

Simple Guide to Strategic Planning and the Duty to Cooperate

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1. Why is strategic planning important?

The overarching priority for national planning policy (NPPF) ([link below](#)) is to deliver long term sustainable growth, ensuring that councils positively take into account the three pillars of sustainable development – economic, environmental and social - in their local plans. Many social, environmental and economic issues can only be effectively addressed over a number of local authority administrative boundaries. This is because people and businesses do not confine their activities to one council area. For example:

- employees may live in one area and work in another, sometimes travelling large distances on a daily basis
- suppliers may service many local shops from a small number of distribution centres linked to major transport hubs
- a retail development may attract customers from across a wide catchment area
- people may travel hundreds of miles to visit tourist attractions, leisure facilities or sporting venues on a regular basis
- manufacturing companies may source materials and supply goods from across the UK and beyond.

Similarly, from an environmental perspective:

- residents in some areas may consume water and power that has travelled hundreds of miles
- surface water run-off in one location may present a flooding hazard to communities further 'downstream'
- water and air pollution may have a damaging impact on environmental assets some distance away.

Local plans need to recognise these relationships and include policies to manage their impacts.

NPPF: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2. What is meant by the term 'strategic planning'?

The term 'strategic planning' refers to policies that address larger than local issues that cannot be dealt with by one local planning authority working alone and that are addressed and delivered through a local plan. For example:

- the provision for new housing across a major conurbation or wider housing market area
- the provision of major retail, leisure, industrial and other economic development across a travel to work area
- the provision of infrastructure for transport, waste treatment, energy generation, telecommunications, water supply and water quality
- requirements for minerals extraction
- the provision of health, security, and major community infrastructure facilities
- measures needed to address the causes and consequences of climate change, including managing flood risk and coastal change
- protection and enhancement of the natural and historic environment, including townscape.

The priority given to these issues will depend on local circumstances; strategic approaches may not always be needed. The sustainability appraisal scoping report should help to identify what is important for your locality.

3. What happens if strategic planning issues are not properly addressed?

The NPPF (Paragraph 179 – link below) requires councils to work together to address strategic priorities across boundaries and development requirements which cannot be wholly met within their own areas.

Failure to do this will:

- lead to less sustainable plans
- reduce the ability to deliver infrastructure and inward investment
- undermine confidence in the ability of councils generally to make difficult political decisions and deliver on newly won freedoms.

Ultimately, if strategic planning matters are not properly addressed in a local plan, the plan will be found unsound at examination, significantly reducing the local authority's ability to manage development.

NPPF paragraph 179: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

4. How has strategic planning been done in the past?

From 2004 Regional Assemblies and Leaders Boards (from 2009) were responsible for strategic planning which was done through regional strategies. In November 2011, the Localism Act (link below) signalled the end of regional strategies which were officially revoked in 2013. Between 2011 and 2013, regional strategies still formed part of the statutory development plan and therefore continued to influence the strategic policies in local plans adopted before 2013.

In London the Mayor has been responsible for strategic planning through the London Plan since 1999 (link below). This sets the strategic framework for the borough local plans.

From 2008, the decisions on 'infrastructure of national importance' fell within the remit of the 'Infrastructure Planning Commission' (IPC) with decisions guided by a series of national policy statements (NPS) prepared by Government. In April 2012 the work of the IPC was absorbed into the Planning Inspectorate (link below).

Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/109/enacted>

London Plan: <http://www.london.gov.uk/priorities/planning/london-plan>

Planning Inspectorate: <http://infrastructure.planningportal.gov.uk/>

5. How is strategic planning done now?

Following revocation of the regional strategies in England (outside London), strategic planning is now the responsibility of unitary, district or borough councils. Authorities are expected to address strategic issues in local plans and demonstrate how this has been managed through the '**duty to co-operate**' set out in Section 110 of the Localism Act (link below) and amplified in Paragraphs 178-181 of the National Planning Policy Framework (NPPF) (link below) and in the National Planning Practice Guidance (NPPG) (link below).

The Mayor's London Plan (link below) continues to provide the strategic context for local plans produced by the boroughs. However both the Mayor and individual boroughs will be required to work with surrounding councils to address strategic issues and demonstrate that they have met the requirements of the duty to cooperate.

Decisions on 'infrastructure of national importance' continue to be made by the Secretary of State on the advice of the Planning Inspectorate (link below) and within the policy framework set by the National Policy Statements for major infrastructure.

