

Appendix I: Local Plan Joint Working with the South West Herts Group Update

1. **Purpose**

- 1.1 Delivering more homes to meet growing need has become a key issue for Government. Recent Government announcements indicate that the Duty to Co-operate is going to be strengthened in favour of more formalised joint strategic planning among local authorities. A Leader, Portfolio Holder and Senior Officer meeting was held in January 2018 where the principle of a South West Hertfordshire Joint Strategic Plan was agreed. The preparation of a joint plan and a Memorandum of Understanding (MOU) are the next steps in this process.
- 1.2 A number of important changes have occurred since the Council prepared the Strategic Local Plan. These include the Government's approach; the approach taken by nearby Local Planning Authorities; the Judicial Review outcome; and the new opportunities provided for lobbying and bidding for infrastructure.

2. **Background Information**

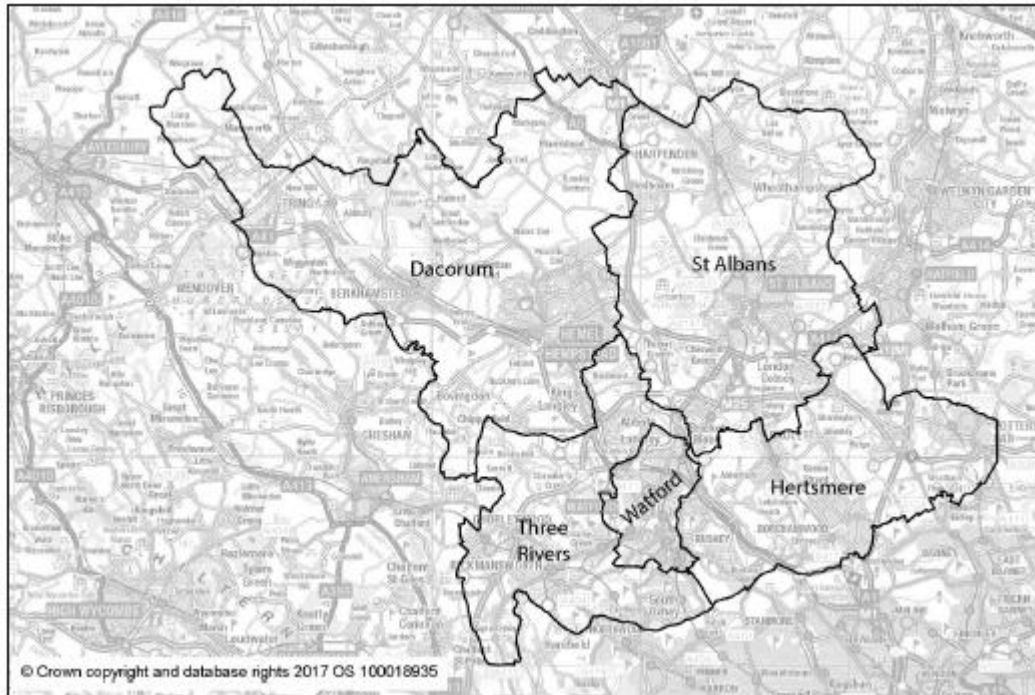
- 2.1 South West Hertfordshire faces significant strategic challenges in accommodating the required new homes, jobs and supporting infrastructure over the next fifteen years and beyond. The five local authorities this area – Dacorum, Hertsmere, Three Rivers, St Albans and Watford - continue to experience an acute shortage of new and affordable housing. Beyond existing built up areas, they are almost entirely designated as Green Belt land.
- 2.2 The scale of growth required by Government cannot be delivered sustainably by individual local authorities working in isolation. Neighbouring authorities are therefore increasingly being encouraged to work together to provide the high quality homes, jobs and infrastructure. The opportunity for strategic planning across the area is particularly timely as authorities are now at a similar stage in the plan making process.

3. **Analysis and Findings**

- 3.1 Leaders, Portfolio Holders and Senior Officers from the five councils and Hertfordshire County Council met on 23 January 2018. At the meeting it was agreed to progress a joint strategic level plan for South West Herts. Officers will be moving forward with this work and the preparation of a South West Herts Joint Strategic Plan as set out in the governance arrangements below.
- 3.2 Dacorum, Hertsmere, Three Rivers and Watford Councils have been working together as an informal planning group since 2014. A Strategic Housing Market Assessment and an Economy Study were jointly commissioned to inform the Local Plan reviews. Further joint technical work, including a Retail and Leisure Study and a Strategic Flood Risk Assessment, is underway. Since November 2017, St Albans Council has formal Member agreement to move forward with joint work on this SW Herts geography (see Figure 1 below).

All five authorities have already been working as a group with Hertfordshire County Council on transport matters, including the SW Herts Growth and Transport Plan.

