

TP1

South Gloucestershire Core Strategy

**Duty to Co-operate
& Joint Working**

Topic Paper

May 2012

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1. Introduction – Aims of this Topic Paper

1.1 When the Core Strategy is adopted it will become part of South Gloucestershire's up to date development plan – setting out the strategic policy framework to manage the use and development of land in the public interest. It will guide the future land uses across the district, through a number of visions, objectives and policies. It is important that the Core Strategy, in accordance with the principles of good spatial planning, recognises and plans for the fact that South Gloucestershire has a relationship with neighbouring authorities and that the planning for and delivery of services and infrastructure cross administrative boundaries.

1.2 The aims of this topic paper are threefold:

1. To set out Council's legal interpretation of the Duty to Co-operate (DTC), as defined by section 110 of the Localism Act, which came into force from the 15th November 2011.
2. To set out the actions undertaken in accordance with the requirements of the DTC.
3. To set out the actions undertaken in accordance with the requirements of national planning policy.

1.3 The Council acknowledges and supports the views expressed by the EIP Inspector, Mr Paul Crysell that the DTC does not apply to the Core Strategy as it was submitted prior to the requirement coming into force. Legal matters are dealt with in Part 1 of this topic paper, these have been prepared by Suzanne Ornsby QC acting on behalf of South Gloucestershire Council. However, and in any event, this topic paper demonstrates that had the DTC been in effect the Council has acted consistently with it, this is dealt with in Part 2 of this topic paper. The Inspector expressed his view at the Pre-Hearing Meeting of the 17th April 2012 (Examination Library Ref: PA16) that whilst the legal tests of the DTC may not apply, he is required by the NPPF to consider how the Council has prepared the Core Strategy in co-operation with neighbouring authorities and other organisations. The Council's response to this is dealt with in Part 3 of this topic paper.

Part 1: Duty to Co-operate Legal Matters

2. Duty to Co-operate Legal Matters

The legislative framework

- 2.1 Section 110 of the Localism Act 2011 (“ the 2011 Act”) inserts a new section 33A into the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”). Section 33A came into effect on 15 November 2011. It is not retrospective.
- 2.2 Section 33A(1) and (3) of the 2004 Act impose a duty on a local planning authority to co-operate with other local planning authorities and other prescribed bodies when it undertakes certain activities, including the preparation of development plan documents, activities that can reasonably be considered to prepare the way for such preparation and activities that support such preparation so far as they relate to a strategic matter. This is to *“maximise the effectiveness of those activities”*.
- 2.3 Section 33A (4) states that a *“strategic matter”* is *“sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on a least two planning areas”*.
- 2.4 Section 33A (2) requires a local planning authority *“to engage constructively, actively and on an ongoing basis”* in respect of the activities that are subject to the duty.

The three stages of a Development Plan Document

- 2.5 The 2004 Act sets out a process comprising three stages for a Development Plan Document to go through before it becomes part of the development plan to which section 38(6) applies. These are:
 - a. Plan Preparation;
 - b. Independent examination;
 - c. Adoption.

Stage 1 Plan Preparation

- 2.6 The requirements for the preparation of development plan documents are provided for in section 19 of the 2004 Act and the Town and Country Planning (Local Development) (England) Regulations 2004 (“the 2004 Regulations”) now replaced by the Town and Country Planning (Local Planning)(England) Regulations 2012 (“the 2012 Regulations”). It is the 2012 Regulations that are now relevant and applicable. They came into effect on 6 April 2012 and revoked the 2004 Regulations. Anything done under the 2004 Regulations which is revoked is to have effect as if done under the corresponding provision in the 2012 Regulations so far as required for continuing effect.

- 2.7 Section 19 is entitled “Preparation of local development documents”. Section 19(1) requires that Development Plan Documents *“must be prepared”* in accordance with the Local Development Scheme. Section 19(2) provides the matters that a local planning authority must have regard to *“in preparing”* a development plan document. Section 19(3) requires a local planning authority to comply with its Statement of Community Involvement *“in preparing”* its local development document. Section 19(5) makes it clear that it must carry out a Sustainability Appraisal of the development plan document.
- 2.8 The section 19 requirements are all concerned with the preparation of the development plan document before it is submitted to the Secretary of State for independent examination. It is only when the process of plan preparation under section 19, together with the requirements of section 24 and regulations 25 and 27 of the 2004 Regulations have been complied with that under section 20(2)(b) the authority will *“think the document is ready for independent examination”*

Stage 2 Independent Examination

- 2.9 This stage of the process is not a preparation stage and the word *“preparation”* appears nowhere in section 20 of the 2004 Act which governs this part of the process. The purpose of this stage is for the appointed independent examiner to ensure that the submitted plan complies with the requirements of sections 19 and 24 of the 2004 Act and the 2004 Regulations (in force at the relevant time) and is sound.
- 2.10 There is no power granted to the local authority to amend the plan at the examination stage. The authority can only make suggested modifications in the light of further representations received or any comments made by the Inspector. It is for the Inspector to decide whether or not to recommend these modifications. Therefore at the examination stage it is the independent examiner who is seized of the plan and it is up to him or her to decide how to modify or progress the plan.
- 2.11 Of particular relevance is the wording of section 20(5)(c) of the 2004 Act, as amended by section 110(3) of the 2011 Act. This requires an independent examiner as part of the examination process to determine *“whether the local planning authority **complied** with any duty imposed on the authority by section 33 A in relation to its preparation”* (emphasis added). This requirement is in the past tense and can only have occurred prior to the independent examination commencing. It is only consistent with the fact of preparation having been concluded before submission of the document for independent examination. It is concerned with the past compliance of the local planning authority and it is related to the local planning authority’s preparation of the plan under section 19 of the 2004 Act not the independent examiner’s ability to modify it. There is no duty to co-operate imposed on the independent examiner during the process of examination or in respect of any modifications he or she may recommend.

Stage 3 Adoption

- 2.12 This is the final stage in the process. Section 20(7) of the 2004 Act, as amended by 112 of the 2011 Act, requires the independent examiner to recommend adoption where he considers that it is reasonable to conclude that the requirements of sections 19 and 24 of the 2004 Act and the 2004 regulations, (as applicable at the relevant time) are met, that it is sound and that the duty to co-operate where applicable has been complied with. If not he must recommend non – adoption. However if he concludes that the duty to co-operate where applicable, has been complied with and he has been asked to do so, he must make recommendations that would make the plan compliant and sound.
- 2.13 These amendments and the requirements placed on the independent examiner in respect of recommendations he can make in the light of the duty to co-operate is also consistent with the duty to co-operate applying to the preparation, pre-submission stage. In order to recommend adoption of the plan the independent examiner must be satisfied that the duty to co-operate has been complied with. If it has not then there is nothing the independent examiner can do at the examination stage to remedy that failure. This is all consistent with the duty applying prior to independent examination. In contrast to the duty to co-operate, the other matters of non-compliance are potentially capable of being remedied by the independent examiner making modifications to the plan and section 20(7)(A)-(B) recognises that. Section 23, as amended by section 112 of the 2011 Act, does not require a local authority to adopt a development plan but if it wishes to do so it must adopt it with the independent examiner 's recommendation and any other minor modifications of its own.

Application of the Legislative Framework to the South Gloucestershire Core Strategy

- 2.14 The South Gloucestershire Core Strategy was submitted by South Gloucestershire Council to the Secretary of State on 31st March 2011 for independent examination.
- 2.15 The duty to co-operate came into effect on 15th November 2011.
- 2.16 Therefore by the time the duty to co-operate came into effect the plan preparation undertaken by South Gloucestershire Council in accordance with the requirements of section 19 of the 2004 Act had already taken place and the examination process under section 20 of the 2004 Act commenced. Therefore the duty to co-operate could not and did not apply to the preparation stage of the plan undertaken at a time before the duty to co-operate existed.
- 2.17 On 29th June 2011 the inspector held an Exploratory Meeting. Following that Exploratory Meeting the Inspector, in a letter dated 15th August 2011 [PA6], concluded that further work needed to be undertaken by South Gloucestershire Council before he could continue with the examination. In a letter dated 2nd September 2011 [SG9] South Gloucestershire indicated it was willing to undertake this work and proposed a timetable for its completion. The inspector adjourned the examination for six months to enable this to be carried out.