Section 110 of the Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

178-181 of the National Planning Policy Framework

(NPPF): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

NPPG: <http://planningguidance.planningportal.gov.uk/blog/guidance/duty-to-cooperate/>

The Mayor's London Plan: <http://www.london.gov.uk/priorities/planning/london-plan>

Planning Inspectorate: <http://infrastructure.planningportal.gov.uk/>

6. What does the 'duty to cooperate' mean for councils?

Section 110 of the Localism Act (link below) sets out the '**duty to co-operate**'. This applies to all local planning authorities, national park authorities and county councils in England – and to a number of other public bodies (see Question 7). The duty:

- relates to sustainable development or use of land that would have a significant impact on at least two local planning areas or on a planning matter that falls within the remit of a county council
- requires that councils set out planning policies to address such issues
- requires that councils and public bodies 'engage constructively, actively and on an ongoing basis' to develop strategic policies
- requires councils to consider joint approaches to plan making.

The NPPF (Paragraph 156) (link below) sets out the strategic issues where co-operation might be appropriate. Paragraphs 178-181 give further guidance on 'planning strategically across local boundaries', and highlight the importance of joint working to meet development requirements that cannot be wholly met within a single local planning area, through either joint planning policies or informal strategies such as infrastructure and investment plans. Further guidance on how the **duty to co-operate** should be applied in local planning is included in the National Planning Practice Guidance (NPPG) (link below).

Section 110 of the Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

The NPPF (Paragraph 156): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance (NPPG): <http://planningguidance.planningportal.gov.uk/blog/guidance/duty-to-cooperate/>

7. What does the 'duty to cooperate' mean for:

Other public bodies?

- The 'duty to co-operate' also covers a number of public bodies in addition to councils. These bodies are set out in Part 2 of the Town & Country Planning (Local Planning) (England) Regulations 2012 (link below) and comprise:
- Environment Agency
- Historic Buildings and Monuments Commission for England (English Heritage)
- Natural England
- Mayor of London
- Civil Aviation Authority
- Homes and Communities Agency
- Clinical Commissioning Groups
- National Health Service Commissioning Board
- Office of the Rail Regulator
- Highways Agency
- Transport for London
- Integrated Transport Authorities
- Highway Authorities
- Marine Management Organisation

These bodies are required to co-operate with councils on issues of common concern to develop sound local plans.

Local Enterprise Partnerships?

As LEPs are not defined by statute, they are **not** covered by the '**duty to cooperate**'. However, LEPs are identified in the regulations as bodies that those covered by duty 'should have regard to' when preparing local plans and other related activities. Their role in supporting local authorities in plan preparation, particularly in developing the evidence base, is also highlighted in NPPF (Paragraph 160).

LEPs are playing an increasingly important role in the funding of infrastructure and other development to support long term sustainable growth. They are already responsible for **Regional Growth Fund** (link below) and **Growing Places Fund** (link below) but from 2014 will have significantly more responsibility for strategic investment priorities through **Growth Deals** delivered through **Strategic Economic Plans** (link below). From 2014 LEPs will also have responsibility for managing the **European Structure and Investment Funds Growth Programme** (link below) which brings together a number of European funding streams focusing on innovation, supports for SMEs, low carbon, skills, employment and social inclusion.

Regional Growth Fund: <https://www.gov.uk/understanding-the-regional-growth-fund>

Growing Places Fund: <https://www.gov.uk/government/publications/the-growing-places-fund-investing-in-infrastructure>

Strategic Economic Plans: <https://www.gov.uk/government/publications/growth-deals-initial-guidance-for-local-enterprise-partnerships>

European Structure and Investment Funds Growth

Programme: <https://www.gov.uk/government/publications/european-structural-and-investment-funds-strategies-supplementary-guidance-to-local-enterprise-partnerships>

Local Nature Partnerships?

Local Nature Partnerships (LNPs) (link below) are also prescribed in the regulations as bodies which local authorities 'should have regard to' given their role in the management of natural environmental assets, supporting biodiversity and, in particular, identifying Nature Improvement Areas. They are relatively new partnerships and have evolved from recommendations in the Natural Environment White Paper (link below).

The NPPF (Paragraph 165) (link below) encourages local planning authorities to work with LNPs, recognising the valuable input they can make to, for example, assessments of ecological networks and Sustainable Environmental Assessments (SEA) of the local plan.

LNPs: <https://www.gov.uk/government/policies/protecting-biodiversity-and-ecosystems-at-home-and-abroad/supporting-pages/local-nature-partnerships>

Natural Environment White Paper: <http://sd.defra.gov.uk/2011/06/the-natural-choice-securing-the-value-of-nature/>

The NPPF (Paragraph 165): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Private sector utility providers?

Private sector utility providers are **not** covered by the **duty to co-operate**. However it is their interests and those of councils to be involved in planning. LEPs may provide a forum through which this dialogue can take place.

8. What ways of working and skills may be needed to implement the 'duty to co-operate'?

Co-operation on strategic issues is not new. Councils have a history of working together and with other bodies to address planning issues of common concern and new practice is emerging. Some examples of joint arrangements are set out below.

