



**BATH AND NORTH EAST SOMERSET
CORE STRATEGY EXAMINATION**

**COMPLIANCE WITH STATUTORY
AND
REGULATORY MATTERS**

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A) Has the Core Strategy (CS) been prepared in accordance with the Local Development Scheme (LDS) and have the relevant details in the LDS been met in respect of the role, rationale and scope of the CS?

1.1 I have not seen any evidence that this requirement is not met. The current LDS is very recent having come into effect on 10 August 2011 (CD5/28). The scope and coverage of the CS appears consistent with the set out in the LDS.

Pegasus Planning Group has no comments on this question.

B) Has the CS been prepared in compliance with the Statement of Community Involvement (SCI) (CD5/13)?

Pegasus Planning Group has no comments on this question.

C) Does the CS comply with the 2004 Regulations (as amended) in relation to the publication of documents, advertising and notification?

Pegasus Planning Group has no comments on this question.

D) Has there been sufficient regard given to the Sustainable Community Strategy (SCS)(CD4/04) as required by S19(2) of the 2004 Act?

Pegasus Planning Group has no comments on this question.

E) Has the DPD been subject to sustainability appraisal (SA)? Does the SA show how different options perform and is it clear that sustainability considerations informed the content of the CS from the start?

1.2 This question seeks to determine only whether the minimum legal requirement has been met. Any comments on the conclusions of the SA in relation to specific locations/policies can be considered under the main issues where those are discussed.

Pegasus Planning Group has no comments on this question.

F) Is the CS in general conformity with the Regional Strategy?

1.3 *This remains a statutory test (Reg 21(1)(a)) until the Localism Bill is enacted and comes into effect. The Regional Strategy for the South West of England, RPG10, was produced in 2001 and provides a broad development strategy to 2016. It is clearly dated. Is the CS in conformity with it? The statutory test of general conformity does not apply to the previously emerging RS (discussed under issue 1).*

1.1 Pegasus Planning Group considers that the Core Strategy is strictly not in general conformity with the Regional Strategy as required by Regulation 21(1)(a). This is the statutory test until the RSs are abolished and as a matter of law the Core Strategy must be in general conformity. The Avon Structure Plan (2002) “saved” policies also form part of the Development Plan and the new Core Strategy needs to be assessed for general conformity against this document.

1.2 Although the Localism Act received Royal Assent on 15th November 2011 and immediately prevents any further strategies from being created. The second stage is to abolish each RS and “saved” County Structure Plan policies by Order. The laying of the Orders before Parliament is subject to the outcome of the environmental assessments that DCLG have produced and upon which consultation is taking place until 20th January 2012. It is understood that the decisions on the revocation will not be made until the Secretary of State and Parliament have had the opportunity to consider the outcome of the environmental assessment process. Consequently all plans considered before that date must as a matter of law be in general conformity.

1.3 The RS for the South West is RPG10¹ dated 2001, makes provision for development for the plan period 1996 – 2016. Although this is criticised as being potentially out of date it is not clear on what basis the Councils figures are deemed more acceptable, as these are based on the 2004 household projections i.e. only three years after the approval date of the RPG.

1.4 However, what is clear is the direction of travel in terms of the strategy set out in the RPG (RS) in particular the housing numbers set out in Policy HO.1 Levels of Housing Development and also the need to review the Green Belt in Policy SS4 Green Belt and also in Policy SS8. Bristol.

¹ CD3/3 Regional Planning Guidance for the South West (RPG10) (2001)

- 1.5 The RSS Policy HO1 indicates 3,700 houses per annum in the former County of Avon; the numbers are not disaggregated. However, taking an overall requirement of 74,000 dwellings for the full 20 year period (1996 – 2016) it is clear that it is possible to assign dwelling numbers to the individual Council areas. The County Structure Plan (1996 – 2011) used the following distributional split:-

BANES	12.4%
Bristol	25.9%
N. Somerset	29.7%
S. Glos	32.1%
Avon	100.0

- 1.6 When this is applied to RPG10 (2001) it generates the following housing allocations for the period 1996 - 2016:-

BANES	9,176
Bristol	19,166
N. Somerset	21,978
<u>S. Glos</u>	<u>23,754</u>
Avon	74,000

- 1.7 Since 1996 BANES has had 5,686 completions (1996 – 2011) leaving 3,490 dwellings to be completed 2011 – 2016 if the housing total is to be met. By contrast the Core Strategy assumes a total of 550 dwellings per annum ($11,000 \div 20$) and therefore anticipates only 2,750 dwellings in the next quinquennium. When this is added to completions 1996 – 2011 it will be seen that there is still a substantial shortfall amounting to nearly 650 units i.e. about 7% of the dwellings expected under interim RSS10. As will be discussed in further papers this is primarily because of the delays in bringing forward large allocated greenfield and brownfield sites identified in the Local Plan. The size of this shortfall and the reason for it suggests that the new Core Strategy is not in general conformity even with an old RSS which anticipated a lower annual build rate (which is now generally perceived to be inadequate). This deficiency will be exacerbated if as we believe difficulties with identified sites persist.
- 1.8 RPG10 was adopted in 2001 and based on the 1996 DETR household projections; several ONS projections have been produced since that date, so no direct comparison with the housing figures in RPG10 and the Core Strategy can be made

especially as the Council do not seek to take into account the later ONS projections . The Council's assertion is that because they provide 20% more than in the RPG in the Core Strategy then the Core Strategy is in general conformity with RPG 10 but as noted above this takes no account of the under build that occurred. Moreover, this is an incorrect assertion as the comparison should be made with the strategy of RPG10 and the more recent household projections. Consequently it is considered that the Core Strategy is not in general conformity with the Statutory Development Plan.

- 1.9 The Avon Structure Plan² was adopted in September 2002 and a number of its policies are "saved"³. Even though it post dated RPG10 (2011) it was prepared in accordance with the earlier version of RPG10 dating from 1994. This occurred because RPG (2001) was published after most of the policies in the Structure Plan were agreed for adoption. The Structure Plan states in paragraph 2.17 that the full implications of the new RPG10 would be addressed in the next review of the Structure Plan (which never occurred). Notwithstanding this it went on to say that the main principles of the Structure Plan's locational strategy generally conformed to the new guidance.
- 1.10 The policy relating to the Green Belt is set out in "saved" Policy 16 of the 2002 Structure Plan. It states in paragraph 2.21 that it will be for the next Structure Plan Review to address the implications of RPG10 2001, which places more emphasis on the need to review the Green Belt boundaries and to remove land from the Green Belt (Ref: CD3/3)⁴.
- 1.11 With the introduction of the Regional Spatial Strategies (as a result of the 2004 Planning and Compulsory Purchase Act) the strategic review of the Green Belt became the responsibility of the South West Regional Assembly and was undertaken by the West of England Partnership Joint Study Area (Section 4(4) authorities) as part of the evidence base for the emerging RS. A Strategic Review of the Green Belt was prepared by Colin Buchanan in February 2006 for the South West Regional Assembly. The purpose of this study was to advise on a methodology for a strategic, consistent and independent review of the Green Belt across the region; and to undertake an assessment of the technical work on Green Belt carried out in the appropriate Joint Study Areas by the Section 4(4) authorities.

² CD3/1 Joint Replacement Structure Plan (2002)

³ CD3/2 Joint Replacement Structure Plan Saved Policies Schedule

⁴ CD3/3 Regional Planning Guidance for the South West (RPG10) (2001)

- 1.12 A review of the South West Draft RSS Urban Extension Evidence Base was prepared by ARUP in February 2007 prior to the Examination in Public in April 2007.
- 1.13 The Council published its Core Strategy Spatial Options in Autumn 2009. This was based on the Draft RSS (June 2006) rather than the Secretary of State's Proposed Changes which were published in July 2008⁵. The Draft of 2006 identified urban extensions in the Green Belt, which included an urban extension to Bath and also to South East Bristol. At that time the Council took legal advice which stated⁶ that the BANES Core Strategy should not be based on a housing growth figure lower than that set out in the Draft RSS in 2006.
- 1.14 In December 2010⁷ the Council changed its approach to the Core Strategy following the Government's announcement in May 2010 to abolish Regional Spatial Strategies. The change in circumstances led to a review of the evidence base underpinning the Core Strategy. A revised spatial plan was prepared based on "up-to-date evidence instead of the regional imposed targets"; Paragraph 4.5 of the Cabinet Report sets out the "new basis" for the Core Strategy.
- 1.15 Paragraph 4.2 of Appendix 2 of the Cabinet Report states that, the Core Strategy retains the Green Belt and no changes are proposed to the general extent of the Green Belt, either extensions or deletions. It is disingenuous of the Authority to claim that they have undertaken this review but that any roll back of the Green Belt is unnecessary since there are clear housing needs which are not being met that constitute "very special circumstances" (in PPG2 terms). Given that RPG10 required this review in order to meet such provision in the period to 2016, the Core Strategy is not deemed to be in general conformity with the higher level part of the Development Plan which remains in place.

⁵ CD3/6 Draft Revised Regional Spatial Strategy for the South West incorporating Secretary of State's Proposed Changes (July 2008)

⁶ CD5/4 Spatial Options Consultation - October 2009 para 1.2

⁷ BANES Cabinet Report 2nd December 2010.

G) *Have the requirements of the Habitat Regulations been satisfied?*

1.4 Is the HRA (CD4/A16 and CD4/A18) fit for purpose and is its assessment consistent with the policies in the CS?

Pegasus Planning Group has no comments on this question.

H) Has section 110 (duty to co-operate) of the Localism Act 2011 been met?

1.5 Council to prepare a statement setting out what step it has taken to ensure that the duty is met.

1.1 The Inspector's note on the duty to co-operate is noted. However, the duty has been trailed for some time in the Localism Bill; this is similar to the ability of Local Authorities to derive their own housing figures, which BANES decided to do in December 2010. It is inconsistent to take the view that the duty does not apply to plans that have completed the preparation stage and which have already been submitted, when clearly the Council chose to prepare their Core Strategy in the expectation that the Localism Bill would be enacted to give them greater powers (at the expense of the RSS).

1.2 PPS 3 paragraph 33 explicitly refers to the fact that in determining the level of housing provision local authorities are to work together. This is also evident in PPS 12 with reference to joint working in paragraph 4.16 – 4.18. The policy requirement to consult and co-operate is long established.

1.3 The Localism Act 2011 Section 110 introduces an even more stringent duty to co-operate, which requires Councils and other public bodies to work together on planning issues at all stages. The duty to co-operate is in relation to planning of sustainable development. The purpose is to maximise the effectiveness with which activities within subsection 3 are undertaken i.e. the preparation of development plan documents. The duty requires the authority:

“to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken.” (our emphasis)

1.4 Section 110 sub section 4 clarifies that for the purposes of subsection 3 in this case the preparation of development plan documents what is a strategic matter.

“(a) sustainable or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas,”

- 1.5 The Government considers that there are very strong reasons for neighbouring local authorities or groups of authorities to work together on planning issues in the interests of all their local residents.⁸
- 1.6 The revised Local Plan regulations set out the proposed list of bodies to which the duty will apply.⁹ Part 2 of the regulations streamlines existing requirements and lists the public bodies to whom the new “duty to co-operate” applies, and requires these bodies to take account of the views of local enterprise partnerships.
- 1.7 The Ministerial Statement Planning for Growth, (which is a material consideration) which was published on 23rd March 2011 and predates that submission of the Core Strategy. In the fourth paragraph of the Ministerial Statement:
- “Authorities should work together to ensure that needs and opportunities that extend beyond (or cannot be met within) their own boundaries are identified and accommodated in a sustainable way, such as housing and market requirements that cover a number of areas, and the strategic infrastructure necessary to support growth.”*
- 1.8 This is a clear and unequivocal expectation that authorities will work together to produce realistic plans that take account of cross boundary pressures. The West of England area - of which the four Bristol city region local authorities are members - has always conceived of itself as a distinctive functional economic area with a shared housing market. This has been the case going back to at least the days of Regional Planning Guidance 10 (Policy SS 9) CD3/3, again in the draft RS (CD 3/6) (Policy HMA 1) but more recently for the purposes of the West of England Local Enterprise Partnership (LEP). The Council acknowledges that the area forms part of the West of England sub-region in paragraph 1.07 of the Core Strategy September 2011 (CD5/27).
- 1.9 Despite being identified as a distinct sub-regional area with a shared economic and housing market geography, very little attention is given to BANES relationship to Bristol and the West of England in the Core Strategy. The Key Strategic Issues section on page 4 of the CD/5/27 makes no reference to the wider political,

⁸ DCLG A Plain English Guide to the Localism Act – November 2011.

⁹ DCLG Local Planning Regulations – consultation – July 2011

demographic and economic geography of the city region. The question of co-operation with the other three councils to address any cross-boundary issues receives scant attention in the actual Core Strategy; there is no reference in the Spatial Vision on page 6. Even if we were able to assume that the Core Strategy was able to “consume its own smoke” without reference to the dynamics and household pressures of the other Council areas, the Core Strategy fails to provide for any contingency in case Bristol’s housing need outstrips that proposed.

1.10 The existence of these cross-boundary pressures have long been recognised in the city region. RPG 10, which still constitutes the formal Development Plan for the South West, required in Policy SS 8 the Bristol Area, (which is the city of Bristol and the contiguous urban area extending into North Somerset, South Gloucestershire and BANES) states that the local authorities should work together to achieve several objectives, including the following:

- *“Balanced provision of additional housing, employment, social and recreational facilities within the urban area or as planned urban extensions;*
- *An enhanced economic base by providing for the full range of growth generated by the city and its hinterland and an element of inward investment;*
- *A review of the Green Belt in accordance with Policy SS 4.*

1.9 RPG 10 also signals the need for a Green Belt review in Policy SS4, and this is cited again in Policies SS8 and SS9.

1.10 It is considered that in the West of England the removal of the RSS and the subsequent failure to undertake a proper cross border assessment of needs has led to a situation whereby there are four Core Strategies each reducing its housing provision and therefore failing to meet housing needs in the West of England (to a very significant extent). The size of the shortfall is very large (see below) and each successive projection increases this deficit.

1.11 The Table 1 below shows the Core Strategy Housing provision compared to that in the RSS based on the 2004 projections and housing provision based on the latest 2008 household projections.

TABLE 1: COMPARISON BETWEEN ESTIMATED HOUSING NEEDS

	RSS Secretary of State's Proposed Changes.	DCLG 2008 based household projections converted to dwellings	Core Strategy Provision	Difference between Core Strategy and DCLG
Bath and North East Somerset	21,300	16,720	11,000	- 5,720
Bristol City	36,500	75,240	30,600	-44,640
North Somerset	26,760	37,620	14,000	-23,620
South Gloucestershire	32,800	32,320	21,300	-11,020
Total	117,360	161,900	76,900	- 85,000

1.12 It is evident from the above table that there has been little if any co-operation in terms of the overall provision of housing. There is a significant shortfall not only on the 2004 based household projections (on which the RSS is based) but also when compared to the number of dwellings based in the 2008 based household projections. Overall there is a shortfall of 85,000 dwellings against the 2008-based ONS projections which will increase again against the 2010 based projections. The Core Strategies collectively make provision for only 47% of the 2008 based figures and at best only 65% of the number of dwellings in the RSS. The implications of such a shortfall are significant in terms of the provision of affordable housing and the impact on the economy.

1.13 Table 2 below shows the effect of not undertaking co-operation assuming housing needs have to be met elsewhere in the West of England sub region. The Table uses the latest 2010-based Chelmer model housing estimates. It then fixes the housing allocations for Bristol (as the Core Strategy is now adopted) and spreads the balance of Bristol's needs which are not being met in the period to 2026, across the other three authorities on a pro rata basis. It reveals the need for very large additional allocations in these three authorities arising from the lack of co-operation.

TABLE 2: MEETING CHELMER MODEL HOUSING NEEDS ACROSS WEST OF ENGLAND WITH BRISTOL CITY FIXED

	(i) DCLG 2008 based household projections converted to dwellings	(ii) Trend Based Run: Growth from 2006 – 2026 for all four Local Authorities	(iii) Dwelling Led Run but with Bristol Core Strategy fixed	(iv) Core Strategy Provision	(v) Difference between Core Strategy and Dwelling Led Run (col iii)
Bath and North East Somerset	16,720	20,770	34,726	11,000	-23,726
Bristol City	75,240	84,249	30,600	30,600	0
North Somerset	37,620	35,440	53,145	14,000	- 39,145
South Gloucestershire	32,320	28,464	50,460	21,300	-29,160
Total	161,900	168,923	168,931	76,900	

- 1.14 The BNES/4 paper (paragraphs 1.4 onwards) sets out how the Council has allegedly cooperated with adjoining planning authorities in the preparation of the BANES Core Strategy. However, these are all procedures rather than outputs. There is no evidence from the West of England Partnership that would inform the strategy in terms of housing provision.
- 1.15 The West of England Partnership has now been replaced by the West of England Local Enterprise Partnership; whilst this has brought the local authorities and business community closer together. The LEP has prepared a submission based on creating 95,000 jobs in the period 2010 – 2030. However, BANES make no reference to the number of dwellings required in the West of England.
- 1.16 The Delivery and Infrastructure Investment Plan, the Housing Market Partnership, the Local Economic Assessment, the Joint Local Transport Plan, Green Infrastructure, climate change and research intelligence are all initiatives associated with collective working and in their terms of reference do not examine the overall housing provision and the implications of the strategies. The fundamental issue which has not been addressed is the amount of housing provision for the sub-region, or what effect each authority's provision will have on its neighbouring authority compared with its forecast housing requirement e.g. if there is a shortfall in one authority what effect will it have on its neighbours.

- 1.17 The lack of co-operation on housing issues is again demonstrated in respect of the BANES Local Plan. The shortfall against the Local Plan housing requirement which is referred to in paragraph 6.6 of CD6/S10 Topic Paper 9, is simply “written off”; no extra allowance is made in the Core Strategy or in any other Council area. These requirements are summarily dismissed in the following terms:-

“The Council considers that those households who may have been affected by a shortfall in delivery to this point will have found housing elsewhere within the sub-region or beyond and the Local Plan shortfall need not be added to the Core Strategy housing target.”

- 1.18 If this is the case has the housing need been accommodated elsewhere in the West of England?
- 1.19 It is considered that the housing shortfall of 850 dwellings at 2006 is significantly higher than the figure included in Topic Paper 9. The Council in its own assessment has acknowledged that the Council will fail to meet even the modest housing provision target set in the Local Plan; the residual requirement in the AMR 2009/2010¹⁰ was 1,462 dwellings with one year of the Local Plan remaining.
- 1.20 All these examples indicate an overall lack of co-operation between the authorities which will only be remedied if the “duty to co-operate” is properly enforced now when the initial Core Strategies are put in place.

¹⁰ CD5/10 AMR 2009/2010