



Local Plan

Focused Review Duty to Cooperate Statement

October 2013

1. Introduction

- 1.1 This statement sets out how Colchester Borough Council has met the requirements of the duty to cooperate in preparing its Local Plan Focused Review.
- 1.2 Section 110 of the Localism Act transposes the duty to cooperate in to the Planning and Compulsory Purchase Act 2004 and introduces section 33A, which sets out a duty to cooperate in relation to the planning of sustainable development. The duty to cooperate applies to all local planning authorities, county councils and prescribed bodies, and requires that they must co-operate with each other in maximising the effectiveness with which development plan documents are prepared.
- 1.3 The Localism Act states that, in particular, the duty to cooperate requires that engagement should occur constructively, actively and on an ongoing basis during the plan-making process. It also states that regard must be had to the activities of other authorities where these are relevant to the local planning authority in question.
- 1.4 The neighbouring authorities and prescribed relevant bodies for the purposes of section 33A of the Act, as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012 are:
 - Tendring District Council
 - Babergh District Council
 - Braintree District Council
 - Maldon District Council
 - Essex County Council
 - Suffolk County Council
 - The Environment Agency
 - English Heritage
 - Natural England
 - The Mayor of London
 - Highways Agency
 - The Office of Rail Regulation
 - Transport for London
 - Integrated Transport Authority
 - The Civil Aviation Authority
 - The Homes and Communities Agency
 - North East Essex Clinical Commissioning Group/NHS
 - The Marine Management Organisation
 - South East Local Enterprise Partnership
- 1.5 Paragraphs 178-181 and 156 of the National Planning Policy Framework (NPPF) outline the relevant planning policy issues to be considered under the duty to cooperate. It states that '*public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities*'. It states that this should include strategic policies to deliver:

- 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

2. Outline of scope of Focused Review and what this means in terms of the duty to cooperate

- 2.1 The Local Plan Focused Review is the first stage in a two stage process of reviewing and updating Colchester's Local Plan. The second stage of the process will be a Full Review, or a new Local Plan, which will replace the existing Local Plan documents.
- 2.2 The Focused Review forms the first stage of the review process. The purpose of the Focused Review document is to update policies to provide consistency with the NPPF, where changes could be made relatively quickly and easily without the need for significant new or additional evidence. This is in order to provide certainty and clarity in the shorter term.
- 2.3 As inferred by its name, the scope of the Local Plan Focused Review is very narrow, involving amendments to a select number of policies contained within the Core Strategy and Development Policies DPD. The Focused Review document will sit alongside the existing Local Plan – it does not amount to a wholesale replacement of those documents. CBC's adopted spatial strategy provides for the quantum and location of new development required for the period up to 2021; this does not form part of the Focused Review.
- 2.4 As a result of the limited scope of the document, it is considered that the Focused Review does not cover issues of a strategic nature, and that the requirements in relation to the duty to cooperate are, therefore, limited. Nonetheless, CBC has collaborated with the relevant bodies throughout, in order to ensure that any potential issues or concerns were addressed as part of the process.

3. The process that has taken place – how the Duty has been met

Issues and Options

- 3.1 At this stage of the plan process, the neighbouring local planning authorities and those relevant bodies considered to be the most relevant to the Focused Review (The Environment Agency, English Heritage, Natural England, Essex County Council and the NHS) were invited to attend a duty

to cooperate meeting on 19 April 2013. Representatives attended on behalf of Braintree and Tendring District Councils, English Heritage, the Environment Agency and Essex County Council. At the meeting, all parties shared the view that the Focused Review did not raise, or trigger the need for action on, any strategic cross-boundary issues. It was agreed that a Statement of Common Ground/Memorandum of Understanding be agreed later in the Focused Review process. However, as the process developed, it was decided that such an agreement would serve little purpose, given the narrow scope of the Focused Review and the absence of any strategic cross-boundary issues. For this reason, a Statement of Common Ground/Memorandum of Understanding has not been produced. A copy of a note of the meeting is available at Appendix A.