- 2.18 The work undertaken produced the following documents:
- a. Review of BAE Systems Aviation Options Report for Filton Airfield [PS6];
 - b. Strategic Green Belt Assessment [PS7];
 - c. Supplementary Housing Paper [PS8].
- Further work was also undertaken in relation to retail matters in the light of representations received.
- 2.19 This led to the production of the following documents:
- a. The Schedule of Proposed Post Submission Changes December 2011 [PS1];
 - b. The Core Strategy Proposed Post Submission Changes December 2011 [PS2];
 - c. The Sustainability Appraisal Report incorporating Post-Submission Changes December 2011 [PS3];
 - d. Post Submission changes to the Proposals Map December 2011 [PS4];
 - e. Post Submission Engagement Statement [PS5].
- 2.20 Whilst described as “Post Submission Changes” – these documents, which are the output of the extra work required by the inspector, can only in reality be suggestions by the council to the inspector for modifications to the Core Strategy submitted to the Secretary of State for examination on 31 March 2011.
- 2.21 The duty to co-operate does not apply to these suggested modifications which do not form part of plan preparation which was undertaken in accordance with section 19 of the 2004 Act prior to independent examination.
- 2.22 This is common sense. It is appropriate for the legislation to provide a clear demarcation between when the local authority is seized of the local plan and when the inspector is for the purposes of knowing when the duty to co-operate applies. The only clear demarcation within the process is that between preparing the plan for submission under section 19 of the 2004 Act, which is completely the responsibility of the local authority, and the examination process under section 20 of the 2004 Act, which is completely the responsibility of the inspector. As part of the examination process the inspector can, if he thinks it appropriate and as he has done here, require the local authority to undertake further work so as to inform the examination process he is undertaking. This is to enable suggestions for modifications to be made by those interested in the process including the local authority. However ultimately it is a matter for the inspector to recommend which if any of the modifications put forward by the local planning authority or anyone else should form part of any adopted plan.
- 2.23 There is no prejudice to adjoining local authorities. They have been fully consulted in respect of South Gloucestershire Council’s proposed post submission changes. They can and have made submissions and representations to the examination on these proposals. In particular they can and have done so in respect of strategic matters which affect their areas. Ultimately it is a matter for the inspector as to whether or not he accepts these proposed post submission changes by way of modifications to the Core Strategy. If he does the legislation provides for a process for these to be incorporated into the Core Strategy. However at the examination stage in considering suggested changes to the core

strategy whether by the local authority or any other party the inspector is not under a duty to co-operate with adjoining local authorities and it would be wholly impractical for him to be so.

- 2.24 A mechanism is provided through the examination process for the plan to be further modified if the inspector considers that appropriate. However this is separate to the plan preparation undertaken by the authority up to the point of submission. It is also separate to the duty to co-operate.

Part 2: Compliance with the Duty to Co-operate

3. National Legislation – Duty to Co-operate

- 3.1 The Localism Act enacted on the 15th November 2011 introduced a Duty to Co-operate (DTC) (Section 110 of the Act, see Appendix 1) in relation to planning for sustainable development. The Inspector confirmed in his letter of 1st February 2012 (Examination Library Ref: SG15) that the ‘duty to co-operate’ (DTC) does not apply to the South Gloucestershire Core Strategy because it was submitted for examination prior to the 15th November 2011 when the provision came into force. The Inspector reconfirmed his view at the Pre-Hearing Meeting of the 17th April 2012 (Examination Library Ref: PA16). Notwithstanding that, this statement demonstrates how actions taken by the Council since the 15th November are consistent with the DTC.
- 3.2 Section 110 of the Localism Act is replicated in full within Appendix 1 of this statement and its application in respect of the Core Strategy is dealt with in Part 1 of this topic paper. In summary the DTC requires a Local Planning Authority (LPA) to undertake the following:

Co-operate with other LPA, County Councils and bodies or other persons that is prescribed or of a prescribed description. In order to maximise the effectiveness with which the preparation of planning policy is undertaken where they relate to a strategic matter.

Strategic Matters are described as:

“...sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas,...”.

The DTC requires a LPA to engage “constructively, actively and on an ongoing basis” and to “have regard to activities” of a body, or other person, that is prescribed or of a prescribed description.

The engagement required includes, in particular-

(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities set out above, and

(b) if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

- 3.3 To put this simply the DTC requires this Local Planning Authority to do the following:
- Engage constructively, actively and on an ongoing basis with neighbouring LPA and bodies or other persons that is prescribed or of a prescribed description , where
 - Sustainable development will affect two (or more) LPA areas, when
 - Preparing development plan documents and other local plan documents.
- 3.4 Prescribed persons and bodies are defined by the Town and Country Planning (Local Planning) (England) Regulation 2012¹ (see Appendix 2). Those applicable to South Gloucestershire as at April 2012 are:
- (a) The Environmental Agency
 - (b) English Heritage
 - (c) Natural England
 - (d) N/A
 - (e) The Civil Aviation Authority
 - (f) The Homes and Communities Agency
 - (g) Each Primary Care Trust
 - (h) The Office of Rail Regulation
 - (i) N/A
 - (j) Each Integrated Transport Authority
 - (k) Each Highway Authority
 - (l) The Marine Management Organisation.
- 3.5 The Duty to Co-operate relates to the ‘preparation’ stage of development plan documents. The preparation stage of the Core Strategy took place from 2007-2009, with submission taking place in March 2011. The Core Strategy EIP Inspector in his letter of the 1st February 2012 (Examination Library Ref: SG15) to the Council confirmed that the DTC does not apply to the Core Strategy because it was submitted for examination prior to 15th November 2011 when the provision came into force.
- 3.6 However, and in any event, this topic paper demonstrates that had the DTC been in effect the Council has acted consistently with that Duty.

¹ <http://www.legislation.gov.uk/ukxi/2012/767/contents/made>

4. **Actions undertaken in relation to “Strategic Matters”**

4.1 There have been three “strategic matters” which have been addressed in the work undertaken by the Local Planning Authority (LPA) under the direction of the Inspector. These main modifications to the plan, following submission in March 2011, have arisen as a result of requests made by the Inspector, the need for South Gloucestershire Council to respond to changing circumstances and the Government's planning reforms. These strategic matters have been incorporated into the December 2011 Post Submission Change version of the Core Strategy, these relate to:

- **Filton Airfield – inclusion within the Cribbs/Patchway New Neighbourhood policy area**
- **Cribbs Causeway Retail Area**
- **Oldbury on Severn – Nuclear Power Station**

4.2 Matters relating to the Green Belt and Housing have been covered in separate responses to the Inspector. The Council's position remains that it has correctly identified the strategic housing requirement through objectively assessing the need for housing, taking account of and balancing all appropriate and relevant considerations. Moreover, it is noted that no neighbouring local planning authority has identified a shortfall in housing provision that it would require South Gloucestershire to meet.

4.3 In the section below information is provided which details why these matters are strategic in accordance with the definition outlined in the DTC and how the requirements of the DTC has been addressed for each of the three areas. The following structure has been used:

- Why is this a “strategic matter”?
- What engagement has been undertaken “constructively, actively and on an ongoing basis” to date?

4.4 The bodies, or other persons that are prescribed or of a prescribed description are defined by the Town and Country Planning (Local Planning) (England) Regulation 2012, came into force on the 6th April 2012. This bodies or persons are listed in paragraph 3.4 above. There is one additional body, (h) The Office for Rail Regulation that the Council has not previously engaged with as it was not required to do so. In respect of (g) there has not been prior to the 6th April 2012 a requirement to consult with Primary Care Trusts (PCT) outside the Local Planning Authority area; however in addition to the South Gloucestershire PCT the Council has also consulted the Bristol PCT. In respect of all other bodies and persons that are prescribed or of a prescribed description, the Council has engaged with them all at the required stages of the Core Strategy's preparation. Where particularly relevant these are highlighted in the following section.

