

THANET DISTRICT COUNCIL
DRAFT THANET LOCAL PLAN
DUTY TO COOPERATE STATEMENT
JULY 2018



Duty to Cooperate statement

1. Introduction – purpose of statement

- 1.1 This statement sets out the Council's approach to cooperation on key strategic issues in the draft Local Plan.
- 1.2 It identifies the requirements set out in the NPPF, and demonstrates how the Council has met those requirements.
- 1.3 Section 110 of the Localism Act sets out the 'duty to co-operate'. This requires local planning authorities, county councils and a number of other public bodies to co-operate in relation to strategic cross-boundary matters in the preparation of development plan documents, other local development documents, and marine plans.
- 1.4 The duty relates to strategic matters of 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.
- 1.5 The duty requires local planning authorities to:
 - engage constructively, actively and on an ongoing basis;
 - set planning policies to address such issues; and
 - consider joint approaches to evidence collection and plan making
- 1.6 The duty to co-operate also covers a number of public bodies in addition to councils. These bodies are required to co-operate with Councils on issues of common concern to develop sound local plans. These bodies are currently identified in the Local Planning Regulations and the new NPPF as:
 - Environment Agency
 - Historic Buildings and Monuments Commission for England
 - Natural England
 - Mayor of London
 - Civil Aviation Authority
 - Homes and Communities Agency
 - Primary Care Trusts
 - Office of Rail & Road
 - Transport for London
 - Integrated Transport Authorities
 - Highways Authorities
 - Marine Management Organisation
 - Local Enterprise Partnership
 - Local Nature Partnerships
 - Infrastructure providers
 - County Councils

- 1.7 Section 34 (6) of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires that where a local planning authority have co-operated with another local planning authority, county council, or a body or person prescribed under section 33A of the Act, the local planning authority's monitoring report must give details of what action they have taken during the period covered by the report.
- 1.8 Further details of cooperation on Local Plan matters can also be seen on the Council's web-pages in the [Annual Monitoring Reports](#).

2. Requirements of the National Planning Policy Framework (NPPF)

- 2.1 The new NPPF (published 24 July 2018) sets out the requirements for cooperation on strategic matters that cross administrative boundaries (paras 24 to 27).
- 2.2 Paragraph 25 of the NPPF states that "Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies...".
- 2.3 Paragraph 26 states that "Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere" (see section below at para 4.14, relating to the East Kent Memorandum of Understanding).
- 2.4 The national Planning Practice Guidance (para 9-011) indicates that "local planning authorities and other public bodies should focus on... cross boundary strategic matters". However, the Guidance makes it clear that the duty to cooperate "is not a duty to agree" (para 9-001).
- 2.5 Paragraph 27 of the new NPPF requires that "In order to demonstrate effective and on-going joint working, strategic policymaking authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these". This is a new requirement, and in addition to this Statement, the Council is intending to seek SCGs with key partners to provide the clarity sought by the guidance.

3. History of cooperation

- 3.1 There has been a long history of cooperation between local planning authorities in East Kent. Prior to the current situation, under the South East Plan arrangements (2004-2014), the East Kent authorities worked jointly with KCC on an East Kent & Ashford Sub-Regional Strategy, which was a separate chapter within the South East Plan. The East Kent authorities also worked with KCC to support the delivery of the East Kent Access Road.

- 3.2 Before that, under the County Structure Plan system (from the early 1980s through to 2009), there was an East Kent sub-group that met to inform the development of the Structure Plan.
- 3.3 So for many years before the formal Duty was created, the East Kent authorities had the established practice of close cooperation on strategic planning matters, and that approach continues now.