3.3 Fig.1 South West Hertfordshire Housing Market Area and Functional Economic Market Area



3.4 The Duty to Co-operate

The duty to cooperate (DtC) was created in the Localism Act 2011. It places a legal duty on local planning authorities, county councils in England and public bodies to engage constructively, actively and on an ongoing basis. This is to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.

3.5 Local planning authorities must demonstrate how they have complied with the duty at the independent examination of their Local Plans. If a local planning authority cannot demonstrate that it has complied with the duty then the Local Plan will not be able to proceed further in examination.

3.6 In 2017, the Housing White Paper: 'Fixing our broken housing market' proposed a new spatial local plan based on effective joint working. To strengthen the DtC a Statement of Common Ground (SoCG) would also be required. The expectation from Government is that these would be prepared on Housing Market Area geographies.

3.7 The Government's 'Right Homes in Right Places' published in November 2017 proposes two new tests of soundness for local plans including:

- a) plans should be prepared based on a strategy informed by agreements over the wider area, and
- b) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground.

Appendix I: Local Plan Joint Working with the South West Herts Group Update

- 3.8 The Government is driving a step change in housing delivery. These proposals are likely to be implemented in 2018 with the publication of the new National Planning Policy Framework (NPPF), expected by the end of March. The soundness tests mean councils will need to change the way they work together on strategic and cross boundary matters for their plans to be found 'sound'.
- 3.9 At the same time the Government is offering resources to local authorities to support wider area based plans. A SW Herts bid for £220,000 has been submitted to the Ministry for Housing, Communities and Local Government to support the development of a joint plan. It is understood that further funding opportunities will be announced.
- 3.10 **Examples of Joint Planning**
- It has become evident that many key planning and infrastructure issues extend beyond individual borough and district boundaries. A number of authorities are working together on strategic planning matters.
- 3.11 Some partnerships of local authorities have taken a non-statutory approach to preparing infrastructure frameworks and plans. Areas that have been doing this include West Sussex and Greater Brighton and South Essex. Such plans are useful for bringing infrastructure providers together and helping co-ordinate growth. However as they are non-statutory they only have of limited weight when guiding the preparation of individual Local Plans and strategic development proposals. As a result of this limitation, a number of authorities are now working together to prepare statutory Spatial / Strategic Plans. Examples include Greater Exeter, Oxfordshire and Greater Manchester.
- 3.12 The closest example of what is being considered for SW Herts is a statutory document akin to the emerging [West of England Joint Spatial Plan](#). This covers Bath and North East Somerset, Bristol City, North Somerset, and South Gloucestershire. The emerging plan contains 7 high level policies and 12 area policies which sets the broad direction and strategic approach for development across the whole area. This is then supported by detailed policies in each authority's own local plan. These two levels of plans are being prepared in tandem.
- 3.13 **Benefits**
- A statutory joint plan has a number of significant benefits. The first is that it provides a more effective way of place shaping, by providing a bigger canvas to direct development to the right areas. These growth delivery areas can be supported by the right infrastructure.
- 3.14 Secondly, it can deliver immediate and potentially significant cost savings. These can result from a combined plan-making process including Local Plan examinations, public consultation, stake holder engagement and evidence base preparation. This includes making more efficient and effective use of limited staff resources.
- 3.15 Thirdly, joint planning brings with it increased funding opportunities. It also brings wider support from Government and other agencies, such as Homes England (formerly Homes and Communities Agency) and the Local Enterprise Partnership. Joint plans are increasingly favoured by the Ministry for Housing, Communities and Local Government (i.e Housing Infrastructure Fund and Planning Delivery Fund). There is also greater potential for a bespoke housing deal to deliver strategic infrastructure where significant growth is proposed.

Appendix I: Local Plan Joint Working with the South West Herts Group Update

- 3.16 Fourthly, a joint plan can help local authorities to manage their housing delivery more effectively. The Government is proposing to allow 5 year housing land supply and the Housing Delivery Test to be managed across strategic areas where there is a joint plan. This could be useful where very complex and large scale developments are being progressed with significantly longer lead-in times.
- 3.17 Fifthly, joint planning can provide a more robust and coherent basis for negotiating with others. In the SW Herts case, by working together we would be in a stronger position. For example, when dealing with the Greater London Authority to ensure that there are greater mutual benefits arising from London's growth. Also to the north, how we work with the Cambridge- Milton Keynes-Oxford Growth corridor where one million new homes are proposed and being supported by Government.
- 3.18 Finally, by having a joint plan in place it would address the duty to co-operate and help to deliver technically sound and legally compliant local plans.

3.19 **Risks**

The primary risk is for one of the partners to break away from the arrangement. To reduce the risk of this occurring, a Memorandum of Understanding (MOU) would establish the governance and ambitions for the new plan. It increases the likelihood of that authority failing Duty to Co-operate requirements and the possibility of the Secretary of State intervening in the Local Plan process. The preparation of a MOU would be followed by the authorities agreeing a Statement of Common Ground (SoCG) which would identify the key cross boundary issues. This SoCG is expected to be a new statutory requirement, introduced by the new NPPF.

- 3.20 Resource availability and changes in staffing would be a risk to the plan's preparation as resources would need to be committed from all participating authorities. To address this, a skills bank would be prepared and officers would be expected to work with Officers of all other member authorities on the joint plan.
- 3.21 The risk of programme slippage significantly increases when multiple parties are involved. To address this, a governance structure is proposed in the Memorandum of Understanding. A standard project planning approach will be put in place across the participating authorities.

3.22 **Budget**

A joint 5 LPA funding bid has been submitted for £220,000 to central government to support two staffing posts for the 2018/19 period. It is not considered at this stage that additional resources would be required in the 2017/2018 or 2018/2019 periods. However in 2019/20, these two posts would need to be resourced – either through another funding bid to Government, or by the SW Herts authorities direct. Further resources will also need to be found across the 5 authorities to support the plan's examination in public. There will be some additional resource required for consultations, specialist evidence work or legal advice amounting to c. £130,000.

3.23 **Formal Agreement**

The first step to embark on a SW Herts Joint Plan is for members from all the authorities agreeing a Memorandum of Understanding. The next step will be to progress a Statement of Common Ground. This document will identify the relevant

Appendix I: Local Plan Joint Working with the South West Herts Group Update

cross-boundary strategic priorities, set out how growth will be distributed across the area and what key supporting infrastructure will be required. The five SW Herts authorities and Hertfordshire County Council will be the signatories. During the time the Statement of Common Ground is being drafted, a new timetable for the plan's preparation will be drafted. Officers will be working to progress the evidence to support the new plan.

3.24 **Retention of Sovereignty**

A new joint plan would need to be agreed individually by all authorities. Members would be consulted as the plan progressed at each stage through a series of workshops and broader consultation events. Each authority would continue to maintain its own Local Development Scheme, setting out arrangements for both the preparation of its own Local Plan documents, as well as the agreed timescales for the Joint Strategic Plan.

- 3.25 Both the Submission and Adoption documents would need to be approved by each Council. Whilst an adopted joint plan will form part of the development plan for the district/borough, local planning committees would retain sovereignty when it came to determining planning applications in their area.

**MEMORANDUM OF UNDERSTANDING
FOR STRATEGIC PLANNING
IN SOUTH WEST HERTFORDSHIRE**

February 2018

**STRATEGIC PLANNING IN SOUTH WEST
HERTFORDSHIRE**

Memorandum of Understanding

between

Dacorum Borough Council

Hertsmere Borough Council

St Albans City & District Council

Three Rivers District Council

Watford Borough Council

Hertfordshire County Council

This Memorandum of Understanding (MoU) sets out how cooperation between the five local planning authorities in South West Hertfordshire and Hertfordshire County Council will be managed in respect of strategic planning issues.

The Localism Act 2011 places a Duty to Cooperate on local planning authorities and county councils¹ (amongst other public sector organisations), requiring them to engage constructively, actively and on an on-going basis in the preparation of plans where this involves strategic matters. Local planning authorities will be tested in relation to legal compliance with the Duty at examination, as well as whether strategic cooperation has resulted in a 'sound' and robust approach to delivering strategic objectives.

The Neighbourhood Planning Act 2017² requires local planning authorities to "identify the strategic priorities for the development and use of land in the authorities' area and set out policies to address those priorities in the development plan documents, taken as a whole. This clause was included to allow greater flexibility in the way that local planning authorities prepare local planning documents, and specifically to support the preparation of 'strategic' local plans, whether prepared individually or jointly with neighbouring authorities. However, several recent announcements from Government on proposed planning reforms indicates strongly that the Government's preferred approach is for strategic priorities to be managed on a joint basis across housing market areas through the use of joint spatial plans.

Building on the existing strong foundations of cooperation developed through the Duty to Cooperate, the Local Authorities have agreed to move to a more formal approach to strategic planning. This will be developed through a 'portfolio' of plans, with a Joint Strategic Plan (JSP) setting out strategic spatial and infrastructure priorities that are considered to be of mutual benefit, prepared alongside a suite of Local Plans to manage delivery within each of the local planning areas.

Work on the JSP will be steered within the governance structure of the Joint Member and Officer Board (JMOB) to ensure that it aligns with other strategic priorities. Although the JSP will be prepared on the basis of collaboration, formal decisions on the JSP at key stages in its preparation (identified in each local planning authorities' Local Development Scheme) will be taken by the individual local planning authorities which will continue to retain the statutory local planning duty (as set out in the 2004 Planning and Compulsory Purchase Act and the 2017 Neighbourhood Planning Act).

