

Authority Monitoring Report 2023/24: Duty to co-operate

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1 Introduction

1.1 This report provides an overview of the actions that have been taken by the Council under the duty to co-operate and covers the period from 1 December 2023 to 31st December 2024.

1.2 The document is divided into two parts. Section 2 provides a brief explanation of the duty to co-operate, including its national legislative and policy background. Section 3 summarises collaboration on documents produced by Bracknell Forest Council (BFC) and those produced by others over the period covered by this report. It also includes advice on the location of further information.

1.3 This AMR should be read in conjunction with other topic based AMRs such as:

- Progress against the Local Development Scheme
- Housing
- Economy
- Environment

2 Background

The duty to co-operate (legislation relevant to the monitoring period covered by this AMR)

2.1 National legislation⁽¹⁾ and policy⁽²⁾ require local planning authorities (LPAs), county councils and ‘prescribed bodies’ (see para. 2.2) to co-operate with each other on strategic matters. These are matters that involve more than local issues that cannot be dealt with by one local planning authority working alone (including those that cross administrative boundaries). The aim is to maximise the effectiveness of the preparation of local development documents (including local plans and supplementary planning documents (SPDs)). This is called the ‘duty to co-operate’ and the bodies involved are collectively known as ‘duty to co-operate bodies’.

2.2 The ‘prescribed bodies’⁽³⁾ referred to above are as follows:

- Environment Agency
- Historic Buildings and Monuments Commission for England (known as Historic England)
- Natural England
- Mayor of London
- Civil Aviation Authority
- Homes England (formerly Homes and Communities Agency)
- Integrated Care Boards (ICBs) (Frimley ICB in respect of Bracknell Forest)
- NHS England (formerly National Health Service Commissioning Board)
- Office of Rail and Road (ORR)
- Transport for London (TfL)
- Each Integrated Transport Authority (not relevant to Bracknell Forest)
- Each highway authority (including National Highways, formerly Highways England)
- Marine Management Organisation (not relevant to Bracknell Forest)

2.3 National legislation⁽¹⁾ also requires duty to co-operate bodies to co-operate with Local Enterprise Partnerships and Local Nature Partnerships (LEPs and LNPs).

Duty to co-operate compliance

2.4 In the preparation of local plans, compliance with the duty to co-operate is tested by an independent Inspector. There are two tests: a legal compliance test, which is undertaken initially after a plan is submitted for examination by the Inspector, and a ‘soundness’ test, which is undertaken during the examination. It is essential that compliance with the duty to co-operate is robustly evidenced when the plan is submitted, as examination cannot proceed if the legal test has not been passed.

2.5 For the ‘soundness’ test to be passed, compliance with the co-operation requirements set out in the National Planning Policy Framework (NPPF, 2023) needs to be demonstrated. This includes a requirement for statements of common ground to demonstrate effective and on-going joint working⁽⁴⁾. Guidance on this is provided in Planning Practice Guidance (PPG).

1 Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended by Localism Act 2011)

2 Para. 24 of the National Planning Policy Framework (NPPF, 2023)

3 As defined by Part 2 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended)

4 NPPF para. 27

2.6 The actions that have been taken by the Council to meet the requirements of the duty to co-operate in the preparation of local development documents are discussed in the next section.

The future of the duty to co-operate

2.7 The 'Levelling Up and Regeneration Act' (LURA)⁽⁵⁾ was enacted on 26 October 2023. Schedule 7 relates to plan making and replaces sections 15-37 of Part 2 of the Planning and Compulsory Purchase Act 2004. This includes replacement of S.33A (as outlined above) regarding the duty to co-operate in relation to the planning of sustainable development.

2.8 Secondary legislation in relation to plan making has been delayed due to the change in government following the general election in July 2024. The current government is in the process of reforming the planning system and published 'Proposed reforms to the National Planning Policy Framework and other changes to the planning system' for consultation at the end of July 2024. This document makes it clear that whilst it is intending to revoke the duty to co-operate in relation to the new plan making arrangements (following secondary legislation), it remains a legal requirement under the current local plan making process. The consultation document states that there should be greater collaboration between authorities and suggests strengthening the 'maintaining effective co-operation' section of the NPPF. However, the outcome of the consultation is not yet known.