4. Structures for cooperation

- 4.1 There are a number of structures that exist that provide the opportunity to share research and evidence, and to discuss different aspects of policy development:
- 4.2 Kent Planning Policy Forum (part of the Kent Planning Officers' Group)
- 4.3 The Kent Planning Policy Forum is a grouping that includes all the Kent districts, KCC and Medway councils. It is also attended by other public bodies (such as the Environment Agency). This meets every two months and regular items include the London Plan; emerging Government guidance; shared evidence base; Local Plan timetables and other key planning matters.
- 4.4 KPPF also provides the opportunity for local planning authorities to brief neighbouring authorities and others on Local Plan progression and emerging issues for discussion. Local planning authorities give presentations on key issues in their districts.
- 4.5 East Kent Duty to Cooperate group
- 4.6 The second group is an East Kent group of local planning authorities (Ashford; Canterbury; Dover; Shepway and Thanet councils) that meets every two months.
- 4.7 This group is specifically focussed on duty to cooperate matters, so items such as housing land requirements; jobs and employment land; retail provision; transport; infrastructure provision and other strategic matters are discussed, as are key sites (such as Manston Airport, Otterpool Park and Dover Waterfront).
- 4.8 Regular items include Local Plan updates; evidence base and the potential for shared studies; and the sharing of good practice.
- 4.9 East Kent Regeneration/Growth Board
- 4.10 The East Kent Regeneration Board includes Ashford Borough Council, Dover District Council, Canterbury City Council, Shepway District Council and Thanet District Council,

along with Kent County Council. It comprises both officer and member groups, represented at a senior level.

4.11 The Board adopted an East Kent Growth Strategy in February 2013, which sets out joint priorities for growth in East Kent, and is currently being reviewed as “the East Kent Growth Framework. This board is also being used to feed into the South East Local Enterprise Partnership Strategic Economic Plan.

4.12 The EKRB has also previously discussed the potential implications of housing requirements for the London Plan area for East Kent.

4.13 The East Kent Regeneration Board recently became the East Kent Growth Board.

4.14 East Kent Memorandum of Understanding

4.15 The constituent Councils of the East Kent Regeneration Board have also signed up to a Memorandum of Understanding (MoU) in relation to strategic planning matters (2015/16)(Copy attached at Appendix 1). To a significant extent, the objectives set out in the MoU are a reflection of existing practice, but it formalises the position, and the approach to duty to cooperate matters.

4.16 The objectives of the MoU are:

- To identify and consider the appropriate response to spatial planning issues that impact on more than one local planning area within the East Kent sub-region;
- To ensure that the local planning and development policies prepared by each Local Authority are, where appropriate, informed by the views of other member authorities. This will normally involve engagement with Development Plan Document and Supplementary Planning Document preparation;
- To support the strongest possible integration and alignment of strategic spatial and investment priorities in the East Kent sub-region;
- To identify and agree the infrastructure investment needs associated with proposed development and to address existing issues working with the LEP and other funding sources;
- To ensure that decisions on major, larger than local planning applications are informed by the views of other local Authorities across the East Kent sub-region; and
- To ensure compliance with the Duty to Co-operate.

5. London Plan

- 5.1 The Council is part of a Kent grouping of LPAs that is represented by three Kent Councils through the London Plan process. These Councils brief the other Kent authorities on emerging policy and strategic issues.
- 5.2 The Kent Planning Policy Forum acts as a discussion forum for the Kent LPAs to input to the development of the draft London Plan.
- 5.3 The Forum provides a framework to develop a consistent response to key matters in the draft Local Plan, and their implications for local planning authority areas in Kent.

6. General cooperation on draft Local Plan

- 6.1 In preparing this draft Local Plan, the Council has engaged with all relevant key partners on a variety of strategic issues; including all those listed in para 1.6 as appropriate.
- 6.2 This is in relation to developing shared evidence base material (as appropriate); sharing findings of studies; engaging on a detailed basis about issues and options; and exchanging information and best practice on key issues and external factors affecting Plan preparation and content.
- 6.3 Examples of this cooperation are set out below.