- 3.2 The Issues and Options document outlined the Focused Review process and set out the policies that were likely to be considered as part of the process. The Council outlined the areas it thought required review in order to achieve consistency with the NPPF. At this stage the Council did not propose any text amendments to the policies. As part of the consultation, respondents were invited to comment on which policies in the Core Strategy and Development Policies document they considered to require change to be in conformity with the NPPF. They were also invited to give views on whether there was a need for the deletion or addition of policies to allow the wider plan to be in conformity with the NPPF.
- 3.3 As part of the consultation, all of the neighbouring authorities and relevant bodies were sent an email or letter notification, inviting them to respond to the consultation. The relevant bodies that responded to the consultation were: Babergh District Council, Tendring District Council, Maldon District Council, Essex County Council, English Heritage, the Environment Agency, Natural England, and the Marine Management Organisation. Details of their responses are contained in the Council's Regulation 22 statement. (Submission document number SD3b)

Pre-submission

- 3.4 Following the Issues and Options stage of the process, the Council prepared the Focused Review document, taking into account the Issues and Options representations, as well as the findings of the Sustainability Appraisal. On 29 July the Local Plan Committee agreed to publish the draft submission document for a six week period of pre-submission consultation, beginning 5 August 2013.
- 3.5 All the neighbouring local planning authorities and those relevant bodies considered to be most relevant in terms of the Focused Review (The Environment Agency, English Heritage, Natural England, Essex County Council and the NHS) were invited to attend a further duty to cooperate meeting, held on 6 September 2013. Representatives attended on behalf of Tendring, Braintree and Maldon District Councils, along with representatives from Essex County Council.
- 3.6 At the meeting, the attendees confirmed that they had no issues or concerns to raise in relation to the Focused Review. The meeting discussion

then moved on to areas for potential joint working and cooperation for the Full Review/new Local Plan. A copy of the meeting note is available at Appendix B.

- 3.7 As part of the consultation, all of the neighbouring authorities and relevant bodies were sent an email or letter notification, inviting them to respond to the consultation and including details of how and where to view the documents and how to respond. The relevant bodies that responded to the pre-submission consultation were: Tendring District Council, Essex County Council, Natural England, English Heritage, the Environment Agency, The Highways Agency, and the Marine Management Organisation. None of the representations from these bodies raised any duty to co-operate issues (see the Regulation 22 consultation summary).

General

- 3.8 Outside of the Local Plan Focused Review process itself, CBC actively engages, at both member and officer level, with other local authorities and public bodies on strategic planning issues. The Council is a member and attends regular meetings of the Essex Planning Officers Association and the Haven Gateway Partnership.

4. Future Duty to Cooperate Matters

- 4.1 While it was agreed amongst the relevant authorities that there were no strategic cross-boundary issues arising from the Focused Review process, there was some discussion at the meeting over areas for potential future cooperation, as part of the second stage of the review process – the Full Review/new Local Plan.

Housing

- 4.2 CBC has jointly commissioned consultants to carry out a Strategic Housing Market Assessment (SHMA) and a Housing Needs Survey (HNS), alongside Chelmsford (the lead authority), Maldon, Braintree and Brentwood. This included a postal survey sent to 6,000 households in Colchester Borough. Although all five Councils are working together, the consultants will produce individual authority SHMAs.

- 4.3 The SHMA will enable CBC and the partner authorities to understand the nature and level of housing demand and need within the Borough, and provide a robust and credible assessment of the local housing market which can be used to inform the development of the Full Review/new Local Plan.

Gypsies and travellers

- 4.4 The need for gypsy and traveller accommodation is being assessed through both the SHMA and a Gypsy and Traveller Accommodation Assessment. The SHMA will include an analysis of the availability of any existing stock which is already available to meet that need.

Transport

- 4.5 CBC and Essex County Council, as highway authority, are committed to working closely together in the preparation of the Full Review/new Local Plan. Essex County Council will be responsible for any transport modelling needed as part of the Plan process.

Economy/Employment

- 4.6 It is unlikely that a joint economic/employment study will be commissioned, and that Colchester will commission its own employment land study. This is due to the different stages at which the neighbouring authorities are in the plan making process. However, CBC would ensure that any economic/employment study would take into account the wider retail area and any relevant issues.

Retail/Centres

- 4.7 As with an employment/economic study, it is likely that due to the differing stages at which the neighbouring authorities are in the plan production process, CBC will commission its own retail study. However, CBC will ensure that any assessment/study will take into account relevant cross-boundary issues/circumstances.

Water/flooding

- 4.8 Colchester will need an up-to-date Strategic Flood Risk Assessment to inform the production of the Full Review/new Local Plan. Other than financial benefits, it is not thought that there would be any particular benefits in carrying out a joint SFRA. Also, given the different stages at which the neighbouring authorities are at in the plan making process, it is unlikely that an assessment could be commissioned on a joint basis.

Energy

- 4.9 It has not yet been determined whether a study to determine the most suitable locations for renewable and low carbon energies will be produced. However, if it is considered appropriate, this may be something that CBC can work with Essex County Council on.

Education

- 4.10 CBC is committed to working with Essex County Council in order to plan appropriately for education needs in the production of the Full Review/new Local Plan.

Health

- 4.11 With continuing structural changes to the NHS, it is proving difficult for many authorities to establish an appropriate contact, and to determine future spatial requirements in relation to health. However, CBC is committed to ensuring that health requirements are appropriately provided for in the production of the Full Review / new Local Plan.

Costal Planning and Protection

- 4.12 CBC will work with the Environment Agency and Natural England to ensure that costal planning and protection matters are appropriately addressed.

Service Infrastructure

- 4.13 CBC will consult and work with the appropriate bodies and organisations to ensure that service infrastructure issues, such as electricity, gas and broadband provision, are appropriately addressed.

5. Conclusion

- 5.1 CBC considers that it has met the requirement of the duty to cooperate. CBC has engaged with the relevant bodies, from the outset, in an appropriate and meaningful way, and at every stage of the plan production process.
- 5.2 Through the process of cooperation, it was made apparent that, due to the narrow scope of the Local Plan Focused Review, there were no strategic cross-boundary issues to be addressed and the overall level of joint working and cooperation needed as part of this process was, therefore, limited.
- 5.3 Going forward, as part of the second stage of the Local Plan review process (the Full Review, or the new Local Plan), it is clear that there will be a need for joint working and collaboration, to cover a range of issues. CBC has already begun cooperating with relevant bodies in the initial stages of gathering evidence to inform the production of the Full Review/new Local Plan, and will continue with this commitment to cooperation and joint working in order that cross boundary and strategic issues are fully and properly addressed and worked through.

Appendix A

Meeting Note Duty to Co-operate Meeting Colchester Borough Council 19 April 2013

Present:

Braintree District Council
Colchester Borough Council

English Heritage
Environment Agency
Essex County Council
 Highways
 Public Health
 Spatial Policy
Tendring District Council

Eleanor Dash
Laura Chase
Beverley McClean
Katharine Fletcher
Andrew Hunter

Martin Mason
Alison Woolnough
Matthew Jericho
Gary Guiver

Background

Colchester is currently carrying out a Focused Review of its Core Strategy and Development Policies documents, to ensure its policies are compliant with the National Planning Policy Framework and are up to date. The consultation ends on 29 April 2013. A wider review is not being pursued at this stage since CBC's housing monitoring figures establish that the Council can demonstrate an adequate supply of housing land availability to meet the requirement to maintain a 5 and 10-year housing supply. The Council is however initiating the process of evidence base updating and policy review to address longer range development issues. Colchester would be consulting on three related documents in the autumn – the submission Focused Local Plan Review; a submission CIL Charging Schedule; and a Section 106 Supplementary Planning Document. This joint consultation reflects the fact that the Core Strategy affordable housing target is likely to be lowered in order to ensure that the introduction of CIL charges doesn't compromise delivery of the Local Plan.

Those in attendance were asked to both indicate whether they were in agreement with the appropriateness of Colchester's policy approach and whether they had identified any cross-boundary strategic issues which required action at this stage to address the duty to co-operate.

It was agreed that in the absence of detailed guidance on how the duty to co-operate should be demonstrated that a pragmatic approach would be followed which, with a minimum of documentation, established that strategic issues had been identified and dealt with appropriately.

Appropriateness of Focused Review Approach

Colchester's approach received broad support from those in attendance. The Focused Review was not considered to trigger the need for action on any strategic cross-boundary issues. The proposed timetable was considered to

work well with the proposed schedule for Tendring's Local Plan and Braintree's Site Allocation submissions and examinations.

- **Action** – Formal comments to this effect along with any points of detail to be submitted by adjoining authorities and agencies as part of the current Focused Review consultation.

Key Issues for Longer Term Joint Working

Housing – Existing SHMA process appropriate for dealing with strategic housing needs issues. Joint approach required for longer term strategic proposals, ie Gateway 120 (Braintree/Colchester) and West Tendring (Tendring/Colchester)

- **Action** – SHMA underway, completion scheduled for October 2013.
- **Action** – meetings held between LA's, highways authority, Highways Agency etc to discuss both strategic sites. Discussions will continue
- **Action** – Haven Gateway progressing an A120 Study and lobbying for funding

Gypsies and Travellers – Concern that resolution of disagreements over cross-boundary issues could hold-up plan progress.

- **Action** – Essex GTAA underway, with reporting scheduled for July. Further actions may result when findings are known.

Health – Health Impact Assessments required for plans as well as projects. Potential for joint working on HIAs.

- **Action** – Joint HIA working will be raised by Braintree as an agenda item for discussion at EPOA.

Environment – Andrew Hunter highlighted need for longer term infrastructure identification and development of a joint evidence base on strategic issues such as drainage. Colchester and Braintree are meeting Anglia Water to discuss long term strategic water planning requirements for north Essex. The Water Management Business Plan which will look ahead to 2035 will be issued for consultation in May 2013

AW also have to comply with Duty to Cooperate and are planning a 1 day seminar for elected Members in Peterborough later this year.

- **Action** – AH to forward an article by Environment Agency officers on the implications of Duty to Co-operate issues.
- **Action** – LA's to consider joint evidence base on strategic infrastructure – Colchester to request the item is added to EPOA agenda for discussion

Transport – Martin Mason did not foresee any issues for Focused Review, but noted that updated strategic modelling would be needed for Full Review.

- **Action** - Duty to co-operate highways workshop taking place at Maldon DC on 14 May – Colchester and Tendring invited to attend

Heritage – Katharine Fletcher regretted the loss of RSS policies that gave a platform to the wider consideration of heritage issues – local plans will accordingly need to pick up strategic heritage issues. Neighbourhood Plans should also have regard to these issues as appropriate. A proactive approach should be followed to enhance heritage assets and deliver improvements, particularly to Buildings at Risk.

Next steps – It was agreed that Colchester would seek to agree a Statement of Common Ground or Memorandum of Understanding later in the Focused Review consultation process. Member involvement would be sought at that stage, given that no issues had been raised that required earlier decision making.

Appendix B

Colchester Borough Council Duty to Cooperate Meeting 6th September 2013

Attendees:

Laura Chase (LC)	Colchester Borough Council
Beverley McClean (BM)	Colchester Borough Council
Sarah Pullin (SP)	Colchester Borough Council
Gary Guiver (GG)	Tendring
Julie O'Hara (part) (JO)	Braintree
Emily Hall (EH)	Maldon
Martin Mason (MM)	ECC
Matthew Jericho (MJ)	ECC

Apologies:

Katharine Fletcher	English Heritage
Janet Nuttall	Natural England
	Babergh District Council
Neil Dinwiddie	Environment Agency

Note - Those who sent apologies confirmed that they did not have any issues or concerns to raise, but in the event that an issue was identified, they would submit a written representation.

Focused Review

LC referred to the previous duty to cooperate meeting where it was agreed that a Memorandum of Understanding or Statement of Common Ground would be produced, and explained that because no cross boundary issues have arisen, it is no longer felt necessary to produce this document. LC asked attendees for their views on this, and on whether they had since identified any issues which may need to be addressed.

The attendees all confirmed that they had not identified any issues of concern:

GG said that Tendring would submit a consultation response confirming their commitment to joint working with Colchester Borough Council.

EH said that Maldon had submitted a response stating that they did not have any concerns.

MJ said that ECC do not have any issues to raise at this stage, but may have some general comments in relation to the next stage – the Full Review - that can be discussed informally at this stage in the process.

LC outlined the changes that are being proposed in the Focused Review.

Next stages – beyond the Focused Review

As no cross boundary issues or concerns were identified in relation to the Focused Review, discussion moved on to potential areas for cooperation and collaborative working, going forward.

LC noted that at an Essex Planning Officer Association meeting, it was reported that a duty to cooperate protocol was being developed and there was some further discussion over the way neighbouring authorities might cooperate going forward.

Employment

There was discussion over whether Haven Gateway could do some further employment work, but there was a general consensus that their remit was now likely to be too narrow for planning policy purposes, and so was unlikely to be the most appropriate option.