2.9 Any changes in approach will be reflected in a future AMR relating to this topic.

5 LURA 2023: www.legislation.gov.uk/ukpga/2023/55/enacted

3 Actions taken under the duty to co-operate

3.1 Co-operation on documents being produced by Bracknell Forest Council

3.1 Bracknell Forest Local Plan (BFLP)

3.2 Although the Bracknell Forest Local Plan (BFLP) was adopted on 19th March 2024, it was still being examined by Inspectors for part of the monitoring period, following submission to the Secretary of State for Levelling Up, Housing and Communities on 20 December 2021. A Duty to Co-operate Statement (2021) [LP/CORE/006] was submitted with the BFLP.

3.3 A consultation on 'Proposed Main Modifications' ran from Tuesday 31 October 2023 to Tuesday 12 December 2023. Following the close of the consultation, the Inspectors considered all representations made. The Inspectors' Report alongside the final recommendations was received on 1 March 2024. The report concluded (paragraph 20) that the BFLP had met the duty to co-operate requirements, and that with the incorporation of prescribed main modifications, could be found sound and legally compliant. Further details can be viewed on the Examination website ⁽⁶⁾

3.4 Supplementary Planning Documents (SPD)

3.5 Following the adoption of the BFLP the Council are currently progressing a number of SPDs.

3.6 Supplementary Planning Documents do not form part of the Development Plan (as they are not DPDs). They are capable of being a material consideration and add further detail on the implementation of policies set out in DPDs.

3.7 Bracknell Town Centre Masterplans SPD

3.8 The Bracknell Town Centre Masterplans SPD provides land use and design guidance for three strategic development sites in Bracknell town centre. These are: Southern Gateway (Policy LP10 in the BFLP), Eastern Gateway (Policy LP9 in the BFLP), and High Street multi-storey car park. The Council held a 6 week public consultation on the draft SPD between 8 April 2024 and 20 May 2024. This included public exhibitions at the Lexicon on 25 April 2024 and 27 April 2024. Following the close of the consultation Planning Officers considered all representations made which helped inform the contents of the final document. The prescribed bodies were consulted on and BFC received representations from National Highways and Historic England. All documents were published on the Council's Bracknell Town Centre Masterplans SPD website⁽⁷⁾. The SPD was adopted in October 2024.

3.9 Housing SPD

3.10 The draft Housing SPD has been produced jointly by our Planning and Housing Teams. A public consultation on the draft SPD was held between Tuesday 1 October and Tuesday 5 November 2024. The prescribed bodies were consulted on. BFC received representations from

6 Examination website: [Examination of the Bracknell Forest Local Plan | Bracknell Forest Council \(bracknell-forest.gov.uk\)](https://www.bracknell-forest.gov.uk/examination-of-the-bracknell-forest-local-plan)
7 [Bracknell Town Centre Masterplans Supplementary Planning Document | Bracknell Forest Council](https://www.bracknell-forest.gov.uk/bracknell-town-centre-masterplans-supplementary-planning-document)

National Highways, Historic England and Natural England. All consultation responses will be considered to inform the final version of the SPD. upon the adoption of the Housing SPD the Council will publish a consultation statement which will include a summary of the responses.

3.11 Statement of Community Involvement (SCI)

3.12 The SCI sets out how Bracknell Forest's planning services consult and engage on planning matters. The Council have produced a draft SCI 2024 which is available for public consultation from Tuesday 29 October to Tuesday 3 December 2024.

3.13 Thames Basin Heaths Special Protection Area (SPA) SPD

3.14 The updated Thames Basin Heaths SPA SPD will provide further guidance on policies LP31 and LP32 in the BFLP. It will replace Thames Basin Heaths SPA SPD (2018). Public consultation on the draft document will run between Wednesday 15 January to Wednesday 12 February 2025.

3.2 Co-operation on documents produced by other authorities/bodies

3.15 In addition to co-operating with duty to co-operate bodies on the preparation of its own development plan documents, BFC also co-operates with others on the production of joint strategies and development plan documents plus associated supporting evidence. Some of the collaboration that has been undertaken during the period covered by this report is summarised below.