7. Shared evidence base

- 7.1 In particular, the Council has been involved with a range of shared evidence-gathering processes, and has also shared the outcomes of its own studies with neighbouring authorities and other relevant bodies. For example:
- 7.2 Thanet Strategic Housing Market Assessment (2016) – the proposed methodology was shared with neighbouring authorities and other key stakeholders at the start of the study and the findings were shared as they emerged from the study. A previous East Kent SHMA study is referred to in Section 9.
- 7.3 GTAA review (ongoing) – review of Gypsy & Traveller Accommodation Assessment being undertaken as part of a wider East Kent study, to provide a comprehensive and coordinated assessment of Gypsy & Traveller accommodations needs across the County. There was previously joint-working on East Kent studies of Gypsy & Traveller accommodation needs dating back to the South East Plan.
- 7.4 Landscape Character Assessment (2017) – early engagement with technical and local stakeholders, including neighbouring authorities, to inform the findings of the assessment.

7.5 Transport modelling (2017) – neighbouring Councils advised of transport modelling work being undertaken by KCC’s consultants, to a methodology agreed with Highways England. The Council has worked with KCC on the draft Transport Strategy, which was informed by the transport modelling. The Council has committed to sharing key modelling outcomes with neighbouring Councils and Highways England.

8. Specific cooperation on the strategic priorities across boundaries

8.1 The new NPPF (para 20) identifies a range of strategic issues that need to be addressed through Local Plan strategy and strategic policies:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

8.2 The Council has engaged not just with immediately adjoining authorities (Canterbury City Council and Dover District Council), but with LPAs further afield (notably Ashford, Shepway and Swale Councils) on relevant issues, as well as Kent County Council.

9. Key Strategic Issues

9.1 In Thanet’s case, the key issues for cooperation are:

- Housing markets/housing requirements
- Employment strategy and job creation
- Retail capacity
- Future of Manston Airport
- Transport
- International wildlife sites
- Infrastructure provision

9.2 Housing markets/housing requirements

9.3 In 2009, the East Kent authorities undertook a joint Strategic Housing Market Assessment for the whole East Kent area to provide a baseline position and identify housing need across the whole area. When it came to reviewing the SHMA for later Plans, the East Kent authorities were at different stages, so have prepared separate

SHMAS which focus on individual districts, but take into account the wider East Kent position.

9.4 The housing market area and housing requirements that inform the draft Local Plan for Thanet arose from the Strategic Housing Market Assessment work undertaken by GL Hearn for the Council.

9.5 Neighbouring authorities were consulted on the methodology for the work at an early stage, and the initial and final findings were presented to neighbouring Councils and others in 2016. The housing market area (HMA) proposed was based on the CURDS standards for identifying HMAs, and includes Dover and Canterbury districts. No issues were raised by neighbouring Councils at the time about the housing market area or emerging housing requirements.

9.6 At Proposed Revisions stage, Dover District Council raised concerns about the inclusion of Dover in the wider housing market area for Thanet. There was a meeting to discuss the matter, and to provide an opportunity for DDC to set out their concerns, and which GL Hearn attended to explain the rationale for the HMA. However, the Thanet Strategic Housing Market Assessment (SHMA) provided an objectively- assessed housing need figure for Thanet district, taking into account the East Kent context.

9.7 Outcome:

9.8 No final agreement with Dover DC has been reached on the extent of the HMA boundaries.

9.9 Since the current intention is that each Council will meet its own housing requirement, the precise definition of those areas is unlikely to have any material effect on Local Plan policy.

9.10 **Employment land**

9.11 Both Dover DC and Canterbury CC have raised concerns about the level of employment land surplus identified through the draft Local Plan.

9.12 At various meetings, TDC has set out the background to the over-supply in Thanet, including the review of employment sites and the removal of some 30ha of older employment land from the supply to provide new housing sites. It is notable that both DDC and CCC are maintaining a higher level of employment land over-supply than TDC.