A Statement of Common Ground (SoCG) will be prepared by the Authorities, setting out the process and timetable for the plan, what local delivery plans will be needed (and how current local plans will be managed through the transition process), governance and working arrangements, and the key evidence needed to support the JSP. Although the focus will be strategic development (housing and economic development) and infrastructure, other strategic priorities may be included where they are required to support delivery of the long term shared vision for South West Hertfordshire. The

¹ Localism Act 2011, Section 110.

² Neighbourhood Planning Act Part 1, Section 8

Statement will be reviewed on an ongoing basis and updated as and when needed. This will form key evidence to support the JSP and individual Local Plans and should therefore be made available on each of the partner authority's websites.

In preparing the JSP, all partners agree to:

- Engage constructively, actively, openly and on an on-going basis in relation to strategic planning matters under the Duty to Cooperate (or equivalent processes);
- Ensure a broad and consistent approach to strategic planning and development issues in South West Hertfordshire;
- Support better alignment between strategic planning, infrastructure and investment priorities in South West Hertfordshire;
- Adhere to the governance structure set out in this document and ensure that activities are delivered, actions are taken and communications are made as required;
- Be accountable for ensuring that the role and responsibilities as agreed in the Statement of Common Ground are adhered to;
- Be open and communicate about concerns, issues and opportunities in respect of collaboration and joint working;
- Act in a timely manner, recognising the time critical nature of consultations, technical projects and plan preparation;
- Adhere to statutory requirements. Comply with applicable laws and standards, data protection and freedom of information requirements;
- Encourage, develop and share best practice in strategic planning matters;
- Ensure adequate resources and staffing are in place to undertake effective collaboration and joint working (resources to be agreed by the South West Hertfordshire Authorities through the Statement of Common Ground).
- Seek to align informal and formal decision making to ensure the completion of key stages works effectively for all partners

Area Covered

For the purposes of this MoU the geographic area of South West Hertfordshire applies to the administrative areas of Dacorum Borough Council, Hertsmeire Borough Council, St Albans City & District Council, Three Rivers District Council and Watford Borough Council.

Status

This MoU cannot override the statutory duties and powers of the parties and is not enforceable by law. However, the parties agree to the principles set out in this MoU.

This MoU is not a development plan, nor a legally binding document, but will be used in the consideration of how the local authorities have jointly approached strategic planning issues and legal compliance with the Duty to Cooperate.

This MoU may be supported by other documentation, and other subject specific MoUs, which set out in more detail how the parties will work together to tackle more detailed matters with respect to strategic planning in South West Hertfordshire.

It is accepted that an individual party or group of parties that are signatories to this MoU may also be signatories to other MoUs between themselves, or with other parties outside South West Hertfordshire in respect of the Duty to Cooperate.

Key outputs of this MoU are:

- A Joint Strategic Plan (JSP) setting out strategic spatial and infrastructure priorities across South West Hertfordshire;
- A Delivery Strategy setting out how the strategic policy framework of the JSP will be delivered, accompanied by a risk assessment and risk management plan;
- A Statement of Common Ground setting out how a JSP will be delivered, what the evidence base is, including identification of various development needs;
- A JSP monitoring process to chart and monitor delivery of the JSP.

Governance, Roles and Responsibilities

Preparation of the Joint Spatial Plan and associated Delivery Strategy will be steered under the governance arrangements of a Joint Member and Officer Board (JMOB). Formal decisions on the JSP at key stages (to be set out in individual Local Development Schemes) will be taken by individual Local Planning Authorities on the advice and recommendations of JMOB. The JMOB will comprise the Leader and the Chief Executive (or equivalent) from each of the District/Borough authorities and the Portfolio Holder and Lead Planning Officer from Hertfordshire County Council.

A Strategic Planning Members Group (SPMG) will be accountable for the overall project management of the JSP, supported by a Strategic Planning Officers Group (SPOG). The SPMG will comprise political representatives from each of the partners (to be appointed by individual authorities) with appropriate authority to make key decisions on progress with the SoCG and JSP. The SPOG will comprise the Heads of Service (or equivalent) from each of the partner authorities, and the lead officer for strategic planning.

'Task and finish' groups will be used to develop specific policy areas, to be identified by the SPMG as and when needed.

Terms of Reference for all groups will be established, setting out the roles, responsibilities and administration. These will be agreed by all partners and reviewed annually to ensure they remain relevant.

Local authorities should ensure that adequate resources are provided in order to undertake the joint work programme as set out in the Statement of Common Ground. Additional resources may be provided by other relevant bodies, as agreed to undertake specified tasks under the work programme.

Review of the MoU

This MoU is effective from the date it is signed by the Chief Executive and Leaders of all parties. It will be reviewed as and when indicated through the Statement of Common Ground.

Table of Signatories

Signature	Role	Authority	Date
	Leader of Council		
	Chief Executive		