortfall, which may include a change to the spatial strategy. In addition, if monitoring shows that the economic growth rates being planned for are no longer appropriate the Council will consider revising development targets and make the necessary changes to the spatial strategy. This review will, in accordance with the duty to co-operate, be undertaken in close liaison and co-operation with adjoining authorities (especially those within the West of England) to ensure cross boundary issues are addressed. The review period in the adopted Bristol Core Strategy (CD3/15) is aligned with this approach i.e. about every 5 years after adoption.

17. Constructive and ongoing discussions have also taken place with Wiltshire Council and Mendip District Council in preparing both the B&NES Core Strategy and their respective Core Strategies. This engagement is important given the functional relationship that parts of both authority's areas have with Bath and other parts of the District. As well as formal and informal discussions engagement has also included formal comments submitted on the respective authorities Core Strategies by the individual authorities. The Council is aware that there are outstanding objections to the B&NES Core Strategy from Wiltshire Council and Mendip District Councils and is continuing to work with these authorities to address their concerns as far as possible.
18. With regard to Wiltshire Council it is considered that progress is being made and there is increasing alignment between the emerging Wiltshire and B&NES Core Strategies. This is reflected in the comments of B&NES Council on the Wiltshire Core Strategy Consultation Document (June 2011) which are attached as Annex 1. In particular the employment led strategy being adopted by Wiltshire Council is in harmony with the B&NES Core Strategy approach, as it should help foster greater self containment of the Wiltshire towns thereby reducing in-commuting in to Bath.

Other Evidence Base Joint Working

19. BNES/4 (paragraphs 23 to 31) outlines other significant areas of engagement with West of England authorities on both evidence base (informing Core Strategies) and other strategies and plans that are linked to the Core Strategy. These areas of joint working include:
 - SHMAA and co-ordination of SHLAA via the Housing Market Partnership (also includes Wiltshire and Mendip Councils)
 - Local Economic Assessment of the West of England

- Transport – including preparation and adoption of the Joint Local Transport Plan
 - Green Infrastructure – including preparation of a West of England GI Framework
 - Climate Change – WEP sought alignment of authorities plans and programmes to achieve carbon reductions
 - Research & Intelligence – co-ordinated approach across the four authorities
20. In addition the West of England authorities worked together constructively on assessing the accommodation needs of gypsies, travellers and travelling showpeople. The evidence derived from the West of England GTAA has directly informed the figures and policy approach set out in the B&NES Core Strategy.

Collaborative Working with Other Partners

21. As set out in paragraph 32 to 34 in BNES/4 the Council, as part of the WEP, has been involved in working collaboratively with other bodies to help ensure jobs and homes are delivered in the right places, at the right time, supported by the timely provision of the necessary infrastructure. This approach accords with that set out in paragraph 45 in the draft NPPF (CD2/27), which requires that local planning authorities work collaboratively with other bodies so that strategic priorities are properly co-ordinated and clearly reflected in DPDs.
22. The Localism Act also makes it clear that the duty to co-operate also applies to public bodies other than Councils. Not only through working as part of the WEP but more particularly through closely engaging with and involving other relevant public bodies in the preparation of the Core Strategy the Council has fully complied with this aspect of the duty to co-operate. A number of informal and formal meetings have taken place with public bodies (e.g. Environment Agency, Natural England and English heritage) at key preparation stages and the same bodies have been advised of the opportunity to formally comment at the various public consultation stages. A record of much of this engagement is set out in the Regulation 30(1) (d & e) consultation reports (see CD5/8 and 5/9).

Conclusion

23. The Council considers that whilst the duty to co-operate does not apply to the submitted B&NES Core Strategy it has engaged constructively and actively with adjoining local planning authorities and other public bodies in its preparation. This engagement has in part been facilitated and focused through the WEP, but also undertaken by B&NES Council outside that forum. As such the Council considers it can demonstrate it has complied with the requirements of the duty to co-operate.

Wiltshire Core Strategy Consultation Document June 2011

Comments of Bath & North East Somerset Council

The western part of Wiltshire (the former District Council of West Wiltshire) is located within the West of England Housing Market Area (HMA), and parts of western Wiltshire are also within the travel to work area of Bath. Therefore, Bath draws upon neighbouring towns and villages within western Wiltshire for part of its labour force, whilst the residents of western Wiltshire look to both Bath and Bristol for higher-level services and employment.

Generally the Wiltshire Core Strategy is to be welcomed, in particular the overall strategy to focus employment-led growth at Trowbridge, Chippenham and Salisbury and the Market Towns in order to achieve a greater level of self-containment and provide the jobs locally that Wiltshire's communities need. We welcome the recognition in the Core Strategy that previous growth within Wiltshire hasn't always been delivered in a proportionate manner whereby housing has been delivered in settlements where there are insufficient employment opportunities. This has led inevitably to out-commuting, not only to Bath, but also to Swindon and to the South East. The approach of Wiltshire to focus on an employment led strategy is therefore appropriate in order to improve the self-containment of the settlements in West Wiltshire and stabilise/reduce the current level of out-commuting.

Overall level of development and phasing

The Secretary of State's Proposed Changes to the RSS were published in 2008 which suggested an increase in the amount of housing that Wiltshire Council should provide during the period to 2026 from 34,500 homes required in the draft RSS to 44,400 required in the Proposed Changes. 'Wiltshire 2026' was also based on this higher figure. This version of the Wiltshire Core Strategy has reduced the housing requirement to around 37,000, which is less than the Proposed Changes, but more than the draft RSS requirement. We believe the approach taken by Wiltshire to critically appraise and challenge the RSS figures in light of new and more up-to-date evidence is the correct one, and validates Bath and North East Somerset's own approach in setting out a locally determined housing number in our own draft Core Strategy. The Wiltshire Core Strategy approach of phasing housing development to align with new employment provision is also supported and aligned with the approach in the B&NES draft Core Strategy.

