

Report sponsor: Don McLure, Strategic Director
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Statements of Common Ground

Purpose

- 1.1 To advise Cabinet of a new requirement under the National Planning Policy Framework for local planning authorities to prepare “Statements of Common Ground” (SCG). These will be written statements that identify key strategic planning issues, especially cross boundary matters, facing the plan and how the different local authorities involved will work together to address them. As such, they provide written evidence that the local authority has met its legal requirements under the 'Duty to Cooperate.'
- 1.2 SCGs will need to be prepared in relation to any future review of the Derby Local Plan and to the Minerals and Waste Local Plans being prepared jointly with Derbyshire County Council. The City Council is also likely to need to enter into SCG agreements with other authorities as they prepare their own local plans.
- 1.3 This report provides information on what SCGs are, how they fit into the local plan system and what they should include. A formal signature on behalf of each party signing the SCG is needed and so agreement is being sought on a proposed sign off mechanism. SCGs form part of the 'evidence base' of a local plan, but are not part of the local plan itself. As such, they do not form part of the Policy Framework. Furthermore, most SCGs are unlikely to be classed as a 'key decision'. Formal Cabinet sign off is therefore not automatically needed. It is therefore proposed that SCGs are normally signed off by the appropriate Strategic Director, in consultation with both the Joint Advisory Board and Committee which oversee preparation of local plans, and with the appropriate Cabinet Portfolio holder. Additionally, the Strategic Director of Corporate Resources will also be consulted where they have financial implications. Where it is considered by any of those parties that that the SCG should be considered by Cabinet as a whole, it will be reported to Cabinet.

Recommendations

- 2.1 To note the report and the requirement to prepare Statements of Common Ground as part of the preparation of local plans.

- 2.2 To agree that the appropriate Strategic Director, in consultation with the appropriate Joint Advisory Board or Committee Member, the Cabinet Portfolio holder and the Strategic Director of Corporate Resources where they have financial implications, will sign off Statements of Common Ground, except where one or more of these parties considers it should be reported to Cabinet. In such cases, it will be reported to Cabinet.

Reasons

- 3.1 To bring to Cabinet's attention the requirement to prepare Statements of Common Ground.
- 3.2 To enable appropriate sign off of Statements of Common Ground.

Supporting information

- 4.1 Derby City Council is the Local Planning Authority for the administrative area of the City of Derby. As such, it is responsible for preparing the Derby City Local Plan, which has been aligned with our Housing Market Area (HMA) partners of Amber Valley Borough and South Derbyshire District Councils. Part 1 of this was adopted in January 2017 and Part 2 is currently under preparation. The City Council is also responsible for preparing a Minerals and a Waste Local Plan for its area, which it is doing jointly with Derbyshire County Council.
- 4.2 There are long standing joint working arrangements for preparing these plans, including a Joint Advisory Board for the Derby Local Plan and a Joint Advisory Committee for the Joint Minerals and Waste Local Plans.
- 4.3 In drawing up their local plans, local authorities must have regard to the 'Duty to Co-operate' established by the Localism Act 2011. This requires local authorities and other prescribed public bodies to engage constructively, actively and on an ongoing basis to address strategic issues that transcend individual authorities. This might be with other local authorities or with statutory bodies such as the Environment Agency or Highways England. Issues might include how to provide for Derby's housing need in full, the importing and exporting of various minerals or dealing with different types of waste issues. If an Inspector, when examining a plan, finds that the Duty to Co-operate has not been complied with, the plan will fail and not proceed to adoption.

- 4.4 To help make the Duty to Co-operate work more effectively and be more transparent, the National Planning Policy Framework (NPPF) now requires local authorities to produce, maintain and keep up-to-date a 'Statement of Common Ground'. These are a written statement that identifies key strategic issues, especially cross boundary matters, facing the plan and how the different local authorities involved will work together to address them. They are effectively a written record of discussions parties have had to identify issues they should be co-operating on and what action they have agreed to address these under the 'Duty', as it is commonly known. They will provide evidence of where effective co-operation is and is not happening throughout the plan making process, and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries. They are not intended to be simply the minutes of meetings but rather a record of key strategic issues and what is being done to address them.
- 4.5 Statements of Common Ground are unlikely to be needed for the Local Plan Part 2 as this will not be dealing with strategic issues. However, they will be needed in respect of both the Joint Minerals and the Joint Waste Local Plans. They will also be needed in respect of any review of the current Derby Local Plan as this will address strategic issues. It is possible that each plan will need a number of Statements of Common Ground, to address different issues as they arise with different partners.