Filton Airfield – inclusion within the Cribbs/Patchway New Neighbourhood policy area

Why is this a “strategic matter”?

4.5 This is considered to be strategic matter because of:-

- The nature and scale of the proposed new neighbourhood
- The location of the new neighbourhood, in particular its proximity to the South Gloucestershire boundary with Bristol City.

4.6 On 14th April 2011 BAE Systems, the owners of Filton Airfield, announced their intention to close the airfield in December 2012. This site directly adjoins the neighbouring LPA of Bristol City; it amounts to 142 hectares of brownfield land at the heart of the Bristol North Fringe. The Bristol North Fringe is the northern extent of the Bristol conurbation and is a complex urban area, with major transport infrastructure, residential suburbs and supporting town and local centres, major industrial and commercial interest, large retail area and significant educational and health complexes. The Bristol North Fringe is home to around 46% of all jobs² in South Gloucestershire.

4.7 There are existing physical and social connections that will be altered and new ones established through the development of this New Neighbourhood. Important to the delivery of a sustainable new neighbourhood is ensuring the correct land uses are delivered through the plan led system and that development is accompanied by the appropriate infrastructure provision, particularly important in this regard is the transport network/infrastructure. The proposed land uses, particularly employment, and the highway connections will have an affect on two LPA, South Gloucestershire and Bristol City.

What steps have been undertaken to engage “constructively, actively and on an ongoing basis” to date?

4.8 Constructive and active engagement on the future of Filton Airfield was started prior to the 15th November 2011; this engagement is ongoing. The main areas of advertisement, consultation and engagement undertaken between March and November 2011 have been:

- Filton Airfield Position Statement Consultation, June 2011
- Filton Airfield Further Engagement, September/October 2011
- North Fringe Stakeholder Workshops, November 2011

4.9 In more detail the engagement up to and beyond the 15th November 2011 has involved the following:

² Source: South Gloucestershire AMR 2011

1. In June 2011 South Gloucestershire Council set out an initial position on Filton Airfield within the Filton Airfield Position Statement (Examination Library Ref: SG4/2). This clearly sets out how South Gloucestershire Council intended to respond to the intended closure of the airfield. This was widely and openly consulted upon; this included notifying and welcoming comment on the options presented from Bristol City Council and the prescribed bodies and persons (see para 4.4 above). The outcome of this engagement was to explain how the change in circumstances, in respect of the announcement of close the airfield, could be taken through the Core Strategy.
2. Notification provided to Bristol City Council and the prescribed bodies and persons (see para 4.4 above) of the details relating to the Exploratory Meeting held in June 2011.
3. In September 2011 the Inspector concluded that further clarity on the Core Strategy policy for Filton Airfield was needed. Notification was therefore provided to all consultees including Bristol City Council and the prescribed bodies and persons (see para 4.4 above), to highlight the Filton Airfield and North Fringe engagement programme. The engagement programme consisted of the following:
 - A. During October 2011 the Council held a series of 3 staffed exhibitions at venues within the vicinity of Filton Airfield (Cribbs Causeway Business Centre, Patchway Locality Hub and BAWA), as well as displaying the exhibition at 4 local libraries (Filton, Patchway, Southmead and Henbury) and Bradley Stoke Leisure Centre. These exhibitions gave feedback on the earlier Position Statement consultation, as well as summarising the reasons put forward by BAE Systems for closing the Airfield.
 - B. Also available at the staffed exhibitions was a report by BAE Systems summarising the options for the Airfield which have been investigated over recent years, together with a schedule of Frequently Asked Questions responding to a number of key issues and comments made by local people following the closure announcement. The BAE Systems report has been prepared following the Council's request that BAE Systems further explains and justifies its decision to close the Airfield.
 - C. In addition a Business Sector workshop was held on the 26th October 2011 to discuss the implications for the business sector of the closure. Bristol City Council attended this workshop.

This engagement programme was focused on the commercial decision of BAE Systems to close the airfield and testing whether there were other realistic alternatives. The outcome sought was that everyone would be provided with the opportunity to comment. These responses in turn provided a basis for the Council to consider all future opportunities for the airfield, so that it was able to reach a more informed decision on the policy for its future

use. Further details of this engagement programme are set out in the Post-Submission Engagement Statement (Examination Library Ref: PS5)

4. Council officers and members met with Bristol City Council planning officers and Councillors at meetings on the:
 - 4th October 2011 (officers only),
 - 1st November 2011 (officers and members)
 - 8th November 2011 (officers only)

These meetings provided the opportunity to discuss the implications of the closure of Filton Airfield. Bristol City Council planning officers and Councillors were also invited to attend the North Fringe master planning workshop event held in November 2011. These meetings facilitated communications and information sharing and were constructive in establishing the main areas of concern for the City Council and clarifying the Council's commitment to securing the future of the aviation sector and advanced engineering at Filton/ Patchway. Indeed, the positive outcome of this meeting is very much reflected in the final representations made by Bristol City Council (Representor number: 5128193) where they do not object in principle to the proposals for Filton Airfield, but instead emphasise the importance of an employment led redevelopment strategy. This engagement process has been important in reaching the consensus view that Bristol City Council has no in principle objection to the redevelopment of the Airfield.

5. The Council has also maintained a close working relationship with key government agencies, including the prescribed bodies and persons (see para 4.4 above). This work has involved transport modelling, with involvement of the Highways Agency, Network Rail And Bristol City Council. The importance of involving these organisations early in the preparation of the Cribbs/ Patchway New Neighbourhood is critical to delivering the Council's place shaping vision for the area. The positive outcome of these discussions is very much reflected in the final representations and supporting statements made by the Highways Agency (Representor number: 5113153), the Environment Agency (Representor number: 805601) and Network Rail (Representor number: 4606785).

6. Notification provided to Bristol City Council and the prescribed bodies and persons (see para 4.4 above) of the December 2011 Core Strategy Post Submission Change notification period. The outcome from this is that further representations have been made and passed to the Inspector for consideration during the Examination.

7. The Council is continuing its ongoing place making work by the preparation of the Cribbs / Patchway New Neighbourhood (CPNN) Supplementary Planning Document (SPD). The Council is clear that it needs to perform a civic leadership role in fostering the delivery of the CPNN in accordance with the overall vision and spatial objectives as expressed in Policy CS26. To do this will require a comprehensive approach to development. Therefore there is a clear role for a single SPD as set out in the Local Development Scheme, in

describing how the site should be developed and overall development objectives. This is being taken forward through constructive, active and ongoing engagement with Bristol City Council and the prescribed bodies and persons (see para 4.4, above). Council officers and members met with their counterparts from Bristol City Council (BCC) on the 4th May 2012 (South Gloucestershire and Bristol City Council officers only) and the 8th May 2012 (South Gloucestershire Council officer and members, and Bristol City Council members) to discuss the emerging concept diagram and SPD process.

4.10 Summary

- The future use of Filton Airfield is considered to be a strategic matter.
- South Gloucestershire Council has sought to engage widely and openly through a constructive process and on an ongoing basis on the future of Filton Airfield. This engagement has included Bristol City Council and the prescribed bodies and persons (see para 4.4, above).
- Engagement has and continues to be undertaken with key stakeholders with the objective of achieving clear and positive outcomes where this is practical and possible.
- The actions and processes undertaken by South Gloucestershire as outlined above are therefore fully consistent with the Duty to Co-operate.

Cribbs Causeway Retail Area

4.11 In relation to the duty to co-operate and the future of retailing in the Cribbs Causeway area, including at The Mall Regional Shopping Centre the following points are relevant:

- The previous regional retail work, which supported the Regional Spatial Strategy process, was prepared by retail consultants DTZ in 2006/7. However, its scope was limited and it failed to identify floorspace requirements for specific centres.
- As the strategic planning authority, the Council has to address the significant change in circumstances that now exists, namely:
 - The imminent revocation of the of regional planning tier and framework,
 - Detailed, evidentially based, representations received from the Mall, seeking certainty for future investment decisions, and
 - The Government's pro sustainable economic growth agenda, the publication of the National Planning Policy Framework (NPPF) and its presumption in favour of sustainable development.

Why is this a "strategic matter"?

4.12 This is considered to be a strategic matter because of:-

- The relationship the Mall regional shopping centre has with other centres located in other Local Planning Authority area in meeting regional need.

4.13 Retailing at Cribbs Causeway and in particular at The Mall Regional Shopping Centre has an important role within South Gloucestershire and the wider sub-region. There is an acknowledged relationship that exists between retailing locations that is prescribed by the retail hierarchy as set out in national policy. The Core Strategy needs to balance two key issues; the need to support the Mall and Cribbs Causeway's role as a major employer as part of the Council's transformational vision for Cribbs/Patchway and the need to manage the impact that further retail growth here will have on the wider retail hierarchy.

4.14 The preparation of the Core Strategy provides an opportunity to reconsider the role of The Mall within the retail hierarchy, and the appropriateness and extent of expanding retail activity in the Cribbs Causeway area. Representations submitted on behalf of The Mall, supported by evidence, have been considered by South Gloucestershire Council and careful assessment has been undertaken to establish an appropriate policy. It is important that the Core Strategy deals with this issue.

What steps have been undertaken to engage “constructively, actively and on an ongoing basis” to date?

- 4.15 In putting the Core Strategy EiP into a period of abeyance, in September 2011 the Inspector asked South Gloucestershire Council to undertake a number of tasks (Examination Library Ref: PA7). As part of this work the Council has sought to use this time to review areas of the strategy which had generated strategic objections and over which it might be possible for the gap between the Council’s position and the objector’s position to be bridged. In the case of the Mall, the inspector will be familiar with the representations made by NLP on behalf of the joint owners of the Mall, Capital Shopping Centre (CSC), PRUPIM and J T Baylis (Representor number: 3913217).
- 4.16 Accordingly in October 2011 the Council commissioned a further study for the Core Strategy evidence base. This study, was commissioned in response to objections to the Core Strategy from the owners of The Mall, Cribbs Causeway, who argued that the council had not made any assessment of or allowance for any growth in retail demand at the regional scale. The study included an impact assessment of further floorspace growth at The Mall on existing centres within its catchment area. As the closest higher order centre in another local planning authority area is Bristol City Centre, the Council recognises the importance of engaging with Bristol City Council. A meeting with Bristol City Council took place on 8th November 2011 to advise them of the study and the background to the commission.
- 4.17 The Council received the study report in December 2011 (Examination Library Ref: EB63). The assessment indicates that the greatest impact from the expansion of The Mall would be on Bristol City Centre and Weston-Super-Mare Town Centre. Therefore, prior to publishing the report, in late December 2011 the Council invited both Bristol City Council and North Somerset Council to meetings to share the findings of the report and sent them copies of the report and background documents.
- 4.18 A meeting with Bristol City Council was held on 19th January 2012. North Somerset Council did not take up the offer of a meeting at the time, although the matter was discussed in outline between senior officers at a West of England Heads of Planning meeting on 13th January 2012. It is important to note that the Local Planning Authorities of North Somerset and Bath and North East Somerset (BANES) have declined to take up our offer to meet, despite making in principle objections to the Core Strategy. The Council’s retail evidence (Examination Library Ref: EB64) demonstrates that the future expansion of The Mall is not a strategic issue effecting BANES, as potential impacts are not significant, therefore this matter is not covered by the DTC.
- 4.19 Notification was provided to Bristol City Council and the prescribed bodies and persons (see para 4.4, above) of the December 2011 Core Strategy Post Submission Change notification period. These clearly set out the changes to the Core Strategy in relation to the retail policy for the Cribbs Causeway Retail Area. The outcome from this is that further representations have been made and passed to the Inspector for consideration during the Examination.

4.20 Summary

- The Mall / Cribbs Causeway is a major asset to South Gloucestershire and it plays a significant role in the retail hierarchy and the local economy.
- There is a need to plan sustainably for this strategic asset in the context of the Government's commitments to support business and economic development.
- South Gloucestershire Council wishes to avoid any policy vacuum that may have arisen as a result of the Government's planning reforms while balancing this with recognising that planning must not be a burden to or delay economic growth.
- South Gloucestershire Council has responded proactively to the circumstances it has faced, in order to avoid further delays to the adoption of the Core Strategy and the risk from speculative planning applications.
- South Gloucestershire Council has made genuine efforts to engage with Bristol City Council and the other Local Planning Authorities (LPAs). Whilst this Council is disappointed by the responses received from other LPAs to the Post Submission Changes Core Strategy it is not surprised by them. It is therefore through the EIP process that the evidence and representations need to be assessed to determine if the Core Strategy is sound.

Oldbury on Severn – Nuclear Power Station

Why is this a “strategic matter”?

4.21 This is considered to be strategic matter because of:-

- The scale, nature and location of the project and associated infrastructure will impact upon more than one individual Local Planning Authority.

4.22 The need for a secure and affordable supply of electricity from a diverse mix of sources, including renewable, new nuclear and fossil fuels – including carbon capture and storage has been identified by the coalition government. An adequate supply of power is important in allowing any development, including sustainable development to occur. By inference therefore this development must be seen as being sustainable as it adds to the mix of low carbon energy sources of generation. The construction and operation of the new power station will have an impact on two or more Local Planning Authorities, however it is important to note that for some parts of this development South Gloucestershire Council will not be the determining body.

What steps have been taken to engage “constructively, actively and on an ongoing basis” to date?

4.23 Proposed nuclear new build at Oldbury

Whilst this is very early in the planning process and the Council currently has no information from the developer to respond to, the developer has established a Working Group of Statutory Organisations that have met to discuss matters of interest. This group includes the Local Authority and organisations such as the Environment Agency, Department for Transport, Natural England and English Heritage. Outside this working group officers have informal contacts. This demonstrates a commitment to engaging constructively, actively and on an ongoing basis.

4.24 In addition this South Gloucestershire Council is an active member of the Local Government Association (LGA) New Nuclear Authorities Group, an informal network seeking to share learning and experience, and to develop best practice in relation to nuclear new build. This includes the Somerset authorities currently responding to the Hinkley C Development Consent Order application to the Infrastructure Planning Commission (IPC).

4.25 Further mechanisms for co-operation will need to be put in place once Horizon Nuclear Power’s strategy for taking forward New Nuclear Build (NNB) at Oldbury is known. However it should be noted that Bristol City Council has stated it is opposed to nuclear development.

4.26 The outcome of this engagement process is to ensure that everyone clearly understands the processes and responsibilities so appropriate decisions can be taken.

4.27 Proposed Decommissioning of the existing nuclear power station at Oldbury and nuclear waste issues

South Gloucestershire Council officers participate in the Site Stakeholder Group for Oldbury attended by local stakeholders, but also statutory agencies such as the Nuclear Decommissioning Agency and Office of Nuclear Regulation, as well as Magnox. This provides the opportunity for discussion of issues and proposals and meets annually with the Site Stakeholder Group (SSG) for Berkeley, which includes Stroud District Council. This provides opportunity for discussion of matters of mutual interest.

4.28 South Gloucestershire Council is an active member of the LGA Nuclear Legacy group (NuLeaf), which also includes Stroud District Council and the Somerset authorities as well as other Councils from around the country and agencies such as the Nuclear Decommissioning Authority (NDA) and Office for Nuclear Regulation (ONR). Members co-operate in formulating responses to proposals and consultations, but also in promoting best practice and developing guidance notes to help inform policy development.

4.29 Hinkley C Connections Project

South Gloucestershire Council is affected by the proposed transmission line and associated development. The Council is co-operating with other authorities along the line in all aspects of this project via a formal Planning Performance Agreement (PPA) which includes Somerset County, Sedgemoor District and West Somerset Councils. North Somerset are active participants and due to sign the PPA shortly, however for Bristol City Council co-operation is at a technical officer level as they have not joined the PPA, because of their in principle objection to nuclear power.

4.30 Summary

- The Council acknowledges the potential of future nuclear energy generation is a strategic matter.
- South Gloucestershire Council wishes to continue its constructive and active engagement role in this process.
- The outcome of this engagement process is to ensure that everyone clearly understands the processes and responsibilities so appropriate decisions can be taken.

5. Future Co-operation

5.1 South Gloucestershire Council is a constituent member of the West of England's Planning, Housing and Communities Board. This board, on the 14th March 2012, reviewed the scope and arrangements for future joint working under the Duty to Co-operate (Examination Library Ref: SG18). The board considered the following potential strategic issues on which authorities may wish to carry out joint working with partners. This will be subject to further consideration by the 4UAs and the West of England Office, as part of preparing a West of England Work Programme. This is likely to focus on the following land use planning and transportation functions:

- West of England Strategic case – collate core strategy priorities, investment and infrastructure across the West of England
- Co-ordinating key aspects of core strategies – local projections, AMR preparation, CS Visioning/ statutory (5 yearly) reviews, DTC co-ordination
- Strategic Housing Market Assessment (SHMA)
- Gypsy and Traveller Assessment
- Maintaining and developing a shared evidence base/ economic intelligence function
- Waste and Minerals – monitoring future review of JWCS and potentially minerals
- Transport – work on new major scheme priorities including rapid transit network and heavy rail.
- Enterprise Zones and Enterprise Areas – co-ordinate input into LEP priorities
- Strategic liaison with key partners and stakeholders re Place agenda

5.2 There has been a period of transition following changes introduced by the Coalition Government to planning at a larger than local level. However, the Council remains committed to a robust sub-regional process of joint working and collaboration which is evidenced by the authorities' active involvement with the Planning, Housing and Communities Board and Local Economic Partnership. Firm arrangements have now been re-confirmed and the four unitary authorities are continuing to take forward the duty to co-operate.

6. Part 2: Conclusion

- 6.1 The Council recognises that the 'Duty to Co-operate' (DTC) is now enacted. The Inspector has noted that as the Core Strategy was prepared and submitted prior to the enactment of the DTC, therefore the DTC cannot apply to it. The Inspector confirmed this in his letter of 1st February 2012 (Examination Library Ref: SG15) and reconfirmed this view at the Pre-Hearing Meeting of the 17th April 2012 (Examination Library Ref: PA16)). However, and in any event, this topic paper demonstrates that had the DTC been in effect the Council has acted consistently with the DTC by the actions set out in this paper, for the following three "strategic matters". These main modifications to the plan, following submission in March 2011, have arisen as a result of requests made by the Inspector, the need for South Gloucestershire Council to respond to changing circumstances and the Governments planning reforms.
- Filton Airfield – inclusion within the Cribbs/Patchway New Neighbourhood policy area
 - Cribbs Causeway Retail Area
 - Oldbury on Severn – Nuclear Power Station
- 6.2 In taking the Core Strategy forward South Gloucestershire Council has acted consistently with the Duty to Co-operate and continues to do so.
- 6.3 The Council requests that the Inspector take these matters into consideration with regards to the representations made challenging compliance with the Duty to Co-operate and is respectfully requested to conclude that it has acted consistently with the Duty to Co-operate.

Part 3: Joint Working – Conformity with National Policy

7. Aims of Part 3

7.1 The aims of this part of the topic paper is to demonstrate how South Gloucestershire Council has and continues to work with its partners and neighbouring authorities to address spatial planning issues. The main focus for this is across the West of England (covering the following authority areas: South Gloucestershire, Bristol City, Bath and North East Somerset and North Somerset) where through a shared evidence base, plans, policies and strategies link together to create a coordinated framework for delivering sustainable development. This part of the topic paper demonstrates the following:

1. How the Core Strategy complies with national guidance for producing Local Development Frameworks during its preparation as set out in Planning Policy Statement 1, Planning Policy Statement 12, and how these actions also meet the requirements set out in the National Planning Policy Statement (NPPF), which replaces them.
2. That the Core Strategy delivers and respects a larger than local strategic planning agenda and as a result delivers an effective spatial plan.
3. That the Core Strategy has not been prepared in isolation and presents a coherent approach with neighbouring authorities, partners and agencies.

8. Conformity with National Policy

8.1 The Core Strategy was prepared between 2007 – 2009/10, this included the Issues and Options stage and the publication of Pre-submission Publication Draft, which led to the submission Core Strategy March 2011. During the preparation of the Core Strategy guidance set out in PPS1 and PPS12 applied. Planning Policy Statements (PPSs) were replaced in March 2012 with the National Planning Policy Framework (NPPF).

8.2 The draft National Planning Policy Statement was published in July 2011; at that time it was a material consideration, but one that had limited weight.

8.3 The Council recognises that it not possible to plan in isolation if the vision and objectives of the Core Strategy are to be achieved. Planning Policy Statement 1: Delivery Sustainable Development, stated that a spatial planning approach should be at the heart of sustainable development. It stated that:

Spatial planning goes beyond traditional land use planning to bring together and integrate policies for the development and use of land with other policies and programmes which influence the nature of places and how they can function. (Para 30, PPS1)

And that planning authorities should:

Seek to integrate the wide range of activities relating to development and regeneration. Plans should take full account of other relevant strategies and programmes and, where possible, be drawn up in collaboration with those responsible for them. The aim should be to co-ordinate urban and rural regeneration strategies, regional economic and housing strategies, community development and local transport plans with development plans. Planning authorities should consult closely with the bodies responsible for those strategies to ensure a coherent and consistent approach. (Para 32(iii), PPS1)

8.4 Planning Policy Statement 12: Local Spatial Planning stated that Core Strategies should show how they are deliverable in particular planning authorities should be able to demonstrate a coherence with the Core Strategies prepared by neighbouring authorities, where cross boundary issues are relevant (Para 4.45, PPS12).

8.5 The NPPF replaces the policies contained in the PPSs. In particular reference to co-operation and joint working the NPPF states the following:

157. Critically, Local Plans should:

...

- be based on co-operation with neighbouring authorities...
(NPPF, para 157)

...

Planning strategically across local boundaries

178. Public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the **strategic priorities** set out in paragraph 156. The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities.

179. Local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans. Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas – for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework. As part of this process, they should consider producing joint planning policies on strategic matters and informal strategies such as joint infrastructure and investment plans.

180. Local planning authorities should take account of different geographic areas, including travel-to-work areas. In two tier areas, county and district authorities should cooperate with each other on relevant issues. Local planning authorities should work collaboratively on strategic planning priorities to enable delivery of sustainable development in consultation with Local Enterprise Partnerships and Local Nature Partnerships. Local planning authorities should also work collaboratively with private sector bodies, utility and infrastructure providers.

181. 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. Cooperation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.

(NPPF, paras 178 - 181)

...

Examining Local Plans

...

A local planning authority should submit a plan for examination which it considers is “sound” – namely it is:

...

- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities;...

(NPPF, para 182)

- 8.6 Generally the encouragement for the production of coherent and consistent plans set out in PPSs has not changed with introduction of the NPPF, which sets out the objective of coordinating priorities across local boundaries.
- 8.7 South Gloucestershire Council supports the delivery of a coherent strategy to guide future development and address cross boundary issues. It has achieved this continually over a number of years through administrative mechanisms, joint and collaborative working in accordance with the objectives of the Local Development Framework system, as set out in Chapter 1 of the Core Strategy (paragraphs 1.14 – 1.21) and detailed in this topic paper. These actions accord with the requirements set out in national policy.
- 8.8 The Core Strategy effectively delivers the requirements of national policy through the following:
- Recognising that the authority doesn't exist in isolation and that it has a functional role with adjoining areas, in particular Bristol City.
 - Exploring and exploiting opportunities for joint working, as recommended by the CLG Plan Making Manual³.
 - Having undertaken discussions with key stakeholders and developers to ensure the Core Strategy is deliverable as required by PPS12⁴, paragraphs 4.27 and 4.28.
 - The actions undertaken in accordance with Planning Policy Statements also conform with the policies set out in the National Planning Policy Framework.
- 8.9 Sections 9 and 10 provide examples of how South Gloucestershire Council has rigorously applied effective joint working practices in accordance with national planning policies in the preparation of and the delivery of the Core Strategy. Those sections cover joint working arrangements with regards to:
- i) Partnership working in the West of the England, and
 - ii) Joint & collaborative working
- 8.10 A distinction needs to be drawn between the joint working arrangements and practices set out in sections 9 and 10, and the tightly defined requirements of the Duty to Co-operate (DTC), set out in parts 1 and 2 of this topic paper. Sections 9 and 10 address matters which are not only "strategic matters", and therefore includes joint working not covered by the DTC but are nonetheless encouraged by the national policy (previously in PPSs and now in the NPPF). The joint working set out in the sections 9 and 10, also details the actions taken prior to the DTC becoming enacted, on the 15th November 2011.

³ <http://www.pas.gov.uk/pas/core/page.do?pagelid=110068>

⁴ Planning Policy Statement 12, CLG

9. Working in Partnership across the West of England Authorities

9.1 The Unitary Authority Councils of South Gloucestershire, Bristol City, Bath and North East Somerset and North Somerset, which make up the former County of Avon area, have supported joint working since their creation in 1996. This joint working has included:

- Setting up the Joint Strategic Planning and Transportation Unit (JSPTU) to produce the Joint Replacement Structure Plan.
- Setting up the West of England Partnership as a single coherent body or voice to articulate the sub-regional position on transport, planning, waste, housing, economic competitiveness, inward investment and skills.
- The creation of the Vision for the West of England (Examination Library Ref: EB45)
- Setting up effective governance arrangements during the preparation of the Core Strategy (2007-2010) to support the role and relation with the West of England Partnership. The West of England authorities' heads of planning met on a monthly basis and at a political level there was a partnership board, to oversee and steer joint working.

9.2 The West of England Authorities continue to work together through the West of England Partnership and the West of England Local Enterprise Partnership (LEP).

10. Joint & Collaborative Working

- 10.1 This section details the joint working that was undertaken during the preparation of the Core Strategy. The purpose is to demonstrate that there is coherence to the plans, policies and strategies across the West of England. The Core Strategy has not been prepared in isolation and presents a coherent approach with neighbouring authorities, partners and agencies.

Research and Intelligence

- 10.2 The West of England authorities have a joint approach to research and intelligence, a Joint Planning Data Group meets regularly to ensure consistency, best practice and reduce duplication of effort. The West of England Partnership (WEP) officers consistently monitor information, co-ordinate sub-regional information and research and collate local data sets to provide a sub-regional analysis on specific issues.

Joint working with other agencies

- 10.3 The West of England authorities have agreed to work collaboratively with the Highways Agency and the 'Defra family' of statutory agencies on cross-boundary transport and environmental issues respectively. A Memorandum of Understanding (MoU) between the four authorities and the Highways Agency was signed in November 2009 and with the Environment Agency and Natural England in June 2011. The MoU demonstrates the joint commitment to delivering sustainable economic growth in ways which protect and enhance the environment. The MoU highlights a number of the shared outcomes of this joint working, of particular importance to plan preparation is the outcome of ensuring that environmental constraints in proposed growth areas are identified and necessary funding secured for investment in infrastructure to unlock development opportunities. This helps with demonstrating the deliverability of the Core Strategy development sites and that it is being addressed by multiple agencies. The MoU also commits that the WoE authorities will ensure early, continuous and effective engagement with the Environment Agency and Natural England in the production of the DPDs and neighbourhood plans.

Housing

- 10.4 The Council has worked with partners to create a shared housing evidence base through the West of England Housing Market Partnership. The Strategic Housing Market Assessment (SHMA, Examination Library Ref: EB15), was produced with the involvement of 6 authorities that make up the Housing Market Partnership: the four West of England Unitary Authorities, Mendip and West Wiltshire District Councils. This was published in 2009 and is a useful evidence base upon which the appropriate housing policies have been established.

New Neighbourhoods & Strategic Sites

10.5 The Council involved neighbouring authorities at consultation events on those sites and spatial areas where there are potential shared impacts relating to their future development. Bristol City Council and South Gloucestershire Council have worked together to understand and appreciate cross boundary connections, issues and objections particularly in relation to the development within the north fringe of Bristol's urban area. Infrastructure requirements, green infrastructure and transport have been areas of discussion; further details regarding these topics are set out below.

Infrastructure Investment

10.6 The West of England authorities, working closely with the Housing and Communities Agency (HCA) have prepared a West of England Delivery and Infrastructure Investment Plan (Examination Library Ref: RD22) using the HCA's 'Single conversation' business model. The Plan sets out priorities for investment in communities, homes and jobs to create:

- Sustainable places in priority areas;
- Economic prosperity for all;
- Housing for everyone through support for affordable and supported housing, for intensification and renewal in suburban, and rural and market town locations, and for capacity building and master planning.

10.7 This joint working has led a comprehensive strategy to guide future development and ensures that the objectives, issues and sites are not considered in isolation, particularly of cross boundary issues.

Infrastructure Delivery

10.8 In addition to the Single Conversation: West of England Delivery and Infrastructure Investment Plan (Examination Library Ref: RD22), the West of England Partnership commissioned a study undertaken by Roger Tym and Partners entitled 'Responding to Infrastructure Delivery and Planning Issues in the West of England' (May 2010) (Examination Library Ref: ED22/1). This was in order to establish the likely cost of the infrastructure requirement for delivering the priority development sites. This was again produced jointly for the West of England Authorities.

10.9 The preparation of the South Gloucestershire Council Infrastructure Delivery Plan (Examination Library Ref: EB22) has included the involvement of key service delivery partners, such as the PCT/NHS and Emergency Services to ensure a strategic fit between plans and strategies is established.

10.10 This joint and collaborative working has ensured that the development strategy promoted within the Core Strategy is one that is deliverable and one where cross boundary infrastructure requirements are addressed. The Core Strategy

addresses cross boundary infrastructure implications through a number of policies, CS7 relating to the delivery of strategic transport infrastructure, CS6 and the New Neighbourhood policies relating to health facilities, CS2 and the New Neighbourhood policies relating to Green Infrastructure, and the New Neighbourhood policies relating to flooding and sewerage infrastructure.

Gypsy and Travellers

- 10.11 South Gloucestershire Council together with the other West of England Authorities commissioned the production of the West of England Gypsy and Travellers Accommodation Assessment (Examination Library Refs: EB11 and EB12).
- 10.12 South Gloucestershire Council ran a follow up event to the West of England Gypsy and Traveller Accommodation Assessment in 2008. The South Gloucestershire 'Issues and Options' Gypsy and Traveller Sites DPD was promoted to a wide audience at this event. This provided members of the Gypsy and Traveller community, other stakeholders with an interest in site provision / service delivery and neighbouring authorities in the West of England the opportunity to discuss proposals with the Council, as well as any other local/regional issues relating to Gypsy/Traveller provision. In particular it provided an opportunity for those attending to understand the approach the Council was taking to meet the identified unmet need for Gypsy and Traveller accommodation. The Council held similar events in 2009 following the 'Towards Preferred Options' consultation.
- 10.13 The outcomes of this joint working; in summary, establishes the policy framework to deliver the provision requirements within South Gloucestershire as set out in Policy CS21.

Avonmouth and Severnside

- 10.14 Joint working in the Avonmouth – Severnside area goes back to the early 1990s, in response to increased developer interest as a result of improved accessibility following the construction of the Second Severn Crossing and other motorway improvements.
- 10.15 Joint working in recent years has focused on three main areas:
- Flooding and flood risk,
 - The impact of development upon international and European waterbird habitats, and
 - Transport Infrastructure.

This work has provided and ensured a better understanding of the major constraints to development that affect the Avonmouth-Severnside area and how they can be managed through the Core Strategy policy framework.

- 10.16 Joint working between Bristol City Council, South Gloucestershire Council and the Lower Severn Internal Drainage Board has resulted in the publication of the Level 2 Strategic Flood Risk Assessment (SFRA) for Avonmouth – Severnside. The Level 2 SFRA has been used to help inform decisions about the development of land and the future development potential to the area.
- 10.17 Bristol City Council, South Gloucestershire Council and Natural England commissioned a study, the Severnside & Avonmouth Wetland Habitat Project (Examination Library Ref: EB67), to assess the significance of further development at Severnside and Avonmouth on habitat losses affecting the international and European designations in the Severn Estuary. To off-set these habitat losses and to safeguard populations of waterbirds associated with the Severn Estuary Special Protection Area (SPA) and Ramsar site designations in the long term, a strategic mitigation strategy has been developed to identify land for habitat creation/enhancement.
- 10.18 Along with the increasing risk of large scale tidal flooding and habitat losses affecting the Severn Estuary ecological designations, there are also motorway connectivity and local highway network capacity issues affecting Avonmouth - Severnside. Resolving all these constraints will require substantial capital investment. Bristol City Council and South Gloucestershire Council therefore commissioned a study to identify and explore the challenges to the area's development and to identify a viable way forward that will ensure that the existing infrastructure and development in the area remains sustainable and that the area achieves its full potential. The Avonmouth Infrastructure Study (Examination Library Ref: EB68) draws on the findings of the SFRA and ecology studies to explore the key challenges of:
- Flood risk,
 - Ecology, and
 - Transport, and
- sets out opportunities for addressing these. The study also proposes an outline development strategy. Assessing the costs, benefits and value for money of the proposed strategy and identifies how it could be implemented.

Transport

- 10.19 The focus of the West of England authorities' joint working on transport has been the production of Joint Local Transport Plans, the development and implementation of the Travel + branding and Major Scheme Bids. The jointly produced Local Transport Plan (Examination Library Ref: EB47) covers the four Unitary Authority areas; its production was co-ordinated by the West of England Partnership.
- 10.20 Underpinning this was the jointly commissioned Greater Bristol Strategic Transport Study (GBSTS). The Council has worked with neighbouring authorities to ensure infrastructure requirements are understood and planned for. The jointly commissioned GBSTS sought to:
- develop a series of integrated multi-modal transport strategies, identifying, analysing and appraising solutions on the national strategic transport networks, on the local strategic transport networks and at the interface

between them, so as to improve strategic transport movements into, out of and through the study area,

- develop transport strategies that support existing economic activity, continue sustainable development and assist economic regeneration of urban areas and the wider process of urban renewal, and
- reduce the impact of transport on the environment.

- 10.21 A key outcome from the GBSTS was the Major Transport Scheme Bid, the North Fringe to Hengrove Package (NFHP). This scheme is listed in Policy CS7 and displayed on Figures 2, 3 and on the Key Diagram. The scheme primarily involves South Gloucestershire and Bristol City Councils; however the benefits of the scheme will be much more widely felt and it links with other schemes and objectives set out in the Joint Local Transport Plan. The main aims of the scheme are to link existing and new residential areas with employment and tackle current traffic and congestion issues, as well as helping to encourage investment into the area. The bid is co-ordinated by the West of England Partnership with each individual Council having responsibility for the element of the package in their area.
- 10.22 The 'Best and Final Bid' for the North Fringe to Hengrove Package [NFHP] was submitted to the Department for Transport on 9th September 2011 as one of the five West of England Major Transport Schemes; it is one of three Bus Rapid Transit [BRT] schemes for Bristol, the others being Ashton Vale - Temple Meads and the South Bristol Link.
- 10.23 In December 2011 the Department for Transport granted all five schemes 'Programme Entry', this is approval in principle subject to the authorities securing the requisite statutory powers to build and operate the schemes.
- 10.24 'Full Approval' is programmed for autumn 2013; by the Department for Transport with construction to start in winter 2013/14 and completion in winter 2016/17.
- 10.25 Additionally the four councils are currently working together on several ongoing areas of transport activity, overseen by the Joint Transport Executive Committee (JTEC), including the following:

Greater Bristol Bus Network (GBBN)

In 2008, the success of the GBBN major scheme represented a major step forward in joint working, securing £42.3m of DfT funding and a commitment from First for over £20m of investment in vehicles. This scheme is in its last year of construction and is on schedule to be completed by March 2012 and within budget.

Rail, Health and Highways Agency Memoranda of Understanding

A series of Memoranda of Understanding (MoU) have been signed aimed at promoting effective co-ordination, communication and co-operation between the four councils and key partners, the Highways Agency, rail industry and the health sector. Action Plans have been drawn up and progress regularly reported to JTEC.

Local Sustainable Transport Fund (LSTF)

The successful £5m bid for Key Component funding (July 2011) was submitted on behalf of the four authorities. This funding seeks to deliver an integrated package promoting low carbon modes of transport along key commuter routes and integrates with the Cycle City project (a joint approach to promoting cycling in Bristol and South Gloucestershire). The West of England's large LSTF project (worth an additional £25m to the £5m already received) has been short-listed for full bid submission in December 2011.

Smart Ticketing

Joint procurement of a smartcard back office and joint working with operators to develop smart ticketing

- 10.26 In summary a series of transport packages that support and enable the delivery of sustainable development have been incorporated within the Core Strategy Policy CS7. The transport packages seek to deliver cross boundary transportation objectives.

Waste

- 10.27 Since 2002, waste planners in the four unitary authorities have been working collaboratively with waste management officers, the Joint Strategic Planning and Transportation Unit and, subsequently, with the West of England Partnership. Initially this joint working focused on establishing the levels and types of waste arising within the West of England, considering how statutory targets for managing wastes could best be met, and devising a site assessment methodology,
- 10.28 Subsequently, the focus moved on to progressing a sub-regional municipal waste management strategy alongside a Joint Waste Core Strategy (JWCS), to both address residual municipal waste management and the identification of strategic sites for the management of this waste. A joint Issues and Options consultation was undertaken in 2007 before work on the two strategies continued independently. The Joint Residual Municipal Waste Management Strategy was adopted in 2008. The Joint Waste Core Strategy, which considers all waste streams and identifies sites for recovery treatment facilities, was adopted in March 2011.
- 10.29 The Joint Waste Core Strategy identifies two locations for waste recovery facilities in South Gloucestershire – a specific site at Severnside and an area of search within the industrial estates on the west side of Yate. The South Gloucestershire Core Strategy respects the policies contained within the JWCS to ensure waste planning is effective and coherent. Specifically, the Severnside chapter and Policy CS30 (Yate and Chipping Sodbury) refer to the JWCS and the potential for waste recovery facilities and, in the case of Yate, ensuring that there is no conflict between the proposals in the two Core Strategies. Additionally Policy CS1 on high quality design incorporates waste minimisation principles and recycling/composting opportunities, and CS26 (Cribbs/Patchway

New Neighbourhood) identifies the requirement for a household waste transfer/collection facility.

Minerals

- 10.30 An element of collaborative working has been undertaken between South Gloucestershire Council and North Somerset Council in respect of crushed rock aggregate. This has occurred because of the requirement for aggregate producing authorities to make an appropriate contribution to the national need for these materials. Neither Bristol City nor Bath & North East Somerset have any crushed rock aggregate resource and there is no sand and gravel aggregate resource within the sub-region.
- 10.31 The national forecast for aggregate requirements is set out in national and regional guidelines which are issued every few years. The regional guidelines are subsequently apportioned down to sub-regional level by the relevant regional aggregates working party, and, until last year, were then agreed by the appropriate regional assembly.
- 10.32 Following re-organisation within the West of England in 1996, sub-division of the sub-regional figure between mineral planning authorities was agreed through a policy in the Joint Replacement Structure Plan, following officers from the two authorities working through the sub-division with the Secretary of the South West Regional Aggregates Working Party.
- 10.33 With the new planning system, provision for the sub-regional apportionment of aggregates is now a matter for Core Strategies to address. Officers from both authorities have agreed the appropriate split of the latest sub-regional apportionment figure for the West of England⁵, and this is reflected in the Core Strategies of both authorities (Policy CS9 of the South Gloucestershire Core Strategy and Policy CS8 of the North Somerset Core Strategy).

Green Infrastructure (GI)

- 10.34 Green Infrastructure is an important strategic resource which crosses administrative boundaries. Therefore it is important that a joint approach to GI planning is undertaken. This has been achieved by setting up a shared mapping resource to establish a common baseline position and the creation of the West of England Green Infrastructure Group (WEGIG). This has ensured that GI opportunities are realised and that an enhanced and better connected network is delivered, as set out in the policies in the four West of England authorities' Local Development Frameworks.
- 10.35 The West of England authorities came together with the Forest of Avon and Natural England to prepare baseline mapping of the GI resource across the West of England, this was published as a web based resource in 2008. In 2009 an officer group with representatives from the 4 West of England Unitary Authorities, Natural England, the Environment Agency and the Forestry

⁵ Sub-Regional Apportionment of Aggregates Technical Note, March 2011

Commission formed a group known as the West of England Green Infrastructure Group (WEGIG).

- 10.36 WEGIG have shared mapping and GI related policy development throughout its existence. In 2010/11 the group produced a West of England Strategic GI Framework (Examination Library Ref: EB38/1), which provides a West of England wide set of objectives for Green Infrastructure. The group has successfully hosted a GI event; Making Connections and has supported the delivery of cross boundary GI projects, targeting projects relating to the emerging Core Strategy policy framework.
- 10.37 Joint working on GI has ensured the delivery of a common evidence base and the consideration and planning of cross boundary connections and objectives. These have been translated into Core Strategy Policy CS2 and within the Area Based Policies.

Core Strategy – Policy Development

- 10.38 South Gloucestershire Council has actively sought to work jointly with partners and neighbouring authorities in preparing all policies in the Core Strategy. This has been undertaken to ensure that there is a strategic fit between neighbouring authorities' Local Development Frameworks and partners' plans and strategies. This has involved holding consultation sessions with neighbouring authorities and partners, and seeking their responses at every stage of the Core Strategy. Details of the consultations undertaken and the responses can be found in the Regulation 30 Statements (Examination Library Ref: SD11 and SD12). This joint working has also ensured that shared issues are understood and planned for. In summary engagement has focused on:
- Delivering the necessary level of growth to address the West of England's needs.
 - Ensuring that development is supported by the necessary infrastructure, including transport, utilities and green infrastructure.
 - Setting up the policy framework for minerals extraction and dealing with waste.
 - Understanding and planning for the impacts of development across the West of England.

11. Part 3: Conclusion

11.1 The Council has worked collaboratively with its communities to bring forward the Core Strategy. As this paper demonstrates it has also worked in the way that ensures that strategic / larger than local issues have been fully explored and planned for.

11.2 The Council has worked closely with the West of England authorities, individually and through the West of England Partnership. The working practices adopted by the Council have ensured that the Core Strategy complies with the requirements of existing and emerging national planning policy requirements. This is very much reflected in the way the Core Strategy positively responds to and sets a strategic policy framework with respect to:

- Mineral and waste planning,
- Transport infrastructure,
- Managing and balancing land uses,
- Green infrastructure, and
- Addressing cross boundary issues.

12. Overall Conclusion

- 12.1 There is no legal requirement for the South Gloucestershire Core Strategy (submitted on the 31st March 2011) to address the Duty to Co-operate.
- 12.2 Had the Duty to Co-operate applied the council has acted consistently with it. The Council respectfully requests that the Inspector concludes that it has acted consistently with the Duty to Co-operate.
- 12.3 The effective joint working that took place during the preparation of the Core Strategy was extensive and consistent with the requirements set out in the NPPF and the PPSs. This effective joint working continues to take place.

Appendix 1:

Localism Act, Section 110

110 Duty to co-operate in relation to planning of sustainable development

(1) In Part 2 of the Planning and Compulsory Purchase Act 2004 (local development) after section 33 insert—

“33A Duty to co-operate in relation to planning of sustainable development

(1) Each person who is—

(a) a local planning authority,

(b) a county council in England that is not a local planning authority, or

(c) a body, or other person, that is prescribed or of a prescribed description,

must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.

(2) In particular, the duty imposed on a person by subsection (1) requires the person—

(a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and

(b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).

(3) The activities within this subsection are—

(a) the preparation of development plan documents,

(b) the preparation of other local development documents,

(c) the preparation of marine plans under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions,

(d) activities that can reasonably be considered to prepare the way for activities within any of paragraphs (a) to (c) that are, or could be, contemplated, and

(e) activities that support activities within any of paragraphs (a) to (c),

so far as relating to a strategic matter.

(4) For the purposes of subsection (3), each of the following is a “strategic matter”—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and

(b) sustainable development or use of land in a two-tier area if the development or use—

(i) is a county matter, or

(ii)has or would have a significant impact on a county matter.

(5)In subsection (4)—

- “county matter” has the meaning given by paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph 1(1)(i)),
- “planning area” means—
 - (a)
the area of—
 - (i)
a district council (including a metropolitan district council),
 - (ii)
a London borough council, or
 - (iii)
a county council in England for an area for which there is no district council, but only so far as that area is neither in a National Park nor in the Broads,
 - (b)
a National Park,
 - (c)
the Broads,
 - (d)
the English inshore region, or
 - (e)
the English offshore region, and
- “two-tier area” means an area—
 - (a)
for which there is a county council and a district council, but
 - (b)
which is not in a National Park.

(6)The engagement required of a person by subsection (2)(a) includes, in particular—

(a)considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3), and

(b)if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

(7)A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

(8)A person, or description of persons, may be prescribed for the purposes of subsection (1)(c) only if the person, or persons of that description, exercise functions for the purposes of an enactment.

(9)A person is within this subsection if the person is a body, or other person, that is prescribed or of a prescribed description.

(10)In this section—

- “the English inshore region” and “the English offshore region” have the same meaning as in the Marine and Coastal Access Act 2009, and
- “land” includes the waters within those regions and the bed and subsoil of those waters.”

(2)In section 16 of the Planning and Compulsory Purchase Act 2004 (applying Part 2 for purposes of a county council’s minerals and waste development scheme) after subsection (4) insert—

“(5)Also, subsection (3)(b) does not apply to section 33A(1)(a) and (b).”

(3)In section 20(5) of the Planning and Compulsory Purchase Act 2004 (development plan documents: purpose of independent examination) after paragraph (b) insert “; and

(c)whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation.”

Appendix 2:

The Town and Country Planning (Local Planning) (England) Regulations 2012

Duty to co-operate

4.—(1) The bodies prescribed for the purposes of section 33A(1)(c) of the Act are—

- (a) the Environment Agency;
- (b) the Historic Buildings and Monuments Commission for England (known as English Heritage);
- (c) Natural England;
- (d) the Mayor of London;
- (e) the Civil Aviation Authority⁽¹⁾;
- (f) the Homes and Communities Agency;
- (g) each Primary Care Trust established under section 18 of the National Health Service Act 2006⁽²⁾ or continued in existence by virtue of that section;
- (h) the Office of Rail Regulation⁽³⁾;
- (i) Transport for London⁽⁴⁾;
- (j) each Integrated Transport Authority⁽⁵⁾;
- (k) each highway authority within the meaning of section 1 of the Highways Act 1980⁽⁶⁾ (including the Secretary of State, where the Secretary of State is the highways authority); and
- (l) the Marine Management Organisation.

(2) The bodies prescribed for the purposes of section 33A(9) of the Act are each local enterprise partnership.

(3) In this regulation “local enterprise partnership” means a body, designated by the Secretary of State, which is established for the purpose of creating or improving the conditions for economic growth in an area.

(1) See section 2 of the Civil Aviation Act 1982(c.16).

(2) [2006 c.41](#).

(3) See section 15 of the Railways and Transport Safety Act 2003 ([c.20](#)).

(4) See section 154 of the Greater London Authority Act 1999 ([c.29](#)).

(5) See sections 77 and 78 of the Local Transport Act 2008 ([c.26](#)).

(6) [1980 c.66](#).