

Luton and South Bedfordshire Joint Committee Sub-Committee Meeting Date: 12 October 2011	
AUTHOR	Lachlan Robertson
SUBJECT	Report on the options for future co-operative working on plan-making between Central Bedfordshire Council and Luton Borough Council
PURPOSES	To provide an initial background report on future liaison on plan-making to prompt discussion by the sub-committee.
RECOMMENDATIONS	None
REASON FOR RECOMMENDATIONS	This report provides background information for discussion purposes only. Members may wish to commission further, more detailed reports if required.

1 BACKGROUND

- 1.1 The Luton and South Bedfordshire Joint Committee sought the withdrawal of the Core Strategy from Examination, on the 29nd of July 2011. This was confirmed by the Secretary of State on the 9th of September 2011.
- 1.2 After the formal meeting, many Members of the Joint Committee, other Councillors and Officers held an informal meeting to discuss matters arising from that decision. It was informally agreed that the Joint Committee would continue for the time being and that a discussion would take place by the sub-committee on the future of co-operative endeavours by both Councils on future plan-making.
- 1.3 The progress of the Government's Localism Bill through Parliament is directly relevant to this discussion. There is a prospect that a new "duty to co-operate" in plan-making will be enacted by the end of November 2011. It will be important for Members to consider the implications of this new statutory duty.
- 1.4 In addition, the draft National Planning Policy Framework is currently in consultation and it includes specific references to the duty to co-operate that will be taken into account in considering any new planning policy documents that are taken forward by both Councils.

1.5 Finally, this report speculates on the level of co-operative working at a technical level that would be of most benefit to both Councils in the preparation of their separate new Plans.

2 THE LOCALISM ACT, THE NPPF AND THE “DUTY TO CO-OPERATE”

2.1 The new clause 98 which sets out the duty to co-operate in the Localism Bill is currently in flux and the final wording is not yet settled. However, the main elements of the duty are widely known and unlikely to change:

- That Councils will be expected to demonstrate that they have co-operated on cross-boundary issues where relevant to their respective Plans. This is currently expressed as a duty; *“to engage constructively, actively and on an on-going basis...”*.
- That Councils; “must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.”

2.2 That guidance is to be found in paras. 44-47 of the draft National Planning Policy Framework. It suggests that the duty to co-operate:

- Should be ‘diligently undertaken’ for the mutual benefit of neighbouring authorities;
- Should include collaboration with ‘other bodies’ to ensure strategic priorities across local boundaries are properly co-ordinated and clearly reflected in Local Plans;
- Should take account of different geographical areas including travel-to-work areas;
- Should enable delivery of sustainable economic growth in consultation with Local Enterprise Partnerships;
- Will need to evidence when Local Plans are submitted for Public Examination;
- Could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy;
- Should be a continuous process of thinking from initial engagement to implementation;

- Should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas.
- 2.3 Councils will be able to present a “sound” Plan where there is evidence of such co-operation. What however is unknown at this stage is the degree to which co-operation is required, what the sanctions might be if it doesn’t occur and what would occur if there were genuine and supported-by-evidence policy differences between adjoining authorities.

3 TECHNICAL EVIDENCE GATHERING

- 3.1 One area where local planning authorities could work together in plan-making is to undertake joint evidence gathering. Of course, each study, report or technical assessment that has cross-boundary implications will have its own unique features that determine how two or more Councils may co-operate together on its production. Therefore, for the sake of simplifying the discussion, three “types” of co-operation on technical matters are presented here.

Level 1: A jointly commissioned study with shared funding that covers both CBC and LBC areas. It may also include other Local Authorities.

Level 2: Co-operative working at a technical level but resulting in separate published studies.

Level 3: Liaison and consultation to share methodologies, data and experience.

- 3.2 Until such time as both authorities present their intentions on future plan-making to the Joint Committee’s sub-committee, it is not possible to be precise on which studies would require what level of co-operation. However, it can be anticipated that the following work could be delivered with some level of co-operation between the two planning authorities:

1. A Strategic Housing Market Assessment Update (Level 2 study or Level 3)
2. A Business Needs and/or Market Review (Level 1)
3. A Strategic Housing Land Availability Assessment co-ordinated fully with an Economic Development Land Review. (Level 3)
4. Retail and Leisure Assessments (Level 2)
5. An Infrastructure Assessment (Possibly a Level 1 study if agreed between the Authorities, Level 2 otherwise.)
6. A Sustainability Appraisal (Level 3)
7. A Strategic Flood Risk Assessment (Level 1)

- 3.3 It will be necessary to provide suitable “governance” and funding of this co-operative work, and this will require further discussion by the sub-committee.
- 3.4 Clearly there are many other issues that will require discussion such as the timing of the preparation of new Plans, the service level agreements that will be required between local authorities, the co-operative management of joint work and the harmonisation of resulting policy should that be required.

4 FINANCIAL IMPLICATIONS

- 4.1 The production of the technical studies and the operation of joint working will incur an administrative cost and capital costs of any externally commissioned work.

5. LEGAL IMPLICATIONS

- 5.1 There are legal implications arising directly from this report in that there may be a need to undertake formal arrangements to comply with the duty to co-operate as set out in any final Localism Act 2011.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no equalities implications as all processes will still be subject to normal equalities impacts assessments.

BACKGROUND DOCUMENTS

Localism Bill as placed before Parliament, summer 2011
National Planning Policy Framework, Consultation Draft - August – October 2011.