4.6 Statements of Common Ground will be expected to contain:

- a) a short written description and map showing the location and administrative areas covered by the statement and a brief justification for these area(s);
- b) the key strategic matters addressed by the statement, (for example meeting the City's housing need in full or the approach to future coal mining development in the County);
- c) the plan-making authorities responsible for joint working detailed in the statement, and a list of any additional signatories;
- d) governance arrangements for the co-operation process, including how the statement will be kept up to date;
- e) if applicable, the housing requirements in any adopted and (if known) emerging strategic policies relevant to housing within the area covered by the statement;
- f) distribution of needs in the area as agreed through the plan-making process, or the process for agreeing the distribution of need (including unmet need) across the area;
- g) a record of where agreements have (or have not) been reached on key strategic matters, including the process for reaching agreements on these; and
- h) any additional strategic matters to be addressed by the statement which have not already been addressed, including a brief description how the statement relates to any other SOCG covering all or part of the same area.

4.7 The level of co-operation detailed in the statement is expected to be proportionate to the matters being addressed. The statement is expected to be concise and is not intended to document every occasion that strategic policy-making authorities meet, consult with each other, or for example, contact prescribed bodies under duty to co-operate.

- 4.8 Some SCG, especially those between partner local authorities, will need to be revisited and refreshed on a regular basis as the plan progresses. They are likely to be fairly straight forward to start with, just setting out key areas for joint working. However, as the plan progresses, they could set out policy such as a strategic planning framework that would guide a statutory local plan or plans. For instance, criterion (f) above suggests a policy agreement of how much of the City's unmet housing need will be met by partner authorities. A Minerals SCG may agree the supply of certain levels of mineral to other Counties, whilst the Waste SCG may agree quantities of waste to be moved between local authority areas. In practice, as the preparation of SCGs is meant to be on-going, the agreement of policy and strategy within them will be developed as part of the preparation of the plan itself.
- 4.9 The City Council, either on its own or together with the County Council, HMA and other partners may need to agree an SCG with another authority, especially where that authority, or group of authorities, is preparing its own local plan that raises strategic issues that affect the City. This might include, for instance, the Core Nottingham HMA authorities.
- 4.10 In terms of sign-off arrangements, Derby City Council's Constitution suggests that agreement would be needed by the appropriate Strategic Director and Cabinet Portfolio holder. It is also proposed that agreement is sought from the appropriate political representative of the JAB or JAC given the advisory role of those bodies in plan making. In practice, this will often be the Portfolio holder in any case. Agreement will also be sought from the Strategic Director of Corporate Resources where the SCG have financial implications to ensure that these can be properly considered. Where it is considered by any of these parties that that the SCG should be considered by Cabinet as a whole, it will be reported to Cabinet.

Public/stakeholder engagement

- 5.1 None necessary.

Other options

- 6.1 Taking all SCG to Cabinet was considered but would be unnecessary, unwieldy and cumbersome.

Financial and value for money issues

- 7.1 There are no specific financial implications arising directly from the report.

Legal implications

- 8.1 The requirement to prepare Statements of Common Ground is set out in the National Planning Policy Framework. They will form part of the evidence base of a local plan and scrutinised as part of the independent Examination in Public that all plans must undergo.

Other significant implications

- 9.1 None.

This report has been approved by the following people:

| Role | Name | Date of sign-off |
|----------------------------|------------------|----------------------------|
| Legal | Stephen Teasdale | 9 th July 2019 |
| Finance | Amanda Fletcher | 10 th July |
| Service Director(s) | Verna Bayliss | 9 th July 2019 |
| Report sponsor | Don McLure | 11 th July 2019 |
| Other(s) | | |

Background papers:

List of appendices: