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REPORT TO CABINET

Subject:	Draft Dorset Memorandum of Understanding about the Duty to Cooperate on Strategic Planning Matters – Agreement in principle and consultation
Cabinet Portfolio:	Leader and Resources
Corporate Lead:	Bill Cotton Executive Director, Environment and Economy
Service Director:	Mike Holmes, Service Director Planning and Transport
Meeting Date:	12 September 2012
Status:	Public
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1.0 Purpose:

1.1 The report requests that, following consultation the Council agree to become a signatory to a Memorandum of Understanding (MoU) committing the Council to cooperate with other relevant agencies on strategic planning matters. The Draft MOU is attached as Appendix 1.

2.0 Recommendation:

2.1 That Council agrees :
1) to consult with the agencies set out in paragraph 4 of the draft Memorandum of Understanding (MoU), inviting comments on the draft MoU and inviting those agencies to sign up to a final MoU;

2) that delegated authority is given to the Leader of the Council, in consultation with the Service Director Planning and Transport, to make minor changes to the draft MoU as necessary in response to the consultation process and to sign the final MoU.

3.0 Reason for recommendation:

3.1 To further the requirements of the Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011, and the National Planning Policy Framework in respect of the duty to cooperate on strategic planning matters.

3.3 Working effectively with other bodies on strategic planning will further the Council priority of promoting an efficient Council as expressed in the Corporate Plan 2012/13.

4.0 Background detail:

4.1 Section 110 of the Localism Act 2011, introduced a new duty on Councils and other prescribed bodies, namely the 'Duty to co-operate in relation to planning of sustainable development'. This requires that when preparing a Local Development Document, in particular the strategic element of a plan that would have a significant impact on at least two planning areas, the Local Planning Authority co-operates on an ongoing and constructive basis with a range of bodies in maximising the effectiveness with which the Plan has been prepared.

4.2 The National Planning Policy Framework also sets out expectations for Councils to work collaboratively with other councils; statutory agencies; utility and infrastructure providers; and other relevant organisations to deliver strategic priorities, particularly those that cross council boundaries.

4.3 Senior managers responsible for planning functions from across Dorset have agreed to request councillors in each of the Dorset councils (districts, county and unitaries) to sign up to a MoU. This MoU shows an intent to work together to meet the requirements as set out in the Localism Act. Councils in Dorset already collaborate on joint planning policies. This MoU aims to build on that collaboration and will help to demonstrate that councils across Dorset are conforming to the legislative requirements. The intention is to include other organisations in the MoU as required by the Town and Country Planning Regulations 2012 as set out in section 4 of the draft MoU. This includes a range of statutory consultees and other organisations including neighbouring planning authorities who share borders with any of the Dorset councils.

4.4 At the recent Inquiry into the Bournemouth Plan (the Core Strategy) the Council was asked to demonstrate how it had cooperated with neighbouring authorities, and other agencies, in preparing the plan. This was a critical element of the Inquiry as had the Inspector not been satisfied with the evidence submitted he would not have let the Inquiry continue, a situation that has arisen elsewhere in the Country. The evidence submitted by the Officers was considered to show that we had previously undertaken our work in an appropriate manner. It is possible, however, that he will be seeking some assurance that this practice will continue into the future. An up to date MoU will be beneficial in demonstrating that we intend to continue to work closely with our neighbours and other partners in the future.

5.0 Consultation:

Prior to the Council signing the MoU it is proposed to consult the bodies as set out in paragraph 4 of the draft MoU, for example the Local Enterprise Partnership. These bodies will also be requested to sign the final MoU.

6.0 Alternative options considered and rejected:

6.1 None.

7.0 Summary of Financial/Resource Implications:

7.1 None.

8.0 Summary of legal implications:

8.1 The Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011 Section 110, and the National Planning Policy Framework place a duty on a range bodies, including the Council, to cooperate on strategic planning matters. Should the duty to cooperate not be carried out in accordance with the Act there is a risk that future Development Plan Documents will be found unsound by the Planning Inspectorate.

9.0 Summary of Environmental Impact:

9.1 None, an Environmental Impact Checklist has been completed.

10.0 Summary of Equalities and Diversity Impact:

10.1 An Equalities Impact Needs Assessment Screening Record has been completed. There are no equalities issues associated with the MoU.

11.0 Summary of Risk Assessment:

11.1 Signing the final MoU will minimise the risk that the Council fails in its duty to cooperate with prescribed bodies, thereby minimising the risk that future planning documents will be found unsound by the Planning Inspectorate.

Background papers:

- EINA Assessment
- Risk Assessment
- Environmental Assessment
- The Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011 Section 110
- National Planning Policy Framework

Appendix 1 – Draft Dorset Memorandum of Understanding about the duty to cooperate on strategic planning matters

APPENDIX 1

Draft Dorset memorandum of understanding about the duty to cooperate on strategic planning matters

Introduction

1. In accordance with the National Planning Policy Framework (NPPF), councils and other partner organisations in Dorset (including Bournemouth and Poole) are committed to working together to deliver strategic priorities for the area in a sustainable way. These include:

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

2. This document sets out how the responsible organisations will cooperate on strategic planning matters to deliver these priorities.

Statutory basis

3. Section 110 of the Localism Act sets out a new ‘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. The new 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; and
   - requires councils to consider joint approaches to plan making.

Responsible authorities

4. All of the councils in Dorset (Dorset County Council; Borough of Poole; Bournemouth Borough Council; Christchurch Borough Council; East Dorset District Council; North Dorset District Council; Purbeck District Council; West Dorset District Council; and Weymouth and Portland Borough Council) have signed up to this memorandum of understanding. Other agencies who will be invited to sign include:

   - Neighbouring planning authorities that share borders with any of the above councils
   - Environment Agency
   - English Heritage
   - Natural England
   - Civil Aviation Authority
   - Homes and Communities Agency
   - Primary Care Trusts (or whatever takes their place)
   - Office of the Rail Regulator
   - Highways Agency
   - Marine Management Organisation
   - Dorset Local Enterprise Partnership
   - Dorset Local Nature Partnership

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

What we are committed to doing

6. In line with the NPPF, all signatories to this document want to deliver sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs. We want to work together to meet the development needs of Dorset. Specifically, we will:

   - agree those matters which are strategic in nature, based upon an appreciation of the wider demographic, economic, environmental and social context that affects Dorset, and up-to-date evidence of development needs across the area;
   - agree an integrated and consistent approach to address these needs;
   - work together to agree the overall quantity, mix and broad distribution / apportionment of development across Dorset, including its delivery through necessary strategic infrastructure;
   - ensure that where strategic priorities cross local boundaries, we work collaboratively together to make sure they are clearly reflected in our individual plans;
   - work together to ensure that if development needs in one area cannot be wholly met, we can plan to meet them elsewhere in Dorset or neighbouring areas;
   - work together to resolve barriers to sustainable development in Dorset;
   - continue to work together on producing joint evidence where it is the most efficient and effective approach;
   - continue to work together on joint plans where it is the most efficient and effective approach;
   - engage constructively, actively and on an ongoing basis to deliver sustainable development in Dorset; and
   - ensure appropriate governance arrangements are in place to take forward the commitments in this memorandum.

Dispute resolution

7. There may be times when the signatories to this agreement cannot reach agreement. This may be perfectly acceptable. The duty to cooperate does not mean that all agencies always have to agree. It is important to have mechanisms for dealing with such disputes. If resolution cannot be reached, the matter will be referred to the Dorset Environment Managers Group. The Dorset Environment Managers Group will liaise with other appropriate signatories to consider if the issue can be resolved before referral to individual signatory organisations for their own resolution.

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