9.13 TDC are maintaining an over-supply of employment land for the following reasons:

- Flexibility on sites takes an element of land;
- Allows for replacement of old stock;
- Permitted development rights have changed (which allow the loss of office/employment premises effectively outside of planning control); and

- The majority of our employment land is at Manston Business Park, which (like the White Cliffs Business Park in Dover), is seen as a long-term delivery site beyond the current Plan period. To remove this site would leave Thanet with a significant under-supply of employment sites.

9.14 Outcome:

9.15 TDC offered to provide a draft of a topic paper setting out the development of the employment land position for Thanet. This was subsequently provided to Canterbury CC and Dover DC in November 2017. Canterbury CC have raised no further comments in this regard, and Dover have asked TDC to recognise in the paper that there remains a difference of view regarding the housing market areas.

9.16 **Retail capacity and requirements**

9.17 Neighbouring Councils were involved in the early stages of the Retail Study carried out in 2013. The policy choice for TDC was whether to adopt a “market share” approach to retail growth, or seek to achieve “higher than market share”.

9.18 TDC has chosen to adopt a “market share” position, and this approach was not opposed by the other east Kent Councils, who were briefed about the position at a meeting in December 2013.

9.19 Canterbury and Dover both raised concerns about the level of retail provision at Westwood, and the potential impact on Dover’s and Canterbury’s retail function.

9.20 Outcome:

9.21 TDC has discussed the position with CCC and DDC and reiterated the council’s position that it is only seeking to maintain “market share”, not increase the level of market share. The risk of impacts on centres in Canterbury and Dover is considered to be minimal.

9.22 TDC have updated the retail need assessment to reflect new post-Brexit retail expenditure forecasts, which projects a reduction in future floorspace demand from previous projections.

9.23 TDC have shared the revised retail figures with DDC and CCC (January 2018), and have committed to share with Dover DC any relevant topic paper for the Examination at an early stage. DDC agreed to check with their retail consultants (Carter Jonas) that they will also be using the September post-Brexit forecasts. CCC have raised no further comments on this issue.

9.24 **Future of Manston Airport**

9.25 At the Proposed Revisions stage (January 2017), Dover District Council raised concerns about the duty to cooperate in relation to TDC’s position on the Airport, indicating that

TDC had not met the duty to cooperate in relation to the Airport. As well as the principle, Dover DC raised a number of detailed concerns about the development of the site for mixed-use purposes, relating to retail provision, landscape assessment and employment land provision. Some of these are dealt with elsewhere in this statement.

9.26 Since that time, TDC has had meetings with DDC to discuss the principal issue and to explain the background to the decision, culminating in a meeting between Chief Executives and Council Leaders in December 2017. At the meeting DDC indicated that they would look again at the evidence provided. DDC adopted a Council resolution in 2014 to support the re-opening of the Airport. TDC also offered DDC the opportunity to meet AviaSolutions to discuss their report directly with them. At the time of writing, this offer had not been taken up.

9.27 However, since these discussions, Thanet District Council has resolved to publish and subsequently submit a draft Local Plan that identifies alternative locations for housing, and does not allocate the Airport site for mixed-use development.

9.28 In terms of landscape impact assessment, TDC have advised DDC that protecting the area from skyline intrusion has been a long standing policy for TDC, and this approach is being maintained through the new Landscape Character Assessment. TDC's Sustainability Appraisal suggests landscape mitigation for the site.

9.29 Outcome:

9.30 At the time of writing, DDC have agreed to fully consider the AviaSolutions report, and TDC offered Dover the opportunity to speak to AviaSolutions directly. To date, DDC have not taken up this offer. The Publication Draft Thanet Local Plan now identifies alternative locations for housing, and does not allocate the Airport site for mixed-use development.

9.31 **Transport**

9.32 Canterbury CC, Dover DC and Highways England raised concerns about the potential impact of the proposed development in Thanet district on the strategic route network (in particular, the A2/M2 Brenley Corner junction and the A2 junctions close to Dover) and on the A28 towards Canterbury.

9.33 As part of the Transport Strategy and Local Plan work, transport modelling has been undertaken by Amey (KCC's transport modelling consultants), and specific assessments of the potential impact on the areas mentioned, with the methodology agreed between Amey, KCC and Highways England. The initial analysis indicates that the impact of development in Thanet during peak hours is likely to be negligible.

9.34 Outcome:

9.35 Canterbury CC, Dover DC and Highways England have been advised of the initial indications from the modelling work; that the impact on the areas concerned is likely to

be marginal, and TDC has committed to provide any additional information and analysis in due course. A report regarding impacts on the strategic road network has been sent to Highways England.

9.36 International wildlife sites

9.37 Thanet has a 20-mile coastline which has multiple national and international wildlife designations, and all housing development (and some other forms of development) in the district is subject to the requirements of the Habitats Regulations.

9.38 The Council has worked with Natural England and neighbouring Councils to ensure that draft Local Plan policy properly reflects the importance of these areas, and that suitable mitigation measures are in place to deal with the impacts of development. There has been a series of meetings and discussions since 2015 (primarily with NE) to seek to ensure that the draft Local Plan is compliant with the Habitat Regulations.

9.39 The Strategic Access, Mitigation & Monitoring Strategy (SAMM) is a mechanism for ensuring that impacts are mitigated and this is reflected in both Canterbury and Dover districts, although the nature and scale of potential impacts are different in each district.

9.40 In addition, TDC and CCC have agreed a Memorandum of Understanding to coordinate management activity and development funding along the North Thanet coast by extending the work of the Thanet Coast Project and coordinating activity with other partners including CCC and NE.

9.41 Outcome:

9.42 Draft policies and provision of SAMM supported by Natural England. Memorandum of Understanding signed with Canterbury CC regarding joint management along the North Thanet coast, with a Service Level Agreement (SLA) currently being agreed.

9.43 Infrastructure provision

9.44 The Council is committed to infrastructure provision alongside the development proposed in the draft Local Plan, and this is set out in more detail in the draft Infrastructure Delivery Plan (IDP).

9.45 To this end, the Council has worked with a range of service providers and other stakeholder organisations to ensure that, as far as possible, the draft Local Plan and IDP identify and support the provision of key infrastructure and services.

9.46 The key organisations that the Council has sought to engage with are:

- Kent County Council – in relation to education; transport and highways; public health
- Highways England – in relation to the strategic route network

- Health Authority – in relation to future requirements for QEQM
- Clinical Commissioning Group – in relation to local health care provision; a series of meetings over the last 3 years, the latest in October 2017
- Utility companies – in relation to water; sewerage; electricity; gas provision
- Natural England – in relation to the requirements of the Habitats Regulations

9.47 It should be noted that these organisations have their own service and business planning mechanisms, which allow them to plan for changes in population and service requirements; legal requirements and the provisions of emerging Local Plan proposals.

9.48 Outcome:

9.49 A draft IDP was published in January 2017, alongside Proposed Revisions to the draft Local Plan. The Council has received additional information from various organisations, and it is the intention to update the draft IDP for publication alongside the draft Local Plan.

9.50 It is recognised that the IDP will require updating as the draft Local Plan develops, and it is the intention to continue to engage with key organisations to ensure that it reflects the latest infrastructure position.

9.51 **Other examples of cooperation on key issues**

9.52 Water supply - Water Resources South East programme included LPAs in Kent; Water for Sustainable Growth project with KCC, other Kent authorities and the relevant water companies (this considered the proposed development emerging through local plans in Kent); TDC also engaged in the preparation of the Water Resources Management Plan for the area, attending two workshops with other local authorities in Autumn 2016 and November 2017;

9.53 Utilities – the Infrastructure Delivery Plan (IDP) process has included all the utilities providers, and other key infrastructure stakeholders. More details of this are set out in the draft IDP;

9.54 Coastal policy – working with Marine Management Organisation (MMO) to ensure matters of common interest are being addressed; TDC attendance at MMO Marine Plan workshops (July 2016; March 2017) and separate meeting with MMO (November 2017) to ensure alignment of policy; South East Marine Plan running slightly behind Local Plan process, but no strategic issues identified as concerns between TDC and the MMO;

9.55 Heritage Strategy – Historic England and local stakeholders engaged in the preparation of the draft Heritage Strategy for the district; and

9.56 Open Space Strategy – in the preparation of its Open Space, Sport & Recreation Study, Sport England and the National Governing Bodies for sports were involved, as were a number of local groups and clubs.

