

**Bath & North East Somerset  
Local Plan 2016 - 2036**

# **Duty to Cooperate Proposed approach**

**Winter 2018**



**Bath & North East  
Somerset Council**

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This document sets out Bath & North East Somerset Council’s proposed approach to discharging its Duty of Cooperate. Duty to cooperate bodies were consulted on a draft of this document in January 2018. The document has been amended to take into account the comments received and to reflect the revised National Planning Policy Framework (NPPF).

## 1. Background

- 1.1 Bath & North East Somerset Council (B&NES) is preparing a new Local Plan. This will include a strategy to guide development and site allocations (including strategic development locations and smaller sites) to meet development requirements as well as district-wide Development Management policies for determining planning applications.
- 1.2 The Local Plan is being prepared within the context of and alongside the West of England Joint Spatial Plan (JSP), which will provide a new strategic plan for all four West of England Districts<sup>1</sup>. Both plans cover the period 2016-2036.
- 1.3 The currently anticipated programme to adoption of the Local Plan is summarised below and may be subject to change dependent on the progress of the JSP Examination.

| Preparation Stage | Programme                    |
|-------------------|------------------------------|
| Issues & Options/ | November 2017 – June 2018    |
| Options           | November 2018 - January 2019 |
| Draft Plan        | Summer 2019                  |
| Examination       | Autumn/Winter 2019           |
| Adoption          | Early 2020                   |

## 2. The Duty

- 2.1 Through Section 33A (1) of the Planning and Compulsory Purchase Act 2004 (as amended through Section 110 of the Localism Act 2011) Bath & North East Somerset Council has a duty to co-operate (DtC) with neighbouring authorities and other prescribed public bodies on strategic planning issues that cross administrative boundaries relevant to their areas in the preparation of a Local Plan. The duty:
- relates to sustainable development or use of land that would have a significant impact on at least two local planning areas or on a planning matter that falls within the remit of a county council
  - requires that councils set out planning policies to address such issues

<sup>1</sup> Bath & North East Somerset, Bristol City, North Somerset and South Gloucestershire

- requires that councils and public bodies 'engage constructively, actively and on an ongoing basis' to develop strategic policies'
- requires councils to consider joint approaches to plan making

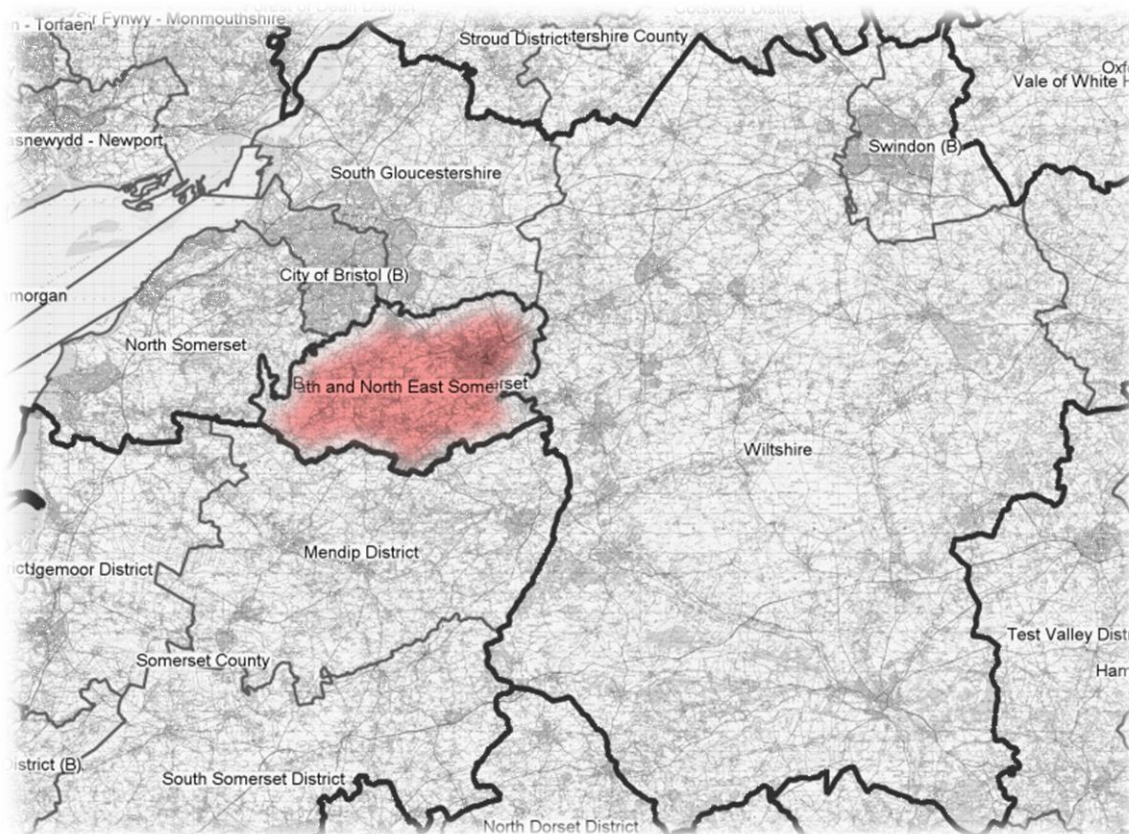
2.2 The objective is to establish a robust and transparent process to enable cooperation with the relevant local authorities and organisations to be demonstrated. It will also enable cooperation to be documented and monitored in terms of the strategic issues to be addressed, the outcomes achieved and the frequency of engagement with the relevant authorities and other public bodies. Moreover, this should enable the Council to demonstrate that engagement has been:

- constructive
- active
- ongoing
- collaborative
- diligent and
- of mutual benefit

2.3 As part of the consultation process and through the DtC the Council seeks to engage with neighbouring local authorities at an early stage to establish what the strategic cross-boundary issues may be in relation to the emerging B&NES Local Plan. The local authorities that border B&NES are:

- Bristol City Council
- South Gloucestershire Council
- North Somerset Council
- Mendip District Council
- Wiltshire Council
- Somerset County Council

2.4 The map below illustrates this relationship geographically.



2.5 The DtC also covers a number of public bodies in addition to neighbouring local authorities. These bodies are set out in Part 2 of the Town & Country Planning (Local Planning) (England) Regulations 2012. Those particularly relevant to Bath & North East Somerset are:

- Environment Agency
- Historic England
- Natural England
- *Mayor of London (not relevant to B&NES)*
- Civil Aviation Authority
- Homes and Communities Agency
- Clinical Commissioning Groups
- National Health Service Commissioning Board
- Office of the Rail Regulator
- Highways England
- Integrated Transport Authorities
- Highway Authorities
- *Marine Management Organization (not relevant to B&NES)*

2.6 The revised National Planning Policy Framework (NPPF) (2018), paragraph 24 also expects local planning authorities to work collaboratively to identify the relevant strategic matters they need to address in their Plans. They are also expected to engage with local communities and other relevant bodies such as Local Enterprise Partnerships and Local Nature Partnerships when preparing plans. For B&NES these are the West of England Local Enterprise Partnership and the West of England Nature Partnership (WENP). The Council will also liaise with other strategic infrastructure bodies in neighbouring areas as appropriate should a mutual strategic cross-boundary matter arise. This would include adjoining Clinical Commissioning Groups and water authorities.

2.7 The NPPF also requires that *in order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.*

2.8 B&NES is also a constituent part of the West of England Combined Authority (WECA) along with Bristol City Council and South Gloucestershire Council. The WECA governance arrangements formalise the close working arrangements between the three Unitary Authorities.

2.9 In the West of England, the scope for a statement of common ground will need to be considered on matters not covered by WECA.

### **3. Strategic issues for Bath & North East Somerset**

3.1 The Local Plan Commencement Document published in November 2016 for consultation<sup>2</sup> represented the start of the plan preparation process. It included an initial list of strategic issues affecting B&NES considered to have cross-boundary impacts:

- Strategic relationship/implications of the amount and type of development planned for and allocated
- Implications of strategic site allocations (where cross boundary impacts are possible)
- Cumulative impact of non-strategic allocations e.g. at Bath or areas of B&NES close to the boundary with another authority such as the Somer Valley
- Assessments and delivery of strategic infrastructure, in particular transport, where either cross boundary or close to authority boundary
- Policy/site issues raised through HRA e.g. relating to bats

3.2 A number of issues were raised through consultation responses in relation to the DtC. These are summarised in the Appendix 2 of the Commencement Document Consultation Report (November 2017)<sup>3</sup> together with an officer response. The points raised, as summarised below, have been reflected in this paper (see in particular, Table 4 on page 12):

- May not be just site allocations and infrastructure that can have cross boundary implications (Wiltshire Council)
- Potential role towns in Wiltshire and Mendip, could/should have on the provision of affordable housing (South Stoke Parish Council and Bath Preservation Trust)
- Review of the Duty to Co-operate with neighbouring authorities, particularly Bristol (CPRE Avonside)

### **4. Strategic Priorities for Bath & North East Somerset**

4.1 Drawing on evidence collated by the Council underpinning its corporate strategy (e.g. through the Joint Strategic Needs Assessment) and set out in the Sustainability Appraisal Scoping Report the key challenges facing B&NES have been identified. They have been summarised and categorised into seven main themes and are expressed as critical issues in the Issues & Options consultation document (Winter 2017).

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<sup>2</sup> [http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs-review/cs\\_review\\_commencement\\_document.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs-review/cs_review_commencement_document.pdf)

<sup>3</sup> [http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/LP20162036/lp\\_201636\\_commencement\\_consultation\\_report.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/LP20162036/lp_201636_commencement_consultation_report.pdf)

## **Table 1 : Critical Issues**

### **Changing local population & housing needs:**

- Housing affordability crisis across B&NES and lack of social housing
- Significant increase projected in younger and older age groups
- Considerable recent & projected student population growth
- Increase in the number of second homes in parts of B&NES

### **Health**

- Health & life expectancy inequalities across B&NES
- 60% of adults over-weight or obese
- Poor air quality in parts of B&NES leads to health problems

### **Climate change**

- Climate change impacts already being felt both globally & locally
- Technological advances create opportunities for low or zero carbon development

### **Economy**

- Below-average productivity levels & earnings in B&NES
- Retaining an adequate supply of employment land & premises in key strategic locations
- Inequality of employment opportunities

### **Environment**

- High quality natural, built & historic environment requiring protection and enhancement
- Threat to environment & need for and maintenance of additional green infrastructure arising from development & other pressures

### **Transport & Infrastructure**

- Severe traffic congestion in some parts of B&NES
- Poor accessibility to national/regional transport network
- Difficulties of providing infrastructure capacity to cope with increasing population

### **Financial changes**

- Increased pressure on limited public sector resources to meet current & projected demands

4.2 The priorities moving forward are aimed at addressing these key challenges. Given that the Local Plan is able to influence and help shape spatial outcomes (those that result in or require the use of or changes to places, land and buildings) a set of spatial priorities have been identified. As with the key challenges these spatial priorities will often inter-relate e.g. prioritising greater walking or cycling helps to address climate change issues, as well as increasing physical activity thereby addressing health priorities.

4.3 The critical issues and priorities identified in the JSP have also been taken into account and reflected in the Local Plan spatial priorities. The JSP focusses on meeting housing needs across the sub-region in a sustainable way and delivering economic growth that is inclusive for all sections of the community. Alongside facilitating development the JSP aims to protect the area's high quality environmental assets, as well as maintaining

the overall function of the Bristol and Bath Green Belt partly by prioritising development on brownfield opportunities within the main urban areas.

**Table 2: Proposed Spatial Priorities for the Local Plan**

|   |
|---|
| <b>1. Cross cutting objective: Pursue a low carbon and sustainable future in a changing climate</b>                   |
| <b>2. Protect and enhance the District's natural, built and cultural environment and provide green infrastructure</b> |
| <b>3. Facilitate a strong, productive and diverse economy</b>   |
| <b>4. Meet housing needs arising from a changing and growing population</b>   |
| <b>5. Plan for development that promotes health and well being</b>  |
| <b>6. Deliver well connected places accessible by sustainable means of transport</b>                                  |
| <b>7. The timely and efficient provision of infrastructure to support growing communities</b>                         |

## **5. Duty to Cooperate engagement**

5.1 The Council proposes to work constructively with its Duty to Cooperate partners and other relevant bodies throughout the preparation of the Local Plan building on existing working relationships and arrangements already in place. Emphasis will be on seeking to achieve effective and deliverable policies in the Local Plan that provide land and infrastructure to support current and projected levels of development having sought to address strategic cross-boundary matters.

5.2 Cooperation and engagement is envisaged as being iterative and continuous throughout the plan-making process especially at key stages (see summary programme at paragraph 1.3 above). The Council intends to employ a range of positive and constructive methods appropriate and proportional to the matter(s) and those which will result in the most effective outcomes for the parties involved. Although not exhaustive the approaches listed below are considered effective mechanisms of engagement dependent on the nature of the issue and the strategic partners involved:

- Meetings
- Working groups
- Workshops
- Written exchanges
- Statements of Common Ground
- Memoranda of Understanding
- Telephone conferences and Skype for Business and other methods which reduce the need to travel
- Other joint working mechanisms

5.3 Such partner arrangements will need to be fit for purpose and agreed between the relevant strategic partners to ensure the cooperation leads to positive outcomes for



the parties involved. In seeking to produce effective and deliverable policies on strategic cross boundary matters potential outcomes might reasonably include:

- aligning planning policies with those of neighbouring local planning authorities
- preparing mutually beneficial evidence base
- preparing management plans and strategies which address cross-boundary issues

5.4 **Table 3** (page 9) provides a list of Duty to Cooperate bodies and general overview of what the Council considers to be potential key cross-boundary interests. **Table 4** (page 11) sets out the potential strategic cross-boundary matters pertinent to each of the proposed spatial priorities and identifies those strategic partners the local planning authority considers should be involved through the DtC.

5.5 It is acknowledged that not every organisation with which the Council might need to involve in cross-boundary issues have necessarily been identified at this stage. However, through on-going co-operation the Council will seek to ensure their interests are properly considered in the preparation of the Local Plan and acknowledged in future iterations of this report. It is also recognised that during the preparation of the Local Plan new partnership relationships might emerge which will need to be taken into account.

5.6 The intention is therefore that this report will be updated as necessary to reflect any comments received on this proposed approach; in light of new evidence; other cross-boundary issues arising of relevance to DtC bodies and/or changes in Government policy regarding the Duty to Cooperate.

5.7 The DtC is a legal test and will be examined by the appointed planning inspector when the Local Plan is submitted. The Council will therefore need to provide robust evidence to demonstrate what efforts have been made to cooperate on cross-boundary issues, with whom the Council has cooperated, the nature and timing of this cooperation and how it has influenced the preparation of the Local Plan.

5.8 It should be noted that the four WoE UAS have demonstrated their continued commitment to joint working most recently through the preparation of the West of England Joint Spatial Plan (JSP)<sup>4</sup> and that the DtC will also be discharged through delivering the West of England Joint Spatial Plan (see also para 5.9 below). These joint working arrangements are also evidenced through the following:

- Joint Waste Core Strategy
- Joint Transport Study and Joint Local Transport Plan
- Joint Affordable Housing Supplementary Planning Document
- Joint Green Infrastructure Plan
- The JSP Memorandum of Understanding

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<sup>4</sup> <http://westofenglandlep.co.uk/dutytooperate-planning>

- Joint Planning Statement
- The Mayoral Spatial Plan
- Joint Monitoring via the Joint Planning Data Group (JaPDoG)
- West of England Local Aggregates Assessment (LAA)

5.9 It should be noted, however, that the JSP and the Local Plan are two separate processes (one providing the strategic policy framework for the other) and whilst there is a relationship, the Duty to Cooperate undertaken for the JSP does not replace the Council's Duty to Cooperate in the preparation of its Local Plan. The JSP is currently at Examination. A Duty to Cooperate Paper and Statements of Common Ground between the West of England and adjoining local authorities are available as Examination documents on the JSP Examination website:  
<https://www.jointplanningwofe.org.uk/consult.ti/JSPPublication/viewContent?contentid=354419>

## **6. Future reporting, monitoring and review**

6.1 The Council must provide details of the activities that it has undertaken on the Duty to Cooperate in its Authority's Monitoring Report (AMR). This is a requirement under Regulation 34(6) the Town and Country Planning (Local Planning) (England) Regulations 2012<sup>5</sup>. It is also envisaged that a Duty to Cooperate report would be prepared and/or updated at each stage of the consultation process. This will provide the opportunity to take account of comments received during the consultation and consider whether the arrangements for joint working are working effectively and enable refinements to be made where necessary.

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<sup>5</sup> <http://www.legislation.gov.uk/ukxi/2012/767/regulation/34/made>

**Table 3: List of Duty to Cooperate Bodies and broad overview of potential key cross-boundary interests**

| Duty to Cooperate Body        | Potential strategic interests  |
|-------------------------------|--|
| Bristol City Council          | Distribution of housing and employment development<br>Green Belt<br>Minerals<br>Highway and transport infrastructure   |
| South Gloucestershire Council | Distribution of housing and employment development<br>Green Belt<br>Minerals<br>Highway and transport infrastructure   |
| North Somerset Council        | Distribution of housing and employment development<br>Green Belt<br>Minerals<br>Highway and transport infrastructure<br>Expansion proposals at Bristol Airport                 |
| Mendip District Council       | Level and distribution of housing and employment development<br>Green Belt<br>Minerals<br>Highway and transport infrastructure   |
| Wiltshire Council             | Level and distribution of housing and employment development<br>Green Belt<br>Minerals<br>Waste Management<br>Highway and transport infrastructure                             |
| Somerset County Council       | Minerals<br>Waste Management<br>Highway and transport infrastructure   |
| Environment Agency            | Flood Risk and drainage<br>Waste water infrastructure<br>Pollution control   |
| Historic England              | Heritage issues including archaeology and Scheduled Ancient Monuments and Bath World Heritage Site   |
| Natural England               | Strategic landscape designations including Areas of Outstanding Natural Beauty<br>Strategic green infrastructure networks<br>Designated ecological sites, species and habitats |

|   |   |
|---|---|
| Civil Aviation Authority                                  | Potentially no strategic matters  |
| Homes and Communities Agency                              | Distribution of housing and employment development (phasing/timing)   |
| Bath & North East Somerset Clinical Commissioning Groups  | Health-related infrastructure provision in relation to the level and distribution of housing development                                      |
| National Health Service Commissioning Board (NHS England) | Health-related infrastructure provision in relation to the level and distribution of housing development                                      |
| Office of the Rail Regulator(now Office of Rail and Road) | Potentially no strategic matters  |
| Highways England  | Level, type and distribution of development Highway and transport infrastructure  |
| Integrated Transport Authorities                          | Level, type and distribution of development Highway and transport infrastructure  |
| Highway Authorities                                       | Level, type and distribution of development Highway and transport infrastructure  |
| West of England Local Nature Partnership                  | Level, type and distribution of development Designated landscape features and ecological sites, species and habitats and green infrastructure |
| West of England Local Enterprise Partnership              | Business investment and economic growth   |

**Table 4: Identifying potential strategic cross-boundary matters and partners**

| Local Plan Spatial Priorities  | Potential Strategic cross-boundary matters <sup>6</sup>  | Potential strategic partners   |
|--|--|--|
| <p><b>1. Cross cutting objective:<br/>Pursue a low carbon and sustainable future in a changing climate</b></p>               | <ul style="list-style-type: none"> <li>• Managing strategic flood risk</li> <li>• Maintaining and enhancing strategic green infrastructure networks</li> <li>• How carbon dioxide emissions reductions can help to meet national targets</li> <li>• Promoting sustainable travel solutions</li> <li>• Exploring further opportunities to deliver decentralised energy and heat</li> <li>• Contributing to local adaptation strategies</li> </ul>   | <p>Environment Agency<br/>Natural England<br/>Bristol City Council<br/>South Gloucestershire Council<br/>North Somerset Council<br/>Mendip District Council<br/>Wiltshire Council</p>  |
| <p><b>2. Protect and enhance the District's natural, built and cultural environment and provide green infrastructure</b></p> | <ul style="list-style-type: none"> <li>• Mitigation of significant likely effects on a European site with potential cross-boundary impacts identified through the Habitats Regulation Assessment</li> <li>• Maintaining and enhancing coherent and resilient cross-boundary ecological networks and strategic green infrastructure networks</li> <li>• Impact of development on designated historic assets where this has cross-boundary implications</li> <li>• Maintain a coherent and aligned minerals planning framework</li> <li>• Whether a strategic cross-boundary approach or strategy is required for landscape and/or historic environment</li> <li>• Employing 'Design Review' to ensure a consistent and informed cross boundary approach to the design and planning of development and infrastructure.</li> <li>• Promoting the delivery of the City of Bath World Heritage Management Plan</li> </ul> | <p>West of England Local Nature Partnership<br/>Wiltshire Council<br/>Natural England<br/>Historic England<br/>Bristol City Council<br/>South Gloucestershire Council<br/>North Somerset Council<br/>Mendip District Council<br/>Wiltshire Council<br/>Somerset County Council</p> |

<sup>6</sup> Please note a strategic matter affecting two or more local planning authorities will only exist if the matter cannot be satisfied within B&NES

| Local Plan Spatial Priorities  | Potential Strategic cross-boundary matters <sup>6</sup>  | Potential strategic partners   |
|--|--|--|
| <p><b>3. Facilitate a strong, productive and diverse economy</b></p>               | <ul style="list-style-type: none"> <li>• Sustainable economic growth and meeting the needs of business</li> <li>• role of existing centres in meeting retail needs and whether additional retail floorspace is required</li> <li>• Approach to sustaining a buoyant rural economy</li> <li>• In the context of the Bath and Somer Valley Enterprise Zone establishing future floorspace and land requirements arising from any additional economic or population demand or reviewing whether any existing or allocated floorspace and land could be released to other uses</li> <li>• Cross-boundary implications of retail, leisure and office development proposals</li> <li>• Whether and how B&amp;NES could assist in accommodating commercial leisure development</li> <li>• Balance between jobs and homes</li> <li>• Maintaining a coherent and effective sub regional approach to supporting and promoting the visitor economy, mindful of its symbiotic relationship with adjoining areas and its significant role in the local economy</li> </ul> | <p>West of England Local Enterprise Partnership<br/>Homes and Communities Agency<br/>Bristol City Council<br/>South Gloucestershire Council<br/>North Somerset Council<br/>Mendip District Council<br/>Wiltshire Council</p> |
| <p><b>4. Meet housing needs arising from a changing and growing population</b></p> | <ul style="list-style-type: none"> <li>• Plan housing development to reflect identified needs, particularly affordable housing in rural areas</li> <li>• Implications of strategic site allocations where potentially cross-boundary, particularly with respect to infrastructure</li> <li>• Addressing cumulative impact of non-strategic growth across administrative boundaries</li> <li>• Address potential cross-boundary Green Belt implications arising from the need to accommodate housing requirements including the Strategic Development Locations</li> <li>• Whether B&amp;NES has a role in meeting needs of adjoining housing market areas or whether adjoining Authorities can help to accommodate B&amp;NES' housing needs</li> </ul>   | <p>Bristol City Council<br/>South Gloucestershire Council<br/>North Somerset Council<br/>Mendip District Council<br/>Wiltshire Council<br/>Homes and Communities Agency</p>  |

| Local Plan Spatial Priorities   | Potential Strategic cross-boundary matters <sup>6</sup>   | Potential strategic partners   |
|---|---|--|
| <p><b>5. Plan for development that promotes health and well being</b></p>                   | <ul style="list-style-type: none"> <li>• Addressing the provision of sustainable healthcare infrastructure from additional demand as a result of population growth and whether provision should be within or outside B&amp;NES</li> <li>• Delivering additional social, recreational and cultural facilities to meet identified cross-boundary needs as a result of population growth</li> <li>• Ensuring implications for health such as air quality, noise pollution, land contamination and water quality and quality are properly addressed</li> </ul>  | <p>NHS England<br/> Bath &amp; North East Somerset Clinical Commissioning Group<br/> Bristol City Council<br/> South Gloucestershire Council<br/> North Somerset Council<br/> Mendip District Council<br/> Wiltshire Council</p>   |
| <p><b>6. Deliver well connected places accessible by sustainable means of transport</b></p> | <ul style="list-style-type: none"> <li>• Planning for sustainable modes of transport</li> <li>• Develop strategies for the provision of viable transport infrastructure necessary to support sustainable development particularly in the rural areas</li> <li>• Whether there is a need for new cycling/walking routes and the scope to link existing or new routes across boundaries</li> <li>• Investigate whether public transport and access to public transport requires general and/or capacity improvements</li> <li>• Ensure a coherent approach to the impacts of spatial strategies on the transport networks of adjoining authorities</li> </ul> | <p>Highways England<br/> Highways England<br/> Integrated Transport Authorities<br/> Highway Authorities<br/> Bristol City Council<br/> South Gloucestershire Council<br/> North Somerset Council<br/> Mendip District Council<br/> Wiltshire Council<br/> Somerset County Council</p> |
| <p><b>7. The timely and efficient provision of infrastructure to</b></p>                    | <ul style="list-style-type: none"> <li>• Provision of viable, deliverable and timely strategic infrastructure necessary to support sustainable development to meet population forecast demands</li> </ul>   | <p>Highways England<br/> West of England Local</p>   |

| Local Plan Spatial Priorities             | Potential Strategic cross-boundary matters <sup>6</sup>   | Potential strategic partners  |
|---|---|---|
| <p><b>support growing communities</b></p> | <ul style="list-style-type: none"> <li>• In terms of utilities whether existing capacity is sufficient to meet demand in the local/wider area or whether upgrades/reinforcement are required and how/when these can be delivered</li> <li>• The implications of population growth on the primary education infrastructure in B&amp;NES, currently at capacity, and whether this necessitates additional education facilities within or beyond the administrative boundary</li> <li>• Whether local highway capacity is sufficient to meet development requirements in the wider area;</li> <li>• Establish whether there is a need for additional open space, recreation or playing pitch facilities as a result of population growth and whether there is capacity for additional facilities within or beyond the administrative boundary</li> <li>• Establish what mitigation measures will be required on the local highway and whether capacity at strategic highway junctions is sufficient to meet development requirements in the wider area and whether any mitigation measures are needed</li> </ul> | <p>Enterprise Partnership<br/> West of England Local Enterprise Partnership<br/> Bristol City Council<br/> South Gloucestershire Council<br/> North Somerset Council<br/> Mendip District Council<br/> Wiltshire Council<br/> Somerset County Council<br/> NHS England<br/> Bath &amp; North East Somerset Clinical Commissioning Group</p> |