

TELFORD & WREKIN COUNCIL

CABINET - 16 JUNE 2016

PLANNING - DUTY TO COOPERATE

REPORT OF THE ASSISTANT DIRECTOR: BUSINESS, DEVELOPMENT & EMPLOYMENT

LEAD CABINET MEMBER: COUNCILLOR RICHARD OVERTON

PART A) – SUMMARY REPORT

1.0 SUMMARY OF MAIN PROPOSALS

- 1.1 The Council has a legal duty to cooperate with neighbouring local authorities in the preparation of Local Plans or other Development Plan Documents. This report seeks authority for the Assistant Director: Business, Development & Employment (and any other officer authorised by this Assistant Director) to exercise the Council’s powers relating to its “duty to cooperate” in relation to the planning of sustainable development.
- 1.2 By this delegation, Cabinet will primarily be enabling officers to engage constructively, actively and on an ongoing basis with prescribed bodies, including other local planning authorities, in the preparation (by the Council or any of those prescribed bodies) of development plan/local development documents and to negotiate, agree and enter into formal and informal arrangements with those bodies to demonstrate compliance with this duty to cooperate.
- 1.3 It is recommended that, where it is being proposed that the Council enters into formal arrangements with another body, this will be done in consultation with the Lead Cabinet Member for Housing, Public Health & Protection, who may be required to sign those formal arrangements.

2.0 RECOMMENDATIONS

- 2.1 **That Cabinet authorise the Assistant Director: Business, Development & Employment (and any other officer authorised by this Assistant Director) to exercise the Council’s powers relating to its duty to cooperate in relation to the planning of sustainable development as set out in Section 33A Planning and Compulsory Purchase Act 2004 and any other associated legislation and guidance.**
- 2.2 **That Cabinet authorise the Assistant Director: Business, Development & Employment (and any other officer authorised by this Assistant Director) in consultation with the Deputy Leader and Cabinet Member for Housing, Leisure & Health to enter into formal arrangements with any person or body referred to or prescribed in accordance with Section 33A Planning and Compulsory Purchase Act 2004 and any other associated legislation and guidance and to authorise the Lead Cabinet Member for Housing, Public Health & Protection to sign and confirm the Council’s agreement to those formal arrangements.**

3.0 SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	No	No direct impact
	Will the proposals impact on specific groups of people?	
TARGET COMPLETION/ DELIVERY DATE	No	No direct impact
	Ongoing	

FINANCIAL/ VALUE FOR MONEY IMPACT	Yes	The strategic engagement and co-operation with neighbouring local authorities will be resourced from within the Business, Development & Employment Service Area who are responsible for discharging activities under the Planning and Compulsory Purchase Act 2004, this will be achieved from current resource levels. Prior to entering into any formal/informal agreements under delegations within this report, which may have financial implications advice needs to be sought from the S151 Officer or his representatives AEM 200416.
LEGAL ISSUES	Yes	The 'Duty to Cooperate' is set out in Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011). This duty to cooperate includes the need to engage with neighbouring local authorities as they, and the Council, prepare their Local Plans and other Development Plan Documents so far as relates to strategic matters. This report seeks authority for the Assistant Director Business Development and Employment (and any other officer authorised by this Assistant Director) to exercise the Council's powers relating to its "duty to cooperate". The 2004 Act, the Town and Country Planning (Local Planning) (England) Regulations 2012 and central government guidance together set out what the Council is required to do and how best to do it. The Council is obliged to have regard to any guidance from the Secretary of State. The first recommendation proposes a broad delegation to the Assistant Director Business Development and Employment which would enable that Assistant Director to enter into arrangements with other bodies. The second recommendation is a specific response to Secretary of State guidance which promotes the use of formal agreements between local planning authorities signed by elected members. IR – 120416
OTHER IMPACTS, RISKS & OPPORTUNITIES		The Council has a statutory duty under the Planning and Compulsory Purchase Act 2004 to cooperate with neighbouring local authorities on the preparation of development plan documents where there is a cross boundary strategic matter. In exercising this duty, the Council will work cooperatively and endeavour to ensure that neighbouring local authorities Local Plans and other Development Plan Documents do not have unnecessarily adverse impacts on the Borough.
IMPACT ON SPECIFIC WARDS		Borough wide impact.