Commuter flows and development in West Wiltshire

Wiltshire has strong links with the surrounding large urban centres including Bath and as a result it currently suffers from high levels of out-commuting for work and loss of expenditure locally through people travelling for shopping and leisure purposes to these larger urban areas. The Wiltshire Core Strategy emphasis is on job growth which will support the aim of reducing the need to travel by providing job opportunities locally.

Much of Wiltshire has lower residence based self-containment (66% in the case of West Wilts) than B&NES (70%), although frequently a higher level of workplace based self-containment (76% for West Wilts). Notwithstanding the importance of settlements such as

Trowbridge, this is to be expected in an area which is somewhat less dominated by a major urban centre and inevitably with a narrower choice of employment opportunities. The importance of sub regional co-operation between both authorities is acknowledged both in the Wiltshire Core Strategy and B&NES draft Core Strategy. However, it has to be recognised that in an area such as the Bath Travel to Work Area, with many alternative locations for both employment and residence, people will naturally exercise these options, and some will always choose to commute irrespective of housing provision close to their place of work. The B&NES draft Core Strategy aims to stabilise these commuting patterns, with the strategy for Bath in the draft Core Strategy to enable a shift in the level of self-containment from 70% to nearer 80%. One approach that B&NES would support is the improvement of the range and quality of employment opportunities in West Wiltshire, which we note is a key objective of the Wiltshire Core Strategy. We would wish to be assured that these employment allocations are deliverable as housing delivery without investment in job creation will increase unsustainable out-commuting, as acknowledged in the Sustainability Appraisal.

The strategy for Trowbridge is to stabilise the level of commuting to other centres (including Bath) which is in line with the B&NES draft Core Strategy. 6,000 dwellings are proposed in the Core Strategy as opposed to 5,920 in 'Wiltshire 2026'. Whilst these figures are high and in line with the RSS Proposed Changes, B&NES is satisfied that the intention to provide leisure/cultural/shopping facilities in the town will reduce reliance on and the need to travel to Bath. The focus on job growth/improving skills (within significant employment allocations) at Trowbridge is also supported.

The housing figure for Chippenham has been reduced from 5,740 in 'Wiltshire 2026' to 4,500 to ensure that it only meets its own needs and improves its self-containment. We support this in terms of limiting in-commuting to Bath so long as sufficient housing in the wider market area overall is being provided.

We note that the Sustainability Appraisal has highlighted that, when considering existing employment sites, "Option 1 could lead to loss of many smaller employment sites throughout Wiltshire which would mean people having to travel further to seek work. There would not be the same amount of employment opportunities, particularly in some of the smaller towns, significantly increasing the need to travel for jobs elsewhere in the county or further afield. This would exacerbate current problems of out-commuting to towns along the M4 corridor such as Bristol, Bath and Swindon".

Infrastructure Provision

Given the strong functional relationship between Bath and Wiltshire towns it is vital that transport infrastructure is planned and delivered in consultation with neighbouring authorities. Continuation of cross boundary working between Bath and North East Somerset and Wiltshire where circumstances permit is a priority. The Wiltshire Core Strategy refers to improving sustainable transport links to Bath, which is in line with the B&NES draft Core Strategy and fully supported. Reference should be made in the Wiltshire Core Strategy to key items of transport infrastructure such as the electrification of the Great Western Mainline railway which will improve the ease of access to and attractiveness of rail travel to and from Bath. Bath and North East Somerset Council looks forward to working with Wiltshire Council on our respective Infrastructure Delivery Plans. This includes Green Infrastructure; the B&NES Strategic GI network and links between both areas should be acknowledged in the Wiltshire Core Strategy and GI strategy.

Previous comments on Wiltshire Core Strategy

It was noted in the previous iteration of the Wiltshire Core Strategy that the village of Colerne was proposed as having capacity to accommodate modest development to help meet local housing need. We expressed concern at that time about this proposal due to the prospect of increased traffic travelling into Batheaston, particularly HGVs, and the fact that problems have been arising on Bannerdown Road as a result of HGV's accessing development at Colerne Airfield, with no alternative, viable routes. It is noted that in this version of the Wiltshire Core Strategy the Corsham Community Area, of which Colerne is a part, 1,200 new homes are planned, with the majority (1,050) at Corsham. Therefore, any development at Colerne is likely to be modest. Nevertheless, we maintain our concern that any expansion of development could give rise to increased traffic in this locality.

'Wiltshire 2026' also proposed development at Bradford on Avon and acknowledged that the town had a high level of out-commuting, effectively functioning as a dormitory settlement to Bath. Bath and North East Somerset Council previously raised concerns to any development that increased the amount of traffic travelling into Bath from Bradford on Avon. It is clarified in this version of the Wiltshire Core Strategy that Bradford-on-Avon is not identified as a strategic location for employment. The high level of out-commuting indicates that development of business and employment should be encouraged to meet local needs. This additional provision will help improve the balance between housing and employment growth in the town, and offers the opportunity to improve self-containment. Whilst we can support this approach, which is in-line with the B&NES draft Core Strategy, we wish to reiterate our previous concerns that Bradford-on-Avon should avoid the type of employment development that would be likely to give rise to increased traffic movements through Bath, i.e. travelling between Bradford-on-Avon and Bristol, and in particular HGV movements along this route.