- Commissioning of **joint evidence** to inform individual core strategies on key issues.
- Development of **'aligned' plans** across several local planning areas that include complementary policies on key issues: for example the 'aligned' local plans in Greater Nottingham (link below)
- **Joint local plans** providing a single plan across several local planning areas, overseen by each authority separately or by a joint committee: for example the Black Country's Joint Core Strategy (link below).

However, until 2011 this kind of joint working has been done mainly to deliver policy objectives set out in structure or regional plans. The scope of such arrangements is now the responsibility of individual local authorities and will have to be agreed locally, with partners, to meet local circumstances.

New approaches, such as non-statutory local investment plans or local strategic statements (setting out broader strategic objectives) are not required but are proving to be useful to local authorities when demonstrating that they have properly addressed strategic planning matters in the local plan and have complied with the duty to cooperate. Two examples of this are the Coastal West Sussex and Greater Brighton Local Strategic Statement (link below) and the Cambridgeshire and Peterborough Memorandum of Cooperation (link below). Some

authorities are also developing new strategic planning frameworks as part of the LEP's Strategic Economic Plans, such as the Greater Birmingham and Solihull Spatial Plan for Recovery and Growth (link below).

All councils will need to further develop partnership working skills at officer and member levels for effective co-operation to work. Strong leadership by councillors and senior officers will be particularly important.

PAS has produced further details on joint working 'good practice' that has emerged under the new strategic planning arrangements: http://www.pas.gov.uk/strategicplanning/-/journal_content/56/332612/4077356/

Greater Nottingham: <http://www.nottinghamcity.gov.uk/article/5770/Local-Plan>

Black Country's Joint Core Strategy <http://blackcountrycorestrategy.dudley.gov.uk/>

Coastal West Sussex and Greater Brighton Local Strategic Statement: <http://www.coastalwestsussex.org.uk/cws-in-partnership/cws-strategic-planning-board/>

Cambridgeshire and Peterborough Memorandum of Cooperation: (PDF 21 pages 1.11MB): <https://www.scams.gov.uk/sites/www.scams.gov.uk/files/documents/Memorandum%20of%20Co-operation.pdf>

Greater Birmingham and Solihull Spatial Plan for Recovery and Growth: <http://centrefenterprise.com/strategic-spatial-framework-plan/>

9. How will the 'duty to co-operate' be tested?

The 'duty to co-operate' is a legal requirement of the plan preparation process (link below). It is the first thing that the Planning Inspectorate (PINS) will look at before considering whether a plan is sound. PINs will need to see sufficient evidence to demonstrate that the 'duty to co-operate' has been undertaken appropriately for the plan being examined.

There is no fixed format for how this evidence should be presented, nor what it should comprise, but it should be:

- flow from the issues that have been addressed jointly
- highlight the practical policy outcomes that have resulted from the joint work.
- succinct, using weblinks to evidence where possible

A 'tick box' approach or a collection of correspondence will not be sufficient. Councils will also need to show how they have considered joint plan-making arrangements, what decisions were reached and why. Councils need to report how the **duty** is being taken forward on an ongoing basis – effective cooperation does not end at adoption – it should continue through plan implementation and its effectiveness should be monitored through the Annual Monitoring Report to help flag up where a review of policy is needed.

Just because a local plan passes the legal test of the **duty**, it does not mean it will be found 'sound' in dealing with strategic matters. The policy outcomes of co-operation will need to be tested against the evidence at examination in the normal way as set out in Paragraph 182 of the NPPF.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Duty to co-operate: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

10. What happens if a council or identified public body will not co-operate or cannot agree?

Co-operation works two ways. Situations may arise where an invitation to co-operate is not accepted, or agreement on shared policy outcomes cannot be reached.

Where co-operation is not forthcoming, PINs are likely to consider the extent to which the request to co-operate is 'reasonable' based on the evidence. If the deliverability of the plan is dependent on a reasonable request for co-operation by the plan-making body that is not forthcoming, the plan may still be found unsound unless some form of working arrangement can be brokered.

If PINS consider that the legal requirement to co-operate has been met through joint working but there is disagreement about the policy outcome (for example the proposed level of housing provision), then this will need to be resolved through the examination process based on the evidence.

All of these scenarios will cause delay and uncertainty and should be avoided if possible. Councils and other public bodies covered by the **duty** should make every effort to ensure that strategic issues are properly addressed at the formative stages of the plan preparation process, and that any major disagreements are resolved well before the examination.

Further information:

PAS Making Strategic Planning Happen - http://www.pas.gov.uk/strategicplanning/-/journal_content/56/332612/3603478/ARTICLE