PART B) – ADDITIONAL INFORMATION

4.0 BACKGROUND

- 4.1 The former Coalition government abolished the concept of regional planning. Prior to 2013, regional planning priorities across the West Midlands were set out in the Regional Spatial Strategy and these then informed 'local' development plans such as the Telford & Wrekin Core Strategy.
- 4.2 To replace the regional planning structure, the Localism Act 2011 made strategic planning the responsibility of local councils as they prepare replacement planning documents such as the Telford & Wrekin Local Plan. Local authorities are expected to address strategic cross boundary matters in development plans and demonstrate how they have engaged in strategic planning through the 'Duty to Cooperate'. This is a key test of 'soundness' of Plans considered at Examination in Public.
- 4.3 The Duty relates to sustainable development or use of land that would have a significant impact on at least two local planning areas, otherwise described as *strategic matters* and requires: Councils and public bodies to "...engage constructively, actively and on an ongoing basis..." to develop strategic policies. The scope for such engagement is broad but, typically, discussions cover housing allocations, waste and minerals management, traffic impacts and reviewing how environmentally sensitive sites in one local authority (such as Sites of Specific Scientific Interests) will be protected as a result of growth being promoted in another one. A borough like Telford & Wrekin would also be required to consider the management of the Ironbridge Gorge World Heritage Site with neighbouring Shropshire. The Duty

to Cooperate is not a 'duty to agree'. However, all local planning authorities are expected to demonstrate evidence of having successfully cooperated to plan for issues with cross-boundary impacts when their local plans are submitted for examination.

- 4.4 Government guidance recommends that there are a number of ways of resolving this Duty. For some local authorities, this has meant an exchange of letters that there are no strategic matters of cross borough significance. Elsewhere, local authorities have discharged this Duty by agreeing memoranda of understanding.
- 4.5 The Council is engaged with nearby local authorities in the preparation of its own Local Plan and will continue to be engaged with them as they prepare their Local Plans/documents. Secretary of State guidance acknowledges that different Councils' Local Plans are not always going to be taken forward at the same time and points the respective local planning authorities towards entering into appropriate arrangements regarding strategic matters for when the relevant Local Plans/Development Plan Documents are progressed.
- 4.6 Part 11 of the Council's Constitution (page 281) gives officers delegated authority "To exercise the powers and duties of the Council in relation to the preparation, approval, review and monitoring of Local Plans, the Minerals Local Plan and the Waste Local Plan". In addition, authority has already been specifically delegated to officers to exercise the Council's powers relating to preparing and submitting the Council's own Local Plan documents to the Secretary of State. However, there is no specific mention of who has responsibility within Telford & Wrekin for discharging the Duty with regard to the plans of neighbouring authorities.
- 4.7 It is proposed that the powers regarding the exercise of the Council's duty to cooperate be delegated to the Assistant Director: Business, Development & Employment. This will enable this Assistant Director to negotiate, agree and enter into arrangements with other bodies/local planning authorities including memoranda of understanding to demonstrate how the Council has cooperated with neighbouring authorities. These arrangements may need to be set out in more formal agreements and, in accordance with Secretary of State guidance, these may need to be signed by elected members to demonstrate a long term commitment to a cooperate, for example, on cross-boundary matters. For this Council, this might mean continuing to collaborate with Shropshire as it revises its Core Strategy on minerals matters given that that local authority continues to deliver most of the supply of aggregates for the sub region. That is why the second recommendation has been included.

5 IMPACT ASSESSMENT

- 5.1 There are no direct impacts arising from this report. Rather, the Council will seek to make sure that relevant cross boundary issues are satisfactorily resolved in the interests of the borough.

6 PREVIOUS MINUTES

Cabinet meeting - 7 January 2016
Full Council meeting - 21 January 2016

7 BACKGROUND PAPERS

National Planning Policy Framework
Planning Practice Guidance

Report prepared by Vincent Maher and Ian Ross Telephone: 01952 384134