3.16 Co-operation across Berkshire Authorities

3.17 The Berkshire Prosperity Board was set up by all six Berkshire local authorities, during the Spring of 2024, with the aim of helping to drive forward and deliver future economic success across the area. It involves working together as a formal joint committee to secure more funding and boost prosperity. Work is currently focused on six themes – Affordable Housing, Net Zero, Health and Inequalities, Employment and Skills, Sector Development and Strategic Infrastructure. It is recognised that it will be critical to work with in partners including the Local Economic Partnership, Thames Valley Chamber of Commerce (TVCC), Homes England, registered providers and Integrated Care Boards.

Co-operation between the West of Berkshire Authorities

3.18 BFC, Wokingham Borough Council, Reading Borough Council and West Berkshire Council, collectively referred to as the West of Berkshire Authorities, maintain a close relationship with one another. This is due to strong linkages and flows that create an interdependence between the constituent authorities. For example, they are well-linked by road corridors such as the M4, A329(M) and A33, as well as the railway network, Reading Railway Station acting as a major transport hub. There are also navigable waterways flowing through the area - River Thames and the Kennet and Avon Canal.

3.19 As reported in previous duty to co-operate AMRs, the West of Berkshire Housing Market Area (HMA) was considered the most appropriate geography on which to base a SoCG for local plan making purposes. A SoCG was signed off by all four authorities in August 2021.⁽⁸⁾

⁸ West of Berkshire Area Statement of Common Ground For local plan-making August 2021 (LP/Ev/2n): <https://consult.bracknell-forest.gov.uk/file/5939372>

In addition to the West of Berkshire SOCG, a Memorandum of Understanding (MoU) addressing unmet housing need documented in the Reading Borough Local Plan (2021 to 2036) was signed by the West of Berkshire Authorities⁽⁹⁾. The MoU establishes that Reading Borough's unmet need is that identified in the Reading Borough Local Plan and that this will be accommodated within the HMA. These statements were drawn upon during the examination of the BFLP and the Inspectors concluded in their Report that the housing land supply in the BFLP had sufficient flexibility within it, to make some contribution to Reading Borough's needs, if required. Reading Borough Council has subsequently published a new Housing Needs Assessment (HNA) which looks at Reading's housing need to 2041. This forms part of the evidence base to Reading Borough Council's Partial Update to its Local Plan. A Regulation 19 version of the Partial Update was subject to consultation during November and December 2024 (see below).

Co-operation on transport matters

3.20 Over the period covered by this report, the Council has been involved in dialogue with the other Berkshire Unitary Authorities on transport matters, including via the Development Plans Group⁽¹⁰⁾, Berkshire Strategic Transport Forum, which includes membership from the six Berkshire authorities and the Thames Valley Berkshire LEP. Information on growth planned in the BFLP has also been shared with Transport for the South East (the sub-national transport body) to support the preparation of a long term strategy.

Co-operation on natural environment matters

3.21 The Council is involved in well established cross-boundary partnerships concerned with the Thames Basin Heaths Special Protection Area (TBH SPA) and these have resulted in the following attainments:

- Thames Basin Heaths Joint Strategic Partnership Board and associated officer groups⁽¹¹⁾ (hosted by Surrey Heath Borough Council).
- Suitable Alternative Natural Greenspace (SANG) Capacity Agreement with Surrey Heath Council to enable housebuilding within its administrative area, but using available SANG capacity in Bracknell Forest SANGs.
- The facilitation of housing development in other authorities (such as Hart and RBWM) through utilisation of the Council's strategic SANG capacity.
- Continued and extensive working relationships between the Council and Natural England on TBH SPA projects.
- Day to day running of the SAMM Project in accordance with a legal agreement with Natural England and the 10 other local authorities affected by the Thames Basin Heaths issues - Waverley, Guildford, Surrey Heath, Woking, Hart, Wokingham, Elmbridge, Runnymede, RBWM, and Rushmoor Councils.
- Sharing good practice regarding SANG and TBH SPA issues including the monitoring of SANGs and the TBH SPA mitigation project.

3.22 In relation to biodiversity:

- Officers from Bracknell Forest Council (BFC) attend the Berkshire Biodiversity Net Gain (BNG) meetings. This aims to share information regarding joint working and collaboration on BNG policy, process and strategy across Berkshire.