Appendix 1: East Kent MoU on duty to cooperate

MEETING THE DUTY TO CO-OPERATE

Memorandum of Understanding between the East Kent Regeneration Board member Councils - Ashford, Canterbury, Dover, Shepway, and Thanet, working with Kent County Council.

This Memorandum of Understanding is between the authorities that make up the East Kent sub-region. It recognizes the strong linkages between the authorities, especially in terms of strategic economic development; housing provision; regeneration; and other strategic planning interests.

Whilst the links within East Kent are strong there may be issues which need explaining over a wider area and the member councils commit to doing this as well.

The Memorandum sets out how the member councils will commit to active and ongoing co-operation across administrative boundaries to meet the requirements of the Localism Act and the guidance in the National Planning Policy Framework.

This Memorandum builds on the solid basis of work underway for some time in the East Kent Regeneration Board to tackle strategic economic development and infrastructure provision.

The Memorandum does not override the statutory duties and powers of the identified parties. It is not legally binding nor is it intended to cover every detailed aspect of their relationships; rather it is a statement of principles to guide relations between the parties and provide a set of workable ground rules for early discussion and co-operation in addressing strategic and cross-boundary issues.

Purpose

This memorandum sets out how the member authorities will actively take forward their individual or collective Duty to Co-operate to *'engage constructively, actively and on an ongoing basis'* on planning matters that impact on more than one local planning area (*'strategic planning matters'*). The duty is further amplified in the National Planning Policy Framework (NPPF) which sets out the key *'strategic priorities'* that should be addressed jointly.

There are a wide range of partner agencies which the member authorities will work closely with to fulfill the duty.

The Memorandum has the following broad objectives:

- To help secure a broad but consistent approach to strategic planning, transport and development issues across the East Kent sub-region and to consider any wider impact in the county;
- To identify and consider the appropriate response to spatial planning issues that impact on more than one local planning area within the East Kent sub-region;
- To ensure that the local planning and development policies prepared by each Local Authority are, where appropriate, informed by the views of other member authorities. This will normally involve engagement with Development Plan Document and Supplementary Planning Document preparation;
- To support the strongest possible integration and alignment of strategic spatial and investment priorities in the East Kent sub-region;
- To identify and agree the infrastructure investment needs associated with proposed development and to address existing issues working with the LEP and other funding sources;
- To ensure that decisions on major, larger than local planning applications are informed by the views of other local Authorities across the East Kent sub-region;
- To ensure compliance with the Duty to Co-operate.

Working together

We will work together to seek, where possible, to:

- agree those matters which are strategic in nature, based upon an appreciation of the wider demographic, economic, environmental and social context that affects the sub-region, and up-to-date evidence of development needs;
- agree an integrated and consistent approach to address these needs;
- agree the overall quantity, mix, and broad distribution/apportionment of development across the area, including its delivery through necessary strategic infrastructure;
- ensure that where strategic priorities cross local boundaries within the sub-region, and to areas outside it, to make sure they are clearly reflected in our individual plans;
- produce joint evidence where it is the most efficient and effective approach, and consider the scope for a joint policy base;

- involve other public sector agencies, including those identified in the legislation, to help inform choices and meet the Duty;
- ensure appropriate governance and officer support arrangements are in place to take forward the commitments in this Memorandum.

Review

Each member authority will be responsible for its own processes of feeding into the EKRБ debate and reporting back outcomes. The EKRБ will produce an annual report reviewing the operation of the Memorandum on behalf of its members.