

# Duty to Cooperate Topic Paper

**Draft Local Plan 2040 – Regulation 18 Stage 2**

February 2024

## 1. Introduction

- 1.1 This topic paper provides a summary of how the Council is meeting the duty to cooperate obligations as required by the Localism Act 2011, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) to maintain effective cooperation. This requires the Borough Council to engage with a wide range of stakeholders, including neighbouring authorities, 'prescribed' (see Section 2) bodies and local communities.
- 1.2 The purpose of this paper is to support the first statutory stage of preparing the draft Local Plan 2040, known as Regulation 18, which is being undertaken in two stages. This Stage 2 is a full draft local plan, including proposed development site allocations and development management policies. Following the public consultation for Stage 2, we will take account of any feedback to refine the draft Local Plan and update the Duty to Cooperate Statement for the next stage at Regulation 19.
- 1.3 The purpose of working in cooperation is to address strategic cross-boundary planning matters. Engagement may vary depending on the nature and scale of the issue and any partnership or working arrangements already in place between the Borough Council and other bodies or organisations.
- 1.4 Such cooperation may take the form of working in partnership on specific issues that affect a wider area than just Test Valley through the commissioning of joint evidence or a joint strategy. Working in cooperation takes place at both officer and at elected member level.
- 1.5 The strategic planning matters covered in this topic paper, and set out in more detail in Section 3, are:
  - **Housing** - Helping to meeting housing needs across South Hampshire
  - **Employment** - Helping to meet employment needs across North and South Hampshire
  - **Nature Conservation** - the cumulative impact of residential development on the international nature conservation designations of the New Forest, the Solent and Salisbury Plain.
  - **Nutrient neutrality** - the cumulative impacts of additional nutrient input from new development on the Solent, River Avon and River Itchen.
- 1.6 An overview of other important matters that the Council are working collaboratively on are also set out in this paper in addition to how the requirement to maintain effective cooperation will be carried forward for the Regulation 19 stage of preparation of the Draft Local Plan 2040. This demonstrates the Council's ongoing commitment to engagement with stakeholders and legally prescribed bodies to inform the Local Plan 2040 document and processes.
- 1.7 While the requirement to cooperate is not a duty to agree, it does require local authorities to cooperate with each other and prescribed bodies on a range of strategic planning matters on an ongoing basis.

## **2. Policy Context**

- 2.1 The NPPF requires that local planning authorities and County Councils cooperate with each other, alongside other prescribed bodies.
- 2.2 The legal requirements to cooperate are set out in legislation including who and how local authorities needs to cooperate with. For Test Valley Borough Council, the matters outlined above in paragraph 1.5, and set out in more detail in Section 3, provide the basis for cooperation with a number of adjoining local authorities, strategic partnerships and legally prescribed bodies. Adjoining authorities and legally prescribed bodies are detailed further below in this section.
- 2.3 Section 110 of the Localism Act (2011) sets out the requirement for cooperation and upon whom those requirements fall. It applies to all local planning authorities, National Park authorities and county councils across England. This includes cooperating with the authorities that adjoin Test Valley Borough Council which are:
- Basingstoke and Deane Borough Council
  - Eastleigh Borough Council
  - New Forest District Council
  - Southampton City Council
  - Wiltshire Council
  - West Berkshire Council
  - Winchester City Council
- 2.4 Map 1, below, shows the local planning authorities adjoining Test Valley Borough. It should be noted that the south west part of the Borough is covered by the New Forest National Park Authority, which is the local planning authority for that area. The Council has also been engaging with the National Park Authority.

## Map 1 – Neighbouring local authorities



- 2.5 The Planning and Compulsory Purchase Act 2004 (Section 33A) sets out the legal requirements of the need to cooperate and states that to ensure strategic matters are addressed through Local Plans, local planning authorities need to “...engage constructively, actively and on an ongoing basis.”
- 2.6 The requirement to maintain effective co-operation also applies to a number of other prescribed bodies, as set out in The Town and Country Planning (Local Planning) (England) Regulations 2012, as follows:
- The Environment Agency
  - The Historic Buildings and Monuments Commission for England (known as Historic England)
  - Natural England
  - The Mayor of London
  - The Civil Aviation Authority
  - The Homes and Communities Agency
  - each Primary Care Trust established under section 18 of the national Health Service Act 2006 or continued in existence by virtue of that section
  - the Office of Rail Regulation

- Transport for London
- each Integrated Transport Authority
- each highway authority within the meaning of section 1 of the Highways Act (1980) (including the Secretary of State, where the Secretary of State is the highways authority)
- the Marine Management Organisation
- the Local Enterprise Partnership

2.7 The requirement for ‘maintaining effective cooperation’ is also captured in paragraphs 24 – 27 of the NPPF which sets out that “Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans.” This requirement will be a consideration in the test of soundness of a local plan in being able to demonstrate that the plan has been positively prepared.

### **3. Our Strategic Planning Matters**

- 3.1 Throughout the process of developing the Local Plan 2040, the Council has engaged with all of the prescribed bodies, neighbouring authorities, Hampshire County Council and a wide range of other stakeholders.
- 3.2 Cooperation has taken place through a variety of forms such as regular liaison meetings, working groups, partnership forums and consultation as a means of addressing specific issues.
- 3.3 The approach to engagement has been shaped around the scale and significance of the matter necessitating a varying and adaptive strategy as issues have evolved or enabling other parties to provide their relevant expertise.
- 3.5 The tables below set out the four strategic cross-boundary planning matters that the Council has identified in the Local Plan 2040 (paragraph 2.16). They explain the detailed issues identified, with whom we have engaged on these matters and how we have addressed these matters to arrive at the current position.

## Strategic Planning Matter 1: Housing – Helping to meeting housing needs across South Hampshire

Table 1

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
<p>Formal commitment sought from Havant Borough Council to meet 2,000 homes in Test Valley.</p> <p>Housing requirement consistent with PfSH SOCG.</p> <p>Recommendation from Southampton City Council to test a higher amount of housing than the Local Housing Need through the Sustainability Appraisal.</p>	<p>Continual engagement with the Partnership for South Hampshire (PfSH) as part of the PfSH Spatial Position Statement (SPS).</p> <p>PfSH Statement of Common Ground (SoCG) - sets out how authorities work together on cross-boundary issues and progress on evidence that informs the SPS.</p> <p>Commenting on and responding to local plan consultations for adjoining and neighbouring authorities in South Hampshire.</p>	<p>The PfSH SPS identifies a potential shortfall in identified supply of housing of 11,771 dwellings. While it sets out housing need and supply as at 2023, for the period up to 2036, the position on unmet housing need from the Borough's neighbouring authorities and authorities within South Hampshire continues to evolve and is subject to up to date evidence. The progress of local plans and associated evidence for the authorities in South Hampshire will determine whether there is unmet need and the amount in due course. At present there is no evidence of unmet need. Test Valley Borough Council will continue to engage with neighbouring authorities and PfSH on this matter.</p>

## Strategic Planning Matter 2: Employment - Helping to meet employment needs across North and South Hampshire

**Table 2**

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
<p>PfSH study and need to factor in wider sub-regional need in Test Valley</p> <p>Review of employment land requirements as assessed in PfSH Study</p> <p>Taking into account requirements of Enterprise M3 Local Enterprise Partnership (LEP) and Solent LEP Local Industrial Strategy</p>	<p>Continual engagement with the Partnership for South Hampshire (PfSH) as part of the PfSH Spatial Position Statement (SPS) in relation to amount, distribution and type of employment needs sub-regionally and approach to apportionment.</p> <p>Statement of Common Ground (SoCG) - sets out how authorities work together on cross-boundary issues and progress on evidence that informs the SPS.</p> <p>Engagement with logistics developers and occupiers to understand the changing nature of requirements.</p> <p>Engagement with the Local Enterprise Partnership and review of their plans and strategies, including economic priorities within Local Industrial Strategies.</p> <p>Engagement with West Berkshire Council following request to help meet their unmet</p>	<p>Engagement with PfSH has led to TVBC commissioning further evidence in the form of Test Valley Employment Needs Further Analysis Study (2023) by DLP informing level of need of employment land.</p> <p>Site selection process – assessment of SHELAA sites considers reasonable alternative growth scenarios.</p> <p>Draft site allocation policies for employment uses in the Borough.</p> <p>There is no unmet need from neighbouring authorities in South Hampshire that requires consideration. Although meeting the need for B8 warehousing across southern Test Valley and South Hampshire will be a challenge due to availability of sites. The Council will be undertaking a further ‘call for sites’ alongside the LP 2040 consultation.</p>

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
	employment needs, primarily for office use but also for warehouses.	TVBC is not meeting West Berkshire Council's employment needs due to the fact that we are in a different Functional Economic Market Area (FEMA) and the low level of economic interaction between the two authorities.



**Strategic Planning Matter 3: Nature Conservation** - the cumulative impact of residential development on the international nature conservation designations of the New Forest, the Solent and Salisbury Plain.

**Table 3**

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
<p>Impact of new development, alone and in-combination with other plans, policies or projects on international nature conservation designations.</p> <p>Sufficient and adequate mechanisms to mitigate the impact of development.</p>	<p>Engagement with Natural England regarding strategic approach to mitigation and site assessments.</p> <p>Continual engagement with the Partnership for South Hampshire (PfSH) as part of the PfSH Spatial Position Statement (SPS).</p> <p>Contributing to developing Solent Recreation Mitigation Strategy through the Solent Recreation Mitigation Partnership (or Bird Aware Solent).</p> <p>Membership of Steering Group to understand and address recreational impacts on New Forest Special Protection Area (SPA)/Special Area of Conservation (SAC)/Ramsar site.</p> <p>PfSH Statement of Common Ground (SoCG) - sets out how authorities work together on cross-boundary issues and progress on evidence that informs the SPS and development of draft policies in the Local Plan 2040.</p>	<p>Strategic mitigation package in place for Solent designations through the Solent Recreation Mitigation Strategy.</p> <p>The Council is working with partners on a co-ordinated strategic approach to mitigation for recreational impacts arising from new residential development and overnight accommodation on the New Forest.</p> <p>The Council is working with Wiltshire Council to explore mitigation options for recreational impacts on Salisbury Plain SAC and SPA. The Council intends to provide more detail on mitigation approaches at the Regulation 19 stage.</p> <p>Draft policies in Local Plan 2040, specifically <b>BIO2: International Nature Conservation Designations</b></p>

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
	Liaison with Wiltshire Council regarding impact on Salisbury Plain Special Protection Area and Special Area of Conservation, including existing mitigation approaches.	

**Strategic Planning Matter 4: Nutrient neutrality** - the cumulative impacts of additional nutrient input from new development on the Solent, River Avon and River Itchen international nature conservation designations

**Table 4**

<b>Considerations at Regulation 18 Stage 1</b>	<b>Engagement activities with prescribed bodies</b>	<b>Outcomes</b>
<p>Impact of new development resulting in elevated levels of nutrients in the River Itchen, Hampshire Avon, and The Solent leading to poor water quality and harm to aquatic life.</p> <p>Ensuring adequate supply of deliverable and viable planning permissions to meet housing need without adverse impact on the quality of the water environment.</p> <p>Sufficient and adequate mechanisms to mitigate the impact of nutrient deposition from wastewater.</p>	<p>Continual engagement with the Partnership for South Hampshire (PfSH) as part of the PfSH Spatial Position Statement (SPS).</p> <p>The Council is working with partners on a catchment basis to help ensure mitigation options are available to support the development needs of our communities. This includes the Partnership for South Hampshire (PfSH).</p> <p>Regular liaison with Natural England and the Environment Agency, particularly in relation to site assessment and scoping potential impacts.</p>	<p>PfSH led to establishment of a Water Quality Working Group (WQWG) which has resulted in working collaboratively on an ongoing basis to identify solutions and share best practice such as the development of the 'nitrate calculator',</p> <p>Additional evidence commissioned - Water Cycle Study to inform Local Plan 2040.</p> <p>Invested in nitrate credit scheme to enable developers to purchase 'credits' to off-set the impact of their development.</p> <p>Viability testing cost of a range of nutrient pollution measures to inform Local Plan 2040.</p> <p>Draft policies in Local Plan 2040, specifically <b>BIO2: International Nature Conservation Designations</b> which requires that nutrient neutrality is achieved within the River Avon SAC, Itchen SAC and the Solent.</p>

#### 4. Summary of engagement

- 4.1 Table 5, below, sets out engagement with other prescribed bodies and other matters covered. This table highlights the extent of engagement on a number of planning matters where both TVBC and prescribed body engagement on planning matters more widely, has informed the approach to evidence, site assessment and policy development.
- 4.2 Engagement has been predominantly informal and regular to shape our understanding of the issues and their relationship with the plan process. This has been an important step in developing an approach for addressing planning matters that arise through the Local Plan 2040, where appropriate. Establishing relationships with stakeholders has also enabled officers to raise any issues that have been identified with stakeholders informally and vice versa.
- 4.3 Engagement and liaison will continue to inform Regulation 19, including on such matters as transport modelling and flood risk, which will involve the Highway Authority and Lead Local Flood Authority (LLFA).

**Table 5**

<b>Matter</b>	<b>Engagement with prescribed bodies</b>	<b>Outcomes of ongoing engagement</b>
Climate Change	PfSH, Hampshire County Council (including in their capacity as Lead Local Flood Authority (LLFA), Environment Agency, Natural England, Southern Water.	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the Infrastructure Delivery Plan (IDP)</li> <li>• Draft policies in Local Plan 2040 to address impacts of climate change and provide mitigation.</li> <li>• Joint Strategic Flood Risk Assessment (SFRA)</li> <li>• Further engagement with the LLFA up to Regulation 19 to focus on the recommendations that arise from the SFRA, particularly around the Local Plan 2040 site allocations to ensure the prevention of the risk of flooding elsewhere.</li> </ul>
Clinical Health	Regular liaison with Hampshire and Isle of Wight Integrated Care Board to understand	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the IDP</li> </ul>

Matter	Engagement with prescribed bodies	Outcomes of ongoing engagement
	strategic and local clinical health needs.	<ul style="list-style-type: none"> <li>• Draft policy in Local Plan 2040 that requires development to provide appropriate infrastructure.</li> </ul>
Public Health	Engagement with Hampshire County Council Public Health team to understand how public health objectives can be reflected in plan-making.	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the IDP</li> <li>• Draft policies in Local Plan 2040 reflect public health principles in terms of access to green space, design of new development, pollution and sports/recreation facilities.</li> </ul>
Transport	<p>Regular liaison with HCC as Highway Authority to ensure a robust transport modelling approach, site selection process, policies and cross boundary highways issues.</p> <p>Regular liaison with Network Rail and South Western Railway to discuss and assess any impact of planned growth on the rail network.</p>	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the IDP</li> <li>• HCC have informed inputs into transport modelling, including reviewing outcomes, the site selection process and informally reviewed draft site allocations and Development Management policies.</li> <li>• Draft Local Plan 2040 policies that address sustainable and active travel and impacts on the highway network.</li> </ul>
Education	Regular liaison with HCC as Education Authority covering Test Valley, in addition to Wiltshire Council to understand future capacity, school places planning which in turn inform site selection process, policies and work to co-ordinate cross-boundary issues.	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the IDP</li> <li>• Informed updated Infrastructure and Developer Contributions SPD 2023.</li> <li>• Draft policy in Local Plan 2040 that requires development to provide appropriate infrastructure.</li> <li>• Ongoing engagement with both HCC and Wiltshire Education authorities to coordinate education infrastructure requirements</li> </ul>

<b>Matter</b>	<b>Engagement with prescribed bodies</b>	<b>Outcomes of ongoing engagement</b>
Landscape and historic environments	Liaison with Historic England and Natural England to inform the scope of evidence and site selection and assessment process.	<ul style="list-style-type: none"> <li>• Informed infrastructure requirements for proposed sites.</li> <li>• Input into the IDP</li> <li>• Informed approach to site allocation policies and policies to protect and enhance strategically important landscapes, historical assets and archaeological sites.</li> </ul>
Gypsies, Travellers and Travelling Showpeople	Liaison with Winchester City Council following request to help meet their needs for accommodating the Gypsy, Traveller and Travelling Showpeople communities	<ul style="list-style-type: none"> <li>• Through ongoing engagement with Winchester City Council and the outcome of TVBC evidence undertaken to assess the needs of Gypsies, Travellers and Traevlling Showpeople, the Borough Council is unable to meet the needs of other authorities in relation to Gypsies, Travellers and Travelling Showpeople at present.</li> </ul>
Residential site allocations	Liaison with Wiltshire Council regarding proposed adjoining residential allocations by each local authority on the Wiltshire/Test Valley boundary at Ludgershall. TVBC commented on Wiltshire Regulation 19 consultation between 22 September and 22 November 2023.	<ul style="list-style-type: none"> <li>• Ongoing engagement with Wiltshire Council to coordinate infrastructure requirements such education and transport to refine site allocation policies.</li> </ul>

## **5. Conclusion and next steps**

- 5.1 The Borough Council remains committed to continuing engagement with prescribed bodies and other relevant organisations as part of the cooperation on key strategic planning matters to meet the requirements for maintaining effective cooperation.
- 5.2 There are a number of strategic planning matters that will be taken forward in preparation of the Local Plan 2040 up to Regulation 19, in addition to other matters as identified in Table 5.
- 5.3 The Borough Council has engaged with all of the legally prescribed bodies above, with the exception of the Mayor of London and Transport for London. Engagement has varied from ongoing regular liaison through to providing notification or keeping them informed, depending on the nature and scale of the matter.
- 5.4 The scope of the strategic cross-boundary planning matters, how engagement has occurred, with whom, and the outcomes of this engagement in terms of Local Plan 2040 preparation, demonstrates that we have engagement consistently and co-operatively on all relevant matters.