

## REPORT TO CABINET

<b>Open/Exempt</b>		Would any decisions proposed :		
<b>Any especially affected Wards</b>	Mandatory/	Be entirely within Cabinet's powers to decide		YES/NO
	Discretionary /	Need to be recommendations to Council		YES/NO
	Operational	Is it a Key Decision		YES
None, all wards affected.				
Lead Member: Cllr V Spikings E-mail: cllr.vivienne.spikings@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr N Daubney, Cllr B Long		
		Other Members consulted:		
Lead Officer: Alan Gomm E-mail: alan.gomm@west-norfolk.gov.uk Direct Dial:01553 616237		Other Officers consulted: Chief Executive and Management Team		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO

Date of meeting: 31 March 2015

### **1 STRATEGIC PLANNING ISSUES – POTENTIAL ‘DUTY TO CO-OPERATE’ ARRANGEMENTS FOR NORFOLK**

#### **Summary**

1. Duty to Cooperate is an important element of Local Plan making. There are examples where Plans have been withdrawn or have failed their examination because the approach has not been adequate.
2. The Borough Council does continue to cooperate with relevant organisations, but the approach needs to be formalised to minimise risks.
3. The proposed Non-Statutory Shared Strategic Framework for Norfolk will formalise the county's approach to the Duty to Cooperate. It is a format that has been used elsewhere in the region with success in examinations of Local Plans.
4. This framework will set out agreed approaches to common cross boundary issues across the county (such as housing, jobs, transport and water which is necessary to meet the National Planning Policy Framework (NPPF) requirement to promote sustainable development and to assist economic growth whilst providing for environmental protection) for the Local Planning Authorities to seek to address in their Local Plans.
5. There will be an element of staff time and monetary contribution to produce the framework.

#### **Recommendation**

It is recommended that Cabinet agree that:

1. The Borough Council is part of a shared non-statutory strategic

framework in respect of the 'duty to co-operate'

2. In principle Option 3 represents the most appropriate mechanism in the circumstances
3. An Officer steering group and employed project management plus limited consultancy is the most appropriate delivery model
4. A commitment is given to a budget of approximately £25k over two financial years.
5. The terms of reference for the Member Duty to Cooperate Group are agreed.

### **Reason for Decision**

Formal cooperation on Planning Policy matters with councils in Norfolk through a non-statutory strategic framework would assist in discharging the duty to co-operate requirements as well as potentially lead to efficiency savings in commissioning a joint evidence base.

## **1. Background**

1.1 The duty to cooperate (DTC) was created in the Localism Act 2011, and amends the Planning and Compulsory Purchase Act 2004. 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 to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters.

1.2 The duty to cooperate is not a duty to agree, however, local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination.

1.3 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. There have recently been a large number of local plans nationally which have been stalled or halted, at great expense, by failure to address duty to cooperate requirements.

1.4 The Localism Act states that relevant bodies must '*...engage constructively, actively and on an ongoing basis...*'

1.5 This report sets out the proposed approach to meet this requirement with the Councils in Norfolk.

## **2. Duty to Co-operate activity to date**

2.1 The Borough Council continues to cooperate in the following ways:

- a) Duty to co-operate workshops set up with county and neighbouring councils
- b) Regular attendance at Norfolk Strategic Planning Officers Group
- c) Regular attendance at Norfolk Duty to Co-operate (DTC) Member Forum
- d) Involvement in Gypsy and Traveller Accommodation Assessments.
- e) Commissioning of joint work/evidence base

- f) Development of joint approaches to specific locations e.g. Wisbech Fringe in Fenland
- g) Working with Natural England and others to ensure protection for Stone Curlews for The Brecks area

### **3. Formalising the approach to the Duty to Cooperate**

3.1 The DTC Member Forum at their meeting on 14 January 2015 considered five different approaches to formalising duty to cooperate in Norfolk. These were:

1. Informal cooperation (i.e. continue the current approach)
2. Structured cooperation through a memorandum of understanding
3. Formal cooperation through a shared non-statutory strategic framework
4. A statutory joint strategic plan
5. A statutory single local plan.

3.3 The DTC Member Forum agreed the position that Norfolk Local Planning Authorities should consider and endorse option 3 - formal cooperation through a shared non-statutory strategic framework. It was considered that options 1 and 2 were less effective and options 4 and 5 were potentially constraining of a local approach to decision making and would be unwieldy to produce and manage.

3.4 The formal cooperation route through a shared non-statutory strategic framework has a number of positive features:

- The approach is used in Cambridgeshire
- It has been used successfully in some examinations of Local Plans in that area
- Will involve the production of a document which covers some cross boundary issues such as housing, flooding and green infrastructure
- Has the objective of each Local Planning Authority seeking to address the cross boundary issues as set out in the framework in their Local Plans
- It is a non-statutory framework and does not need to be examined by the Planning Inspectorate
- Would require a small team to manage the production of the framework
- Will enable joint evidence base commissioning which could result in cost savings in the long term
- Will consider the issue of housing allocations around the county. The approach will provide evidence for each local plan through which the housing numbers in individual areas could be formalised
- Will have a governance structure in place which should help to address any potential differences in views on issues of cooperation.

3.5 Following the DTC Member Group Forum, officers were asked to produce a further detailed paper which address; governance structure; Officer involvement; and resources and budget. This was agreed (with minor changes) by the Member Forum on 16 March. The agreed paper (incorporating the minor changes) is attached at Appendix 1.

### **4. Issues and co-operation beyond the county boundary**

4.1 The approach discussed in this paper covers the Councils in Norfolk only. Co-operating with adjacent County / District Councils is of great importance to the Borough Council as well. Indeed, Norfolk districts which border Suffolk / Cambridgeshire and

Lincolnshire need to cooperate with them as well. It is not envisaged that a similar mechanism will be necessary for these areas.

4.2 The Norfolk DTC Member Group is aware of the requirement to cooperate beyond Norfolk and that is something to be considered as the plans for producing the framework are worked up in detail initial discussions have already taken place with Suffolk authorities, and we have a working relationship to Cambridgeshire as well.

## 5. Conclusion

- The 'Duty to Cooperate' is an important element of Local Plan making, and is a legal requirement. There are examples where Plans have been withdrawn or have failed their examination because the approach has not been adequate.
- The proposed Non-Statutory Shared Strategic Framework for Norfolk will formalise the county's approach to the Duty to Cooperate. It is a format that has been used elsewhere in the region with success in examinations of Local Plans.
- This framework will set out agreed approaches to common cross boundary issues across the county for the Local Planning Authorities to seek to address in their Local Plans.
- There will be an element of staff and monetary contribution to produce the framework.
- It is recommended that Cabinet agree to the Borough Council being part of the formal cooperation through a shared non-statutory strategic framework, with the arrangements as set out in Appendix 1.
- The Member Forum on 16 March agreed the recommendation that individual authorities:
  1. Endorse that the Strategic Framework should in the first instance focus on those areas identified in Table 1 and be produced using a structure outlined in Table 2 and the timetable outline in paras 3.8-11;
  2. Recommend that each authority formally agrees to participate in the preparation of the framework and agree to contribute up to a maximum of £15,000 in 2015/16 and £10,000 in 16/17 (per district/borough/city. Broads Authority 50% of this, Norfolk County Council 200%) to cover the anticipated costs;
  3. Write formally to the LEP and the all Suffolk authorities to request confirmation of whether or not they wish to participate in preparation of the framework and whether they are prepared to share costs.
- The framework was considered by the Chief Executives Group in early February, and was broadly welcomed subject to enhanced linkages to existing pan – Norfolk groups.

## 6. Options Considered

6.1 Five options were considered as above at 3.1 – 3.3, and refined to Option 3 as presented above.

## 7. Policy Implications

7.1 The Framework proposed is *not* intended as a policy document, it is there to provide evidence for Local Plan Examinations that co-operation has taken place appropriately.

So, in that sense there are no policy implications, those decisions about the local policy for the Borough area continue to be taken at the local area.

## **8. Financial Implications**

8.1 The above costs would mean under a conservative scenario of the work being financed solely by the planning authorities across Norfolk the costs faced by each district authority should be a maximum of £15,000 each in the next financial year (2015/16) with no more £10,000 each in the following financial year, assuming there is no separate decision to commission further work. (It was recommended that the Broads Authority would pay 50% of the district level, and Norfolk County Council 2005 of this.)

8.2 These costs can be met from the broader Local Plan reserve for these two years.

## **9 Personnel Implications**

9.1 None specifically arising from this report.

## **10 Statutory Considerations**

10.1 The 'duty to cooperate' (DTC) was created in the Localism Act 2011, and amends the Planning and Compulsory Purchase Act 2004. 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 to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters.

## **11 Equality Impact Assessment (EIA)**

11.1 None arising from this report.

## **12 Risk Management Implications**

12.1 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. There have recently been a large number of local plans nationally which have been stalled or halted, at great expense, by failure to address duty to cooperate requirements.

## **13 Declarations of Interest / Dispensations Granted**

### **Background Papers**

None

APPENDIX 1 Discussion paper from Duty to Co-operate Member Forum

APPENDIX 2 Terms of Reference for the Duty to Co-operate Member Forum

### Norfolk Duty to Cooperate Member Forum – March 2015

### Non Statutory Strategic Framework – Content and Process

#### 1. Purpose of report

1.1 The purpose of this report is to take forward the recommendations agreed when the Forum met on 14<sup>th</sup> January to consider options for how to discharge the duty to co-operate on an on-going basis. The Forum agreed to:

1. Endorse the principle of option 3 - formal cooperation through preparation of a shared non-statutory strategic framework.
2. Recommend that each constituent authority agrees formally to take forward option 3 at its earliest convenience subject to later agreement of:
  - A) Amended terms of reference for the member Duty to Cooperate Forum;
  - B) Appropriate officer and member working arrangements; and
  - C) Budget and timetable to support preparation of the shared non-statutory framework.
3. Instruct officers to prepare detailed reports on matters 2 A-C for consideration at the next member Duty to Cooperate Forum meeting.

1.2 Individual endorsement by each authority of option 3 is still ongoing. At the time of writing no authority has refused to endorse what was agreed at the last meeting. A verbal update will be given to the meeting on progress. This report seeks to address recommendation 3 and in particular 2B and C.

1.3 The NPPF states (paragraph 181) that *“Local planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position”*. It also should be recognised that joint working on strategic planning issues can also lead to improved outcomes for Councils in terms of resource efficiency and delivery of sustainable growth.

1.4 In the light of the NPPF and the previous agreement this report seeks to identify a preferred approach on how best to prepare a non-statutory Strategic Framework. In order to consider the process for preparation of the framework it has been necessary to consider the possible content of the framework. To some extent this is an iterative exercise. If the Forum decides to address a more comprehensive range of issues thoroughly in the framework this will have implications for the working arrangements, budget and timetable. In practice there are a multiplicity of options that could be taken but discussion amongst the officers has resulted in a single recommended preferred approach being proposed for discussion.

1.5 Revised Terms of Reference for the Forum have been prepared (separate report) in the expectation that agreement will be reached in relation to the preparation of a framework document. These may require further amendment after this meeting, following which they will be recommended to member authorities for approval.

## 2 Purpose, Scope, and Content of the Framework

2.1 A Framework document is not a statutory development plan and it will not include development plan policies or be subject to independent examination. Unlike the formal plan making process a non-statutory framework document is not subject to any specific regulatory requirements and it need not be subject to public consultation or sustainability appraisal although there is nothing to preclude these being done. The content of the Framework and the process for its preparation are matters for the Councils to collectively decide. The Framework is intended to guide and inform the preparation of individual Local Plans and ensure that strategic land use issues of cross boundary significance are properly addressed.

2.2 The NPPF states (paragraphs 156 and 162) that Local Plans should include strategic policies, and LPAs should work with other authorities and providers to meet forecast demands and deliver:

- homes and jobs;
- retail, leisure and other commercial development;
- infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management;
- minerals and energy (including heat);
- health, security, community and cultural infrastructure and other local facilities;
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape;
- nationally significant infrastructure.

2.3 As a guide this list is indicative of the type of subject areas (derived from the social, economic and environmental components of sustainable development) where there is an expectation that a co-operative approach *may* be desirable. At an early stage a decision needs to be reached about which of these raise genuinely strategic issues *and* are likely to have cross boundary implications, which would necessitate, or be best addressed, via a co-operative approach.

It is not necessary for *all* cross boundary issues to be addressed in a strategic framework document; for example, depending on the issue it might be equally appropriate for authorities to produce bi lateral agreements (memorandums of understanding or similar) or to separately evidence how a co-operative approach has been taken. Whilst the Framework is initially intended to be prepared on behalf of the Norfolk planning authorities it will need to demonstrate how issues of cross boundary significance beyond Norfolk are being considered.

2.4 Table 1 below outlines those issues which: officers consider are most likely to raise strategically important cross boundary considerations and where a co-operative approach would therefore be helpful; and identifies the key evidence that will be required to understand and address the issue and suggests how this might be prepared. This should not be regarded as an exhaustive list and the final content of the document must be kept under review as evidence is prepared. The aim would be that the resulting

Framework would provide a set of agreed *objectives* which would influence the subsequent spatial distribution of growth in the next round of Local Plans.

**Table 1. Potential Content of Framework Document**

Topic Area	Framework to address	Evidence needed to support	Preparation process
<b>Spatial Vision</b>	<p>What is the overall spatial vision for the area (to include Norfolk, adjacent counties and the wider region as necessary) and to identify and describe the key drivers and constraints in relation to growth. To include a spatial portrait and overall direction of travel addressing:</p> <p>Quality of life; response to challenge of climate change; key headlines in terms of what is being aimed for in relation to role of settlements and key growth locations. Summary of impacts of broad population, economic, environmental, social trends and implications of known national and local policies. To have a longer term vision – will need to look beyond 2036.</p>	<p>Mainly drawn from review of local and national policy documents and further evidence sources referred to below plus census and ONS/CLG projections of population and households. Climate change and coastal changes. May be a need to commission some further work to fill any gaps or interpret evidence.</p>	<p>Initially prepared by existing Strategic Planning Officer Group to identify any information gaps and revised as Framework preparation progresses and additional evidence becomes available.</p>
<b>Homes</b>	<p>What is the overall quantity of homes to be provided between 2016 and 2036?</p> <p>What is the proposed distribution of housing growth between District</p>	<p>SHMA – assessment of objectively assessed housing need and demand factors.</p> <p>Housing Growth Strategy. SHMAs</p>	<p>Five District SHMA nearing completion. Possible reconciliation/consistency checking if others' SHMAs are within area of Framework.</p>

	<p>Council administrative Areas? If there are constraints to growth how could these be addressed?</p> <p>Information on types and tenures including possible shared approaches to meeting affordable needs?</p>	<p>and other evidence to be drawn together to derive an agreed Housing Growth Strategy.</p> <p>SHLAAs – Assessment of ‘unconstrained’ housing capacity.</p> <p>Constrained Capacity–Need to consider and address other capacity/constraint considerations not covered in SHLAAs.</p>	<p>SHLAAs to be completed to a consistent methodology and open to mutual scrutiny and challenge across the entire area covered by the Framework. Work to be undertaken by relevant LPA staff to an agreed timeframe (<i>with consultant support if necessary/appropriate?</i>).</p>
<b>Economic Development</b>	<p>Demonstrate understanding of the strengths and weaknesses of the local economy, likely growth areas, patterns of distribution and inter-relationships. Reference to the SEP and investment/economic strategies.</p> <p>Identification of indicative job growth targets and land supply implications/spatial implications for planning policy.</p>	<p>Employment Growth Study.</p> <p>Further runs of EEFM.</p>	<p>Externally commission via consultancy to a brief produced involving County Council(s) and LEP.</p> <p>County Council to arrange EEFM runs (possibly to inform above study).</p>
<b>Infrastructure</b>	<p>Are there any key infrastructure constraints or opportunities (physical, social and/or environmental) which are likely to impede growth or influence its</p>	<p>Analysis of current evidence base to identify possible constraints and opportunities, and whether further work is necessary to inform high level strategy.</p>	<p>To be produced by officers working with staff from key agencies such as EA and NE.</p>

	<p>distribution <i>at a strategic scale</i>?</p> <p>To address transport infrastructure (road, rail and other sustainable modes), green infrastructure, water issues (both supply and disposal), and flooding.</p> <p>Potential to include high level statement in relation to other physical and social infrastructure approach – health, education, broadband etc if significant and cross boundary.</p>		
<b>Delivery</b>	<p>Is the development market in the area likely to be sufficiently strong to support delivery of the growth needs identified in a sustainable manner?</p> <p>Is any further stimulus necessary to deliver?</p>	<p>High level market forces/viability assessment focussing on issues associated with strategic scale growth proposals as opposed to more dispersed/smaller scale development.</p>	<p>Externally commissioned</p>

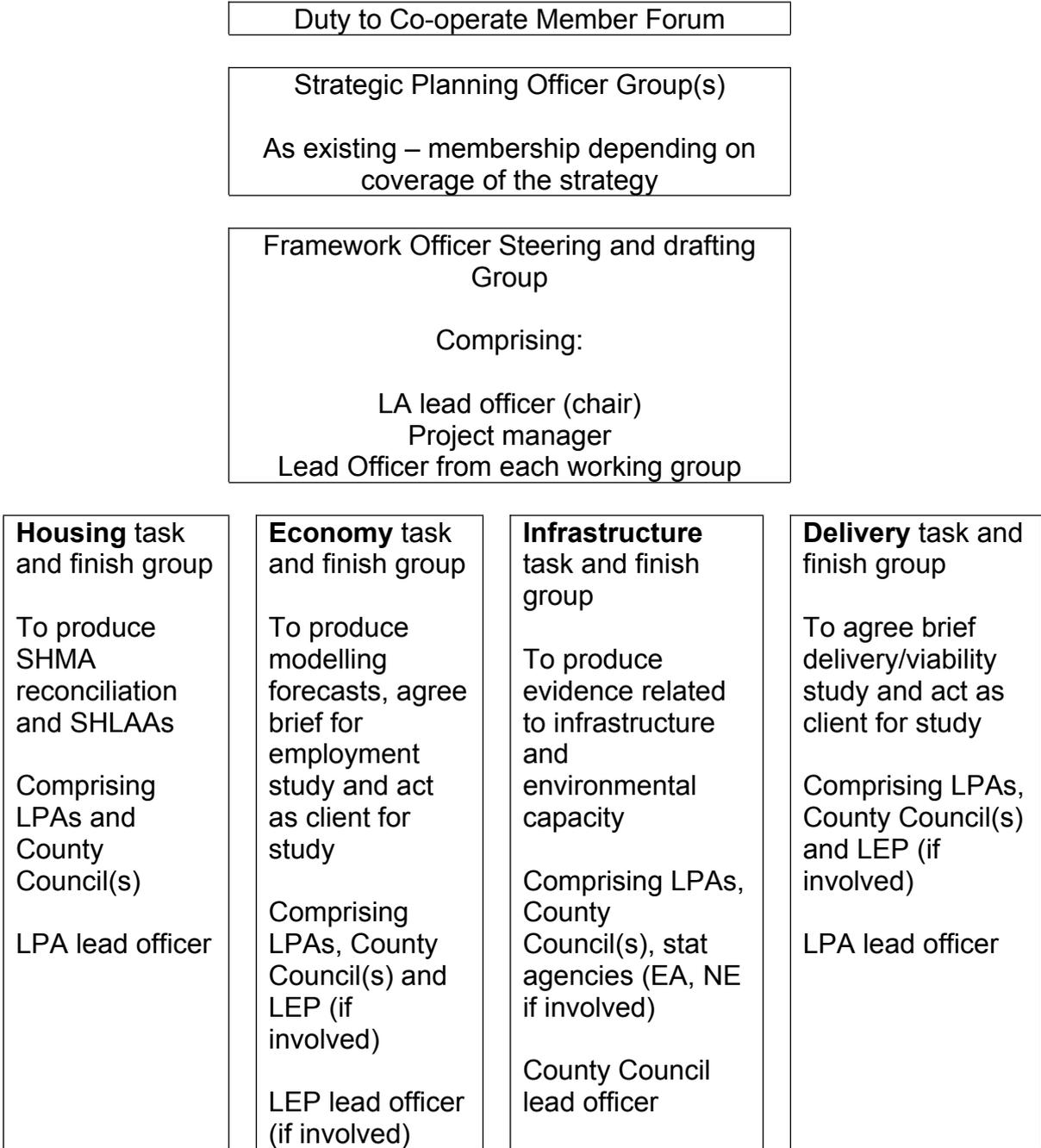
2.5 There are a wide range of other topic areas where cross boundary issues may arise as Plan preparation proceeds but at this stage it is considered that the Framework should focus on those issues which are likely to influence the broad spatial distribution of growth.

### 3. Preparing a Framework - Process

3.1 Given the relatively focussed content of the framework listed above and the financial constraints on local authorities the option of seeking to recruit a new planning resource to lead the work is not favoured. The view was taken that existing local authority staff were likely to be best placed to draft the Framework itself from the evidence base available and a small number of commissioned studies. External work will only be commissioned where absolutely necessary and the initial expectation was that this may only be required in relation to employment and viability/delivery studies.

- 3.2 This would mean that the financial contribution needed for the work would be minimised but there would be a significant resource required in terms of officer time. There is currently little spare capacity within the policy teams of the partner authorities as a number are heavily engaged in finalising local plan documents although this situation has the prospect of easing over time as plans are adopted. Some of the work that will be required could be regarded as 'mainstream activities' such as the preparation of Strategic Land Availability Assessments and will just require re-phasing of existing local plan work programmes to deliver what is necessary in accordance with an agreed timetable.
- 3.3 Experience from working on Local Plans in the Greater Norwich area suggests that joint working of local authority staff can be highly efficient and effective but that in order to be successful it requires a level of dedicated project management and administrative support to ensure that appropriate responsibilities are assigned, meetings organised, progress reports prepared, external consultancy commissioned and remedial action taken where milestones are missed. This will be required to support a series of task and finish working groups to do the work needed. A possible structure in relation to the member forum is illustrated in Table 2.
- 3.4 In order to put these structures in place a number of steps would need to be taken. Due to the time taken to recruit an early step will need to be recruitment to project manager and admin support post. The current expectation is the project manager post would only be part time (possibly 0.5fte) although having the scope to alter working hours throughout the period of employment would be an advantage. The administrative support is anticipated being full time. These staff would need to be hosted in one of the LPA offices (there would be advantages if the hosting authority was the one which provided the LPA lead officer). Another authority would need to agree to be the employing authority for the staff involved (this could be either another LPA or a County or the LEP). The employing authority would be responsible for drafting the job description, person specification and grading for the post, agreeing with the partner authorities and holding the shared budget for the production of the framework.
- 3.5 Establishing the membership of the officer groups should be more straightforward. The membership of the task and finish groups and the level of work involved will vary. All LPAs will not need to be involved in all of the task and finish groups. However, each task and finish group will need to report back regularly to the steering group and at key stages to the member forum. It is suggested that reports will be needed to the Member Forum prior to briefs being issued for external commission and on draft evidence reports before they are finalised and published.

**Table 2: Possible Structure**



**Possible Budget implications**

3.6 The budget remains uncertain at this stage. Key variables in determining this will be the coverage of the Framework (the greater the coverage the lower the cost to each authority involved), and the willingness of the partners such as the County Council(s), LEP and statutory agencies to assist with the process both in terms of the financial contribution and staff resources to assist with the work. However, the following costs have been estimated:

- Staff Project Manager £40,000pa (including on-costs, assuming 0.5fte)

- Admin support £30,000pa (including on-costs assuming 1fte)
- Economic Evidence - initial estimate c£40,000 (one off cost)
- Strategic Infrastructure and viability/deliverability – initial estimate c£30,000 (one off cost)

3.7 The above costs would mean under a conservative scenario the costs faced by each district authority should be a maximum of c£15,000 each in the next financial year (2015/16) with no more £10,000 each in the following financial year (Broads Authority 50% of this rate, and Norfolk County Council 200% of this rate), assuming there is no decision to commission further work.

### **Timetable**

3.8 Assuming the Forum is content to endorse the recommendations in this report it will take some time to gain a formal decision from each of the participating authorities about participation on the joint exercise. In practice it will be the early part of the summer before endorsement is gained (June/July 2015). This will inevitably delay the process of appointing the project manager, establishing working groups, and drafting briefs for external commissioned work. In practice it is considered that September 2015 will be the earliest post holders and lead officers will be in place and work is able to commence in earnest.

3.9 The primary research phase and production of the key evidence base is considered likely to take at least six months (complete by March 2016). Spring 2016 is likely to be a period of fairly intense work for the staff involved in the steering and drafting group to produce the first draft of the framework in the light of the Forum's reaction to the evidence base produced.

3.10 Notwithstanding the absence of any legal requirement for consultation it is suggested that the process will need to feature the ability for the public and interest groups who have not been directly involved in the process to have their say on the emerging framework. This will add at least 3 months to the preparation timetable.

3.11 Allowing for time to analyse and consider any comments received on the draft document and for engagement with each of the adopting authorities on the final content of the document the earliest possible date that the Forum may be in a position to recommend adoption of a framework to the adopting authorities is likely to be the first meeting in 2017. In order to minimise any impact of this timetable, Local Plans are likely to need to be developed in parallel (if preparation is not already underway).

### **Recommendation**

It is recommended that the forum agrees to:

1. Endorse that the Strategic Framework should in the first instance focus on those areas identified in Table 1 and be produced using a structure outlined in Table 2 and the timetable outline in paras 3.8-11;
2. Recommend that each authority formally agrees to participate in the preparation of the framework and agree to contribute up to a maximum of £15,000 in 2015/16 and £10,000 in 16/17 per district authority to cover the anticipated costs, with the Broads Authority contributing 50%, and Norfolk County Council 200%, of a district level contribution;

3. Write formally to the LEP and the all Suffolk authorities to request confirmation of whether or not they wish to participate in preparation of the framework and whether they are prepared to share costs.

Report prepared by Mark Ashwell (NNDC) and Graham Nelson (Norwich City)

### Norfolk Duty to Cooperate Member Forum – March 2015

#### Revised Terms of Reference

##### **Purpose of report**

1. To seek approval for up-dated Terms of Reference for the work of the Duty to Co-operate Members forum.
2. The Members Forum was established in 2013 in response to the Duty to Co-operate when preparing Development Plans. It has met on a roughly quarterly basis under Terms of Reference which defined its role as:
  - To discuss strategic planning issues that affect local planning authorities
  - to understand the viewpoints of other authorities
  - to consider and comment upon relevant supporting evidence base to support local plans (as appropriate)
  - to consider the need for joint or coordinated working on particular topics or evidence
3. At the Forum meeting in January 2015 it was recommended to Member Authorities that the forum steers the preparation of a non-statutory strategic framework to inform the preparation of Local Plans. Revised Terms of Reference (attached) have been prepared in the expectation that agreement will be reached in relation to the preparation of this framework document. These reflect the emerging role of the forum, reference the enabling legislation, and outline the governance arrangements. These may require further amendment after this meeting, following which they will be recommended to member authorities for approval.

##### Recommendation

It is recommended that the Forum agrees to:

Recommend to member Authorities that the attached revised Terms of Reference are agreed.

Report prepared by Mark Ashwell (NNDC, Tel 01263 516325, mark.ashwell@north-norfolk.gov.uk)

## Draft Revised Terms of Reference

### **Duty to Co-operate Members Forum**

**Terms of Reference (Jan 2015)**

#### **1. Introduction**

1.1 The Localism Act 2011 inserts section 33A into the Planning and Compulsory Purchase Act (2004) the requirement for authorities and certain public bodies to engage on key issues under a 'Duty to Cooperate' when preparing Development Plan Documents (principally Local Plans), and other Local Development Documents.

1.2 The Act states, *inter alia* that Local Planning Authorities must:

*'...engage constructively, actively and on an on-going basis in any process by means of which activities within subsection (3) are undertaken.....'*

1.3 The Duty to Cooperate is a legal test when local plans are independently examined and Local Planning Authorities will need to provide evidence to demonstrate that they have undertaken the duty. Local Plans are also examined for their overall soundness. To discharge the soundness test work undertaken under the Duty to Co-operate must be demonstrably effective, examinations to-date suggest that as a minimum this will require:

- Genuine Member level co-operation.
- A continuous process of co-operation throughout plan preparation.
- Co-operation across all cross boundary strategic issues.

1.4 Norfolk Authorities have a strong record of working together through a range of both formal and less formal mechanisms. A Strategic Planning Officer Group has been established for many years and in January 2014 a Members Forum was established with the overall purpose of ensuring that the requirements of the Duty were met. This comprised Members from each of the Norfolk District Councils and the Broads Authority together with Norfolk County Council (the 'Core Group') supported by the Norfolk Strategic Planning Officer Group and meet on a quarterly basis to progress work under the duty. Its Terms of Reference were most recently reviewed in January 2015 (these Terms).

#### **2. The Forum**

2.1 The Forum's overall purpose is to ensure that when preparing Development Plans the requirements of the Duty to Cooperate is discharged in a way which enhances the planning of strategic matters and minimises the risk of unsound Plans. It will provide the political input and steerage necessary to discharge the duty.

#### **Powers**

2.2 The Forum has agreed to meet for the purposes set out in these terms of reference to provide a vehicle for cooperation and joint working between local authorities and other parties within Norfolk and across any other area over which the duty may be applied. They will act together in accordance with their powers under sections 13, 14 and 33A of the Planning and Compulsory Purchase Act and Section 1 of the Localism Act 2011 for this purpose.

2.3 For the avoidance of doubt, the Forum cannot exercise any of the functions of a Local Planning Authority or competent authorities, such as setting formal planning policy or exerting control over planning decisions, nor can it amend any decisions made by other bodies such as the LEPs unless such powers have been expressly delegated to the Forum by one or more of its members. The Forum will recommend actions to the member authorities and others insofar as this is necessary to discharge the Duty.

### **Specific Activities**

2.4 The Forum will address matters relating to the Duty to Cooperate to comply with Section 33A of the Planning and Compulsory Purchase Act 2004. In summary it will:

- Identify spatial planning issues of strategic importance that impact on more than one local planning area across Norfolk and a wider geographical area where appropriate to do so and provide the basis for working collaboratively within, and outside, of the 'core group' across a range of organisations and geographies as might be appropriate to address cross boundary strategic issues.
- Recommend the most appropriate land use planning approach to better integration and alignment of strategic spatial planning across Norfolk and a wider geographical area where appropriate.
- Provide the evidence that the Local Authorities are working 'constructively, actively and on an ongoing basis' on strategic planning matters to support delivery of Local Plans which will be able to be assessed as 'sound'.
- With the agreement of member authorities, oversee the joint commissioning and preparation of evidence necessary to determine the most appropriate strategic spatial approach to cross boundary issues.

### **Expected Outcomes**

- The timely production and review of an *evidence base* sufficient to address cross boundary strategic land use issues, to identify where such issues arise and recommend actions to the member authorities to address them.
- The preparation and agreement of a *single non-statutory shared strategic framework* document to inform Local Plan preparation covering, as a minimum, any cross boundary strategic land use issues relating to:
  - homes and jobs;
  - retail, leisure and other commercial development;
  - infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management;
  - minerals and energy (including heat);
  - health, security, community (e.g. schools) and cultural infrastructure and other local facilities;
  - climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape;
  - nationally significant infrastructure.

- An evidenced (documented) approach to cooperation across strategic cross boundary issues at a Member level and throughout the process of Local Plan Preparation.

And, as a result of the above, a collaborative approach towards addressing strategic issues and delivering sustainable growth in Norfolk.

### **3. Governance and administrative arrangements.**

#### **Membership**

The Core Group will consist of one Member from each of Norfolk County Council, Norwich City Council, South Norfolk District Council, North Norfolk District Council, Broadland Council, Breckland District Council, the Borough Council of King's Lynn and West Norfolk, Great Yarmouth Borough Council and the Broads Authority. The membership of the group will be determined by each authority via annual nomination, preferably of the Planning Portfolio Member or equivalent for each authority. Each authority should also nominate substitutes should the nominated Member not be able to attend particular meetings.

Membership of the Core Group will be kept under review and adjusted to reflect any wider geography over which it might be determined appropriate to cooperate.

Chairmanship and vice chairmanship will be determined by the Forum and reviewed each year.

#### **Format of Meetings**

Meetings will be held in private and will comprise the appointed Members and Officers from each authority. Other members of any of the constituent authorities may attend to observe, though not participate. Others (specialists, representatives of other organisations, consultants etc) may attend and present at the meetings by invitation. An Agenda and papers will be circulated in advance of each meeting and informal action notes will be taken for internal/ member use only. (Clarity to be sought in relation to the treatment of exempt information in case such a situation should arise at some point in the future.)

#### **Public Information/website**

The agenda and a brief note of any recommendations made back to LPAs will be made public via a Duty to Cooperate web page on the NCC website.

#### **Frequency of meetings**

Initially every two months, or at intervals to be agreed, hosted in the first instance by Norfolk County Council.

#### **Secretariat**

The secretariat for the group will be provided on a rotating basis commencing with the County Council.

#### **Decision Making**

***The Forum is not a decision making body and will recommend actions to partner Authorities. It will aim to reach a consensus wherever possible. Its recommendations are not binding on the actions of any of the partners.***