9 Reading's housing needs: Memorandum of Understanding (MoU) between the authorities in the Western Berkshire Housing Market Area, August 2021 (LP/Ev/2m): <https://consult.bracknell-forest.gov.uk/file/5939371>

10 Development Plans Group: comprising the Planning Policy Team Leaders of each of the Berkshire Unitary Authorities

11 Information on the Joint Strategic Partnership Board, including member organisations and meeting minutes can be found on the Surrey Heath Borough Council website: <https://surreyheath.moderngov.co.uk/ieListMeetings.aspx?CommitteeId=316>

- An officer from BFC sits on the Berkshire LNP Steering Group⁽¹²⁾, and Berkshire Local Authority Ecologists group⁽¹³⁾.
- BFC is a Supporting Authority in the development of the Berkshire Local Nature Recovery Strategy (LNRS), which is being coordinated by the Royal Borough of Windsor and Maidenhead (the Responsible Authority). An officer sits on the LNRS Mapping and Data group.

Co-operation on minerals and waste matters

3.23 As a Minerals Planning Authority, BFC is a member of the South East England Aggregate Working Party (SEEAWP). All members have a responsibility for planning the supply of minerals in their areas, through the preparation of minerals local plans.

3.24 A Position Statement has been completed in November 2023, setting out technical information in respect of soft sand supply in the South East, which is being used as a basis for future Statements of Common Ground.

3.25 Similarly, as a Waste Planning Authority (WPA), Bracknell Forest Council is also a member of the South East Waste Authority Planning Advisory Group (SEWPAG) comprising WPAs in the South East of England, the Environment Agency, representatives from similar forums in London and the East of England and waste industry representation through the Environmental Services Association (ESA). SEWPAG exists to help WPAs in the south east fulfil their 'Duty to Co-operate' responsibility on strategic cross boundary waste issues, and to give effect to the Government's stated intention of encouraging WPAs to work together in groups in order that they may carry out their individual responsibilities more effectively.

Duty to co-operate consultations and requests

3.26 Under the duty to co-operate, the Council responds to consultations and requests from other local planning authorities. Over the period covered by this report, the Council has responded to the following:

- Responding to consultations on other local planning authority local plans:
- Reading Borough Council
 - January 2024: BFC responded to a Regulation 18 consultation on the Reading Borough Local Plan Partial Update: scoping and content. The response included support for the decision to commission evidence to understand the need for housing (rooted in local need) and increasing densities in Reading Town Centre.
 - March 2024: Attended workshop on Reading Borough Council's Housing Needs Assessment which was facilitated by Reading Borough Council's consultants, ORS. The final report was subsequently received in July 2024.
 - September 2024: BFC responded to a letter from Reading Borough Council about the Borough's housing need. BFC expressed support for the approach to be taken in the emerging local plan whilst agreeing that it was likely to come under significant scrutiny during the examination, due to the requirement to demonstrate exceptional circumstances because an alternative approach was being taken.
 - December 2024: BFC responded to a Regulation 19 consultation on the Reading Borough Local Plan Partial Update. The response concluded that whilst certain policies and supporting text might benefit from some revisions, the main area of concern

12 Berkshire LNP Steering Group: <https://www.berkshirelnp.org/homepage/the-partners>

13 The Berkshire Local Authority Ecologists group includes a representative from each local authority in Berkshire

was the use of a range of figures for the potential capacity of allocated sites. If the lower figures were to be achieved, there was a risk that the allocations (taken together with the commitments) might not meet the outstanding need.

- Wokingham Borough Council
 - December 2023: BFC responded to a request from Wokingham Borough Council for assistance in meeting the anticipated unmet need for gypsy and traveler pitches arising in Wokingham Borough. The response concluded that BFC was unable to assist as it also had an unmet pitch need.
 - August 2024: Meeting to discuss emerging Regulation 19 version of the local plan and cross boundary issues.
 - September 2024: Meeting to discuss cross boundary transport issues raised in evidence base to emerging Regulation 19 version of the local plan.
 - November 2024: BFC responded to the Regulation 19 consultation on the Pre-Submission Plan. BFC stated that whilst it was considered that certain policies might benefit from amplification/adjustments, the main areas of concern due to possible impact on Bracknell Forest were the proposed new centres in terms of any effects that they might have on those in Bracknell Forest and the extension to the South Wokingham SDL in terms of:-
 - Impact of additional traffic on BFC's road network, particularly Old Wokingham Road and lack of appropