

Matter 1- The Duty to Co-operate

Statement by Northamptonshire County Council

Issue DTC1

In the preparation of the plan, has the Council complied with the legal Duty to Co-operate and engaged constructively, actively and on an ongoing basis with other local authorities and any prescribed person?

- *generally with respect to the broader planning context, including the development and infrastructure proposals in adopted and emerging development plans of other local authorities within and outside Northamptonshire;*

and particularly with respect to:

- *setting the level of aggregates provision;*
- *setting the requirement for waste management provision;*
- *cross-border flows of minerals; and*
- *cross-border flows of waste.*

1.1 The Plan is a partial review of an adopted plan and therefore the Duty to Co-operate needed to be taken into account in relation to where the Plan is being partially reviewed.

1.2 The main elements of the partial review are:

- The rolling forward of the Plan, including the strategy, almost all of its policies and its allocations and designations by five years.
- A change to the annual provision for sand and gravel. This has been reduced from the adopted Minerals and Waste Development Framework (MWDF).
- A decision to make no change to the annual crushed rock provision from the adopted MWDF.
- Changes to the indicative capacity gap for waste management that are required to be met.
- A new policy on radioactive waste disposal.

1.3 There were therefore potential Duty to Co-operate matters in relation to the provision for minerals and waste and the proposed policy on radioactive waste disposal. It was also possible that, beyond provision matters and the radioactive waste issue, that rolling forward the Plan in relation to other aspects of the Plan could be a Duty to Co-operate matter. The Council has produced a Duty to Co-operate Statement of Compliance (Exam Lib Ref 603), but this statement on Matter 1 gives additional background.

Minerals and waste planning authorities

Issues and Options Stage

1.4 As the Council commenced consultation on its Way Forward document - which set out the issues and options for what was proposed to be covered by the partial review - a letter was sent to the vast majority of the minerals and waste planning authorities (or joint planning organisations where this was appropriate) in both England and

Wales (see Appendix 1) as well as the Mayor of London. This set out the parameters of our review and on where we considered Duty to Co-operate matters may apply. The relevant text of the letter is repeated below:

In the spirit of the Duty to Co-operate we are notifying your authority of this consultation so that if you wish you have the opportunity to shape the Partial Review.

As key elements of the adopted MWDF such as the Spatial Strategy and the allocated sites are not proposed for review, it is the areas around provision of aggregates and the waste needs we intend to provide for that you may wish to focus any comments on. For aggregates apportionment we intend to base provision based on ten year annual sales figures in line with the NPPF, although may go for a slightly higher figure for crushed rock. For waste our forecasts have been revised to reflect both the reduction in growth planned for the county and the current economic downturn. The Way Forward consultation document also covers other areas such as low level radioactive waste, in relation to this matter we are questioning whether utilising facilities in Northamptonshire is the most appropriate and effective approach.

General comments on the Way Forward consultation document, Local Aggregate Assessment and Local Assessment of Waste Management Needs are welcome, but we are particularly interested in any specific comments you may have in relation to the Duty to Co-operate. This is particularly pertinent if you consider that our approaches are making assumptions that could impact of your area that you are currently not proposing to plan for.

- 1.5 This gave the opportunity for authorities to start the engagement process with us. We wanted to go high level in this way as we considered this a more appropriate approach to take in relation to the Duty to Co-operate. For example, we note that in relation to waste matters a number of authorities have chosen to go down the route of going through the waste interrogator and sending all authorities lists of facilities in their area and asking whether this is likely to continue. This tends to neglect the strategy/policy angle and really only asks the authority about commercial arrangements that they usually have no control over.
- 1.6 We also intended to, and did, continue to consult with all of these contacts during the rest of the plan process.
- 1.7 In respect of responses from those who were sent the Council's Duty to Co-operate letter linking to the issues and options and other accompanying documents, there was not a large response although it did bring in responses from three more distant planning authorities - Essex, Norfolk and Lancashire County Councils - all in respect of hazardous/radioactive waste.
- 1.8 In respect of minerals provision Leicestershire County Council and the Bedfordshire Joint Unit both raised the issue of whether provision should be more than the 10 years annual average sales, as did Lincolnshire County Council; however these councils still implicitly or formally supported a provision based on previous sales figures. Both Bedfordshire and Lincolnshire noted the adopted MWDF Core Strategy referencing the county as a growth area.
- 1.9 In respect of waste generally, the Bedfordshire Joint Unit requested clarification of terms used. For hazardous/radioactive waste, Essex and Norfolk County Councils both supported the continued use of the facility at King's Cliffe for hazardous waste and both had a concern about valuable hazardous waste facilities being used for radioactive waste. Lancashire County Council considered that a specific radioactive waste policy was required.
- 1.10 It should be noted that there were no representations from Buckinghamshire County Council or from the North London waste planning authorities.

Draft Plan Stage

- 1.11 At Draft Plan stage in respect of minerals Lincolnshire County Council expressed concern that going for a 10 year annual average sales figure for sand and gravel meant a large decline in the provision figure. Leicestershire County Council suggested it could be appropriate to increase the provision figure for sand and gravel because of planned growth.
- 1.12 In respect of waste Leicestershire County Council raised a concern about one paragraph and what it had to say about granting permissions if the permitted capacity in the plan had been met (this paragraph was subsequently amended at Final Draft Plan stage as a consequence of this representation); they also made a similar comment in respect of waste disposal.
- 1.13 In respect of radioactive waste Cumbria County Council and Copeland Borough Council put in a joint response that supported the principles in the policy and text but wanted some rewording of terminology. NuLeAF (the Nuclear Legacy Advisory Forum) which is a special interest group of the Local Government Association (LGA) supported the radioactive waste policy. However, Lancashire County Council wished for the policy to be more permissive; Warwickshire and Somerset also made observations on this policy.
- 1.14 It should be noted that there were no representations from the Bedfordshire Joint Unit, Buckinghamshire County Council or from the North London waste planning authorities.

Proposed Submission

- 1.15 At Proposed Submission stage there were a number of objections to both the minerals and waste elements of the Plan from both the Bedfordshire Joint Unit and from Buckinghamshire County Council. Both authorities in their responses emphasised the Council not meeting the Duty to Co-operate, despite Buckinghamshire not previously having made any comments and Bedfordshire not having made any representations at Draft Plan stage.
- 1.16 The North London waste planning authorities also specifically stated that the Council had not complied with the Duty to Co-operate, despite the email correspondence that had previously taken place and at least one face-to-face discussion.
- 1.17 The matters raised by those respondents who have referred to non-compliance with the Duty to Co-operate at proposed submission stage are summarised below.

Minerals

- 1.18 *Sand and gravel provision* - The proposal to reduce the sand and gravel apportionment to a straight 10 year annual average provision figure has been raised as referred to above by Buckinghamshire County Council and the Bedfordshire Joint Unit (but under the separate representations of Bedford Borough Council and Central Bedfordshire Council - the third element of the unit, Luton Borough Council, did not respond) as a Duty to Co-operate consideration. The issue of provision in the Partial Review is discussed in more detail in the Council's statement for Matter 4, Issue M2.
- 1.19 The Council's view is that it has made provision in line with guidance in the National Planning Policy Framework (NPPF) and although this is significantly less than in the

adopted MWDF it is not a deliberate under-provision (and where therefore we would be expecting other authorities to make up for our under-provision). Cross-border flows have been taken into account with the Local Aggregate Assessment (LAA) examining these (and including reference to the Annual Monitoring Survey (AMS) data) and the plan seeking to address imports through the allocation of sites and its policies.

- 1.20 The Aggregates Working Party (AWP) has agreed our sand and gravel provision, although the evidence base highlights that the Council has not been supportive of the manner in which it has done this, nor in how the Minerals Products Association (MPA) representatives have engaged in this.
- 1.21 The Council considers that the matters raised by Bedfordshire and Buckinghamshire on minerals are not related to any failure to apply the Duty to Co-operate but are simply objections either because they do not agree with the Council's stance, particularly in relation to utilising a 10 year annual average sales figure for sand and gravel, or because of a misunderstanding of the text by these respondents.
- 1.22 It is also clear that what the Plan is proposing is not putting burdens on these authorities, let alone those that would have necessitated particular discussions in respect of the Duty to Co-operate. It is noted that both Bedfordshire and Buckinghamshire have relatively recently adopted Core Strategies (found sound in September 2012 and October 2013 respectively) that simply incorporated Regional Spatial Strategy apportionments. In the case of Buckinghamshire the South East Plan related apportionments were still extant as at September 2012, whilst Bedfordshire is in the East of England region where there had been an agreement at the AWP to continue with the Regional Plan apportionments for an initial period. Bearing in mind their representations on 10 year sales figures it will be interesting to see the approach both take to mineral provision when they review their Plans and if they will make upward adjustments to their 10 year annual average sales provision figures.

Waste general

- 1.23 North London sought clarification on net self-sufficiency and impact on waste from North London to Northamptonshire. Bedfordshire make a number of representations querying figures and suggesting assumptions have not been adequately justified. Buckinghamshire County Council made comments about the accompanying Local Assessment of Waste Management Needs document.

Hazardous waste

- 1.24 North London queries the possible closure of the hazardous facility at King's Cliffe later on in the plan period. Buckinghamshire County Council stated reference to an undersupply of facilities in London and the South East required supporting evidence.
- 1.25 The Council considers that the matters raised by Bedfordshire, Buckinghamshire and North London on waste are not related to any failure to apply the Duty to Co-operate but are simply objections either because they do not agree with the Council's stance or because of a misunderstanding of the text by these respondents. It is also clear that what the Plan is proposing is not putting burdens on these authorities, let alone that would have necessitated particular discussions in respect of the Duty to Co-operate.

Northamptonshire and adjacent local planning authorities

- 1.26 There are no changes proposed from the adopted MWDF to allocations/designations and these are the matters that are usually of concern to the local planning authorities both within and adjacent to Northamptonshire.
- 1.27 Duty to Co-operate work with the local planning authorities basically comprised the statutory consultation engagement and to updates to the steering groups for the two joint core strategies in the county (for West and North Northamptonshire).
- 1.28 It should be noted that the only local planning authority that made representations to the Proposed Submission Plan was East Northamptonshire district and this related to seeking clarification.
- 1.29 At earlier stages of the process Corby Borough Council specifically supported the suggested approach towards minerals and waste provision in the 'Way forward' document, although at Draft Plan stage Corby shared the same concerns as Leicestershire County Council did (see para 1.12 above) in respect of a statement about waste.
- 1.30 Although by the time of their representation West Northamptonshire Development Corporation (WNDC) was no longer a planning authority, and indeed will be abolished in its entirety at the end of March 2014, they raised an issue about Policy 34 on the safeguarding of minerals and waste sites in the context of a rail served aggregates depot adjacent to the railway station in Northampton. The Council's view is that there is no issue here.

Appendix 1: DTC Letter (June 2012) Consultees List (W) refers to waste planning authorities only

Consulted	Counties	County Unitaries	Unitaries	London Boroughs	National Parks
	Leics Notts Derbys Lincolnshire Cambridgeshire Norfolk Essex Kent Suffolk Hertfordshire East Sussex West Sussex Oxfordshire Hampshire Buckinghamshire Surrey North Yorkshire Staffordshire Dorset Gloucestershire Devon Warwickshire Devon Somerset Worcestershire Lancashire Cumbria	Rutland Durham Northumberland Cornwall Wiltshire Herefordshire Shropshire	Nottingham Derby Leicester Cent Beds Peterborough (M) Thurrock Warrington West Berkshire Milton Keynes Medway Telford and Wrekin Solihull Walsall Barnsley Hull Sheffield Plymouth Torquay (W) Tees Valley Unlimited Merseyside Waste DPD Urban Vision (Greater Manchester) West of Eng P'ship Caerphilly CB Denbighshire SW Wales Reg Waste PI	East London Waste Auth North London Waste PI West London Waste Auth South London Waste PI	Peak Park Northumberland Broads Lake District Exmoor Yorkshire Dales

<p>Consulted through Joint Unit Arrangements</p>	<p>-</p>	<p>East Yorkshire</p>	<p>Southampton Portsmouth Swindon Brighton Southend on Sea Halton (W) Liverpool (W) Wirral (W) Sefton (W) Knowsley (W) St Helens (W) Manchester Salford Stockport Tameside Trafford Oldham Bolton Bury Wigan Darlington (W) Middlesborough (W) Redcar and Clevel'd (W) Stockton (W) Hartlepool (W)</p>	<p>Newham (W) Barking and Dagenham (W) Redbridge (W) Havering (W) Barnet (W) Camden (W) Enfield (W) Islington (W) Hackney (W) Haringey (W) Waltham Forest (W) Brent (W) Ealing (W) Harrow (W) Hillingdon (W) Hounslow (W) Richmond (W) Croydon (W) Kingston (W) Merton (W) Sutton (W)</p>	<p>New Forest South Downs</p>
<p>Not Consulted</p>		<p>Isle of Wight Cheshire East Cheshire West & Chester</p>	<p>Isles of Scilly Bournemouth Poole Bristol Bath and NE Somerset North Somerset South Gloucestershire Slough Windsor and M'head Bracknell Forest Wokingham Reading Birmingham Wolverhampton Dudley Sandwell Doncaster Rotherham Leeds Bradford Kirklees Calderdale York</p>	<p>Hammersmith & Fulham Kensington & Chelsea Lambeth Wandsworth City of Westminster City of London Bexley Bromley Greenwich Lewisham Southwark Tower Hamlets</p>	<p>North York Moors Dartmoor</p>

			NE Lincolnshire North Lincolnshire Blackpool Blackburn with Darwen Newcastle North Tyneside Gateshead South Tyneside Sunderland		
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