It was reported that Tendring's economic development strategy is almost complete and covers cross boundary employment issues, so would fit with any work Colchester does. The study highlights the need for Tendring to work with Colchester to exploit employment opportunities, particularly around the university.

The study shows that Tendring has more than enough employment land and so the current planning application for employment development at Horsley Cross would not be justified in this respect. The Horsley Cross planning application is likely to go to committee in November.

(JO joined the meeting at this point and LC summarised what had been discussed so far)

It was reported that Maldon has had an Economic Prosperity study produced – it did not identify any great need for employment land – the draft Local Plan proposes the allocation of 10ha of land for light industrial use.

It was reported that Braintree's most recent economic review was produced to inform the Site Allocations Plan which is likely to undergo a further round of consultation prior to submission.

It was reported that Colchester has not yet commissioned an economic study to inform production of the Full Review, as it would be premature at this stage. It is likely that this would be done in a year or two's time.

Housing

Figures from the joint SHMA (covering Colchester, Chelmsford, Maldon, Braintree and Brentwood) are not yet available – Tendring are not part of the joint SHMA because they needed the information sooner.

Tendring are producing a 15 year plan covering the period 2014-2029. They intend to make specific allocations covering the first 10 years of the plan and identify locations for growth for the following years.

GG stated that Tendring would be willing to release land to facilitate the development of east Colchester. There was some discussion over who and how the housing numbers would be attributed in that situation.

Tendring SHMA identified the need for 10,000 homes over the 15 year period – Tendring are unable to identify sufficient land to meet this need. There was some discussion over how the duty to cooperate comes in to play in such a situation, as it was acknowledged that neighbouring authorities were also likely to have extremely high identified need which the relevant local authorities are likely to struggle to meet. It was agreed that the issue of meeting the Ipsas' joint housing need was likely to be a significant problem.

There was some discussion over the A120 gateway proposals by the relevant landowners in Braintree and Colchester. It was noted that funding for upgrading of the A120 put a big question mark over any potential for development in that location. JO stated that Braintree District Council does not support development of this site at this time.

Transport

MM reported that ECC will be much more involved with Colchester's planning process at the Full Review/new Local Plan stage and that there were no strategic transport issues raised as a result of the Focused Review.

Health

LC reported from the Essex Planning Officers Association that more work is being done on health impact assessments.

There was discussion over the difficulty with engaging and working with the health service – even identifying an appropriate contact as a starting point is proving extremely difficult.

MJ said that he had a good contact in relation to health issues and would email their contact details around, after the meeting.

Retail

It was thought that it may not be necessary or appropriate to undertake a joint retail study, given the different stages at which the authorities are in the planning process and given that individual studies take into account the wider retail area.

Tendring's last retail study was carried out in 2010

Braintree's last retail study was carried out in 2012.

Maldon Retail updated their 2009 Retail Study - Maldon District Retail

Assessment 2013 (*added post meeting, resulting from an email update from Maldon DC*)

Water/flooding

It was reported that Colchester has just had a Surface Water Management Plan completed - it does not raise any cross boundary issues.

Colchester will need an up to date Strategic Flood Risk Assessment to inform the Full Review/ new local plan.

It was agreed that it may be financially beneficial to carry out a joint SFRA between authorities, although it was felt that this may not be possible due to the different timescales that each of the respective Ipas is working to.

(Tendering and Maldon are looking to adoption in 2014
Braintree's Site Allocations document has been delayed, with additional consultation likely to take place prior to submission.

Energy

LC asked if anyone had looked into having an energy study produced in order to identify areas suitable for renewable energy (in line with the NPPF's suggestion). No one had had such a study produced, and there was some discussion over the value of carrying out such work, given that viability would be likely to be a significant concern.

MJ reported that he thought this was something that ECC was looking into and said he would find out more and report back after the meeting.

Summary of ECC's involvement

ECC confirmed that the areas in which it was likely to work with CBC under the duty to cooperate at forthcoming stages were:

- Water and flooding
- Transport
- Energy
- Education

Viability

JO asked if the other Ipas had commissioned work to test the viability of their plan under the NPPF's requirements. SP said she thought that Maldon may have done some work of this kind and EH said she would find out what has been done and report back after the meeting.