



**Bath & North East  
Somerset Council**

# **Placemaking Plan**

## **Statement of Compliance with the Duty to Cooperate**

**Planning and Compulsory Purchase Act 2004, Section 33A**

**April 2016**

**Bath and North East Somerset - *The place to live, work and visit***



## Introduction

1. This Statement has been prepared by Bath and North East Somerset Council in order to outline how the Duty to Cooperate, as now required by Section 33A (1) of the Planning and Compulsory Purchase Act 2004 (as introduced through the Localism Act 2011), applies to and has been addressed in the preparation of the Placemaking Plan.
2. This document should be read in conjunction with both the Regulation 22(c) statement, which provides detailed information about the consultation that took place with the various bodies throughout the preparation of the Placemaking Plan (including how representations made were taken into account), and the Soundness Checklist.

## Legislative and Policy Context

3. Section 33A of the planning and Compulsory Purchase Act 2004 contains a duty on local planning authorities and a number of public bodies to co-operate on the preparation of Development Plan Documents (DPDs) “so far as relating to a strategic matter”. “Strategic matter” is defined as:  
*“sustainable development 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 in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas”.*
4. The National Planning Policy Framework (NPPF) advises that “public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities in paragraph 156”. The strategic priorities set out in paragraph 156 are:
  - 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
5. The public bodies prescribed for the purposes of section 33A(1)(c) of the Planning and Compulsory Purchase Act (as amended) are:
  - Local Planning Authorities
  - Environment Agency
  - English Heritage (now Historic England)
  - Natural England
  - Mayor of London

- Civil Aviation Authority
- Homes and Communities Agency
- Primary Care Trusts
- Office of Rail Regulation
- Transport for London
- Integrated Transport Authorities
- Highway authorities
- Marine Management Organisation
- Local Enterprise Partnerships

### **Purpose of the Placemaking Plan and relationship with the Core Strategy**

6. The Core Strategy (adopted July 2014) is the strategic element of the Council's Local Plan, establishing the requirement for new homes and jobs; the spatial strategy for accommodating it and setting out the Council's broad policies in relation to the strategic priorities identified by paragraph 156 of the NPPF. The Placemaking Plan reflects and implements the strategic policies in the Core Strategy and is the detailed element (part 2) of the Local Plan. It delivers the Core Strategy through allocating sites for development for specific uses and outlining detailed Development Management policies to be used in determining planning applications.

### **Core Strategy and the Duty to Co-operate**

7. The Council's Core Strategy was adopted in July 2014. It was submitted for Examination on 3<sup>rd</sup> May 2011 prior to the duty to co-operate coming into force on 15<sup>th</sup> November 2011. It has been established by the High Court that the duty to co-operate applies only to the preparation of a Development Plan Document prior to submission and that it cannot be applied retrospectively. Whilst the duty does not apply to the preparation of the Core Strategy the issue was discussed at the Core Strategy Examination. The Council considered and demonstrated that in preparing the Core Strategy it engaged with other local planning authorities constructively, actively and on an ongoing basis in relation to strategic matters in compliance with the Duty to Co-operate.
8. The Council outlined through Examination document (reference BNES/36) how it engaged with the relevant public bodies in preparing the plan and the supporting evidence base. This document can be accessed via the link below: <http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/Examination/BNES36DutytoCo-operate.pdf>

## **Placemaking Plan: scope of strategic/cross boundary issues**

9. As set out above the Placemaking Plan is principally concerned with establishing the detailed policy framework and site allocations aimed at delivering the Core Strategy. In this context and in accordance with PAS guidance the duty to co-operate in relation to the Placemaking Plan only applies to any new or additional strategic cross boundary issues not addressed by the Core Strategy and the engagement undertaken in its preparation.
10. The Council considers that the additional issues addressed by the Placemaking Plan that may have strategic cross boundary implications are limited in their scope. The Council considers the main potential issues to be:
  - Provision of infrastructure (where it raises cross boundary issues e.g. transport infrastructure or provision of facilities close to the District boundary)
  - Flood risk implications of major site allocations (particularly in Bath)
  - Development management policy approach to:
    - the provision of minerals
    - climate change mitigation and adaptation
    - conservation and enhancement of the natural and historic environment, including landscape
  - Policy issues raised through the Habitat Regulations Assessment relating to bats

## **Meeting the Duty to Co-operate in preparing the Placemaking Plan**

11. Whilst strategic issues in the Placemaking Plan not considered through the preparation of the Core Strategy are limited in scope the Council has still engaged constructively and actively with relevant public bodies in preparing the Plan. In order to meet the duty to co-operate and ensure that any strategic implications of the issues identified above were adequately considered the Council consulted/engaged with the public bodies prescribed for the purposes of Section 33A(1)(c) of the Planning & Compulsory Purchase Act that it considered could be affected, as well as the specific and general consultation bodies prescribed by the Town and County planning (Local planning) (England) Regulations 2012.
12. Consultation and engagement was undertaken not only through notifying and providing the prescribed bodies with the opportunity to comment at all Placemaking Plan preparation stages, but also through a number of meetings during preparation relating to specific issues with the directly affected public bodies. The table attached as Annex 1 outlines the different forms of consultation and engagement that were undertaken and the key issues addressed.



## Appendix 1:

Summary of consultation/engagement with public bodies prescribed for the purposes of section 33A(1)(c) of the Planning & Compulsory Purchase Act undertaken in preparing the Placemaking Plan

Duty to co-operate public body	Summary of consultation/engagement and issues addressed
Local planning authorities	<p>Neighbouring local planning authorities of Bristol City Council; North Somerset Council; South Gloucestershire Council; Mendip District Council; and Wiltshire Council consulted at each preparatory stage.</p> <p>The only comments received were from Bristol City Council and Mendip District Council.</p> <p>Bristol City Council commented at the options stage expressing their desire to be involved in separate (outside the Placemaking Plan process) master-planning work on sites allocated in the Core Strategy at Whitchurch and Keynsham and at the pre-submission draft stage to confirm there were no issues they wished to raise.</p> <p>Mendip District Council commented at the pre-submission draft stage (ref 303/1) in relation to land safeguarded at Silver Street, Midsomer Norton for educational purposes. Mendip DC noted that an alternative site in Mendip District is being promoted by the Education Funding Agency for a primary school. Mendip confirm they want to continue to work with B&amp;NES Council in assessing both options to arrive at the most sustainable and deliverable solution.</p> <p>Officer meetings with Mendip District Council also held to discuss deliverable solutions to the primary education issues in Midsomer Norton referred to above.</p>
Environment Agency	<p>Meetings held between representatives from Environment Agency (EA) and Council officers during preparation to discuss and ensure flood risk issues arising from proposed site allocations are satisfactorily addressed (including to ensure downstream/ upstream adverse effects that might be cross boundary in nature are avoided).</p> <p>Consulted at each preparatory stage.</p> <p>Comments received at both the Options document and pre-submission draft stages (EA respondent number 254).</p>

	<p>At the Options stage the EA commented:</p> <ul style="list-style-type: none"> <li>• On the Sustainability Appraisal noting that the Council must ensure a sequential approach is taken to uses on sites allocated within Bath Enterprise Area and to raise some other site specific issues</li> <li>• Ensure site assessment information from the EA is used to inform the Draft Plan</li> <li>• Support for policy approach on moorings, natural environment, water efficiency and SUDS</li> </ul> <p>At the pre-submission draft stage the EA comments were primarily supportive and did not raise any strategic cross boundary issues.</p>
<p>Historic England (formerly English Heritage)</p>	<p>Meetings held between representatives from Historic England (HE) and Council officers during preparation to discuss policy approach to heritage issues and consideration of impact of proposed site allocations on heritage assets.</p> <p>Consulted at each preparatory stage.</p> <p>Comments received at both the Options document and pre-submission draft stages (HE respondent number 279).</p> <p>At the Options stage the HE comments related to:</p> <ul style="list-style-type: none"> <li>• Site specific issues to ensure understanding of the historic environment has fully informed site allocations</li> <li>• Site specific development requirements</li> <li>• In Bath ensure site allocations result in development that leads to coherent cityscape which complements the World heritage Site</li> <li>• Policy approach to historic environment across the District</li> <li>• Ensure infrastructure development/installations (e.g. telecommunications, transport and energy) take adequate account of impact on heritage assets</li> </ul> <p>At the pre-submission draft stage HE comments were primarily supportive and did not raise any strategic cross boundary issues. Comments did suggest limited changes could be made to some policies to ensure implications for heritage assets are fully referenced/considered. These have been addressed through schedule of limited changes submitted alongside the Plan.</p>
<p>Natural England</p>	<p>Meetings held between representatives from Natural England (NE) and Council officers during Plan preparation to discuss issues relating to AONB, ecological/landscape policies and HRA</p>

	<p>approach/methodology and conclusions and the policy approach of the Plan to addressing bat related issues (potentially cross boundary).</p> <p>Consulted at each preparatory stage.</p> <p>Comments were received at both the Options document and pre-submission draft stages (NE respondent number 281).</p> <p>At the Options stage NE comments related to:</p> <ul style="list-style-type: none"> <li>• Site specific issues particularly relating to bat activity and importance of appropriate lighting</li> <li>• Support for natural environment policy approach and policies that seek to minimise impacts on bats and maintaining/enhancing AONB</li> </ul> <p>At the pre-submission draft stage NE confirmed they consider the Plan to be environmentally acceptable and sound/legally compliant. They were also supportive of the HRA as an appropriately systematic assessment of the likely effect of the Plan on European sites within and beyond the plan area.</p>
Civil Aviation Authority	<p>The Civil Aviation Authority are included on the council's consultation database for notifying organisations, groups and individuals about the preparation of the council's DPDs. They were consulted at each preparatory stage.</p> <p>No comments were received that raised cross-boundary strategic issues.</p>
Homes and Communities Agency	<p>The HCA is involved in the delivery of three allocated sites in Bath i.e. Bath Western Riverside (SB8), Former MoD Foxhill (SB11) and Former MoD Ensleigh (SB13).</p> <p>They have not raised any cross-boundary strategic issues in relation to the Placemaking Plan.</p>
B&NES Primary Care Trust	<p>Meetings and joint work undertaken between officers and B&amp;NES Primary Care Trust (PCT) representatives to address health care infrastructure requirements arising from planned development and to inform preparation of the Infrastructure Delivery Programme. This includes some facilities that may serve cross boundary populations.</p> <p>The PCT was also consulted at each preparatory stage. No comments were received.</p>
Office of Rail Regulation	<p>The Office of Rail Regulation is the health and safety regulator of the railway industry. It regulates Network Rail's stewardship of the national rail network; licences operators of railway assets; and approves track, station, light maintenance depot access.</p>



	<p>It was not necessary to consult the Office of Rail Regulation as the policies and proposals of the Site Allocations and Development Management Policies do not have cross boundary impacts relevant to their interests and responsibilities. Network Rail are responsible for running, maintaining and developing Britain’s rail tracks, signalling, bridges, tunnels, level crossings, viaducts and 17 key stations. The Council consulted Network Rail at each preparatory stage of the Site Allocations and Development Management Policies. Network Rail’s representation to the Site Allocations and Development Management Policies Publication Version supports the safeguarding of railway land for future infrastructure projects proposed by draft Policy DM24. No matters were raised concerning cross-boundary strategic issues.</p>
<p>Integrated transport Authority</p>	<p>There is no integrated transport authority in the area covered by the West of England Partnership councils of Bath and North East Somerset, Bristol City, North Somerset and South Gloucestershire. Therefore consultation was not possible.</p>
<p>Highway Authority</p>	<p>B&amp;NES Council is the Highways Authority for the District. As part of the West of England Partnership, the Council works with the Highway Authority of the other West of England Partnership Councils (i.e. Bristol City Council, North Somerset and South Gloucestershire Councils) in producing the West of England Joint Local Transport Plan (SAE 21 SD 6).</p> <p>The West of England Partnership and the individual adjoining West of England Councils were consulted at each stage of the preparatory process (see above and below). No cross boundary strategic issues were raised.</p> <p>Highways England (formerly Highways Agency) was also consulted at each preparatory stage.</p> <p>Highways England is responsible for operating, maintaining and improving the Strategic Road Network (SRN). It will engage with communities and the development industry to deliver sustainable development and economic growth whilst safeguarding the primary function and purpose of the SRN. In Bath and North East Somerset, the SRN comprises the A46/A36.</p> <p>Comments were received from Highways England at both the Options document and pre-submission draft stages (respondent number 93).</p> <p>Highways England is keen to ensure that the impacts of proposed development on the SRN are properly considered and</p>

	<p>appropriate amounts and types of development are planned in relation to the accessibility of sites by sustainable means of transport and that.</p> <p>In this context Highways England note at both the options and pre-submission draft plan stages that significant levels of development are allocated to take place in Bath which has the potential to impact on the SRN. Any adverse impacts on the SRN must be mitigated, including by identified infrastructure measures. Highways England supports references to Getting Around: Transport Strategy for Bath and the plan’s objective of delivering well connected places accessible by sustainable means of transport.</p> <p>At the pre-submission draft stage Highways England note that infrastructure measures required to address impact on the SRN and to enable greater accessibility by sustainable means of transport are identified in both the Draft Plan and the Infrastructure Delivery Programme (IDP). Highways England has expressed willingness to assist in the process of identifying infrastructure measures and thereby informing the IDP.</p> <p>The policy approach to considering proposals for further park &amp; ride provision at Bath is noted and Highways England is keen to ensure such provision does not have an unacceptable impact on the SRN.</p>
West of England Local Enterprise Partnership	The West of England Local Enterprise Partnership was set up in 2011 and is administered by the West of England Partnership. The West of England Partnership was consulted at each preparatory stage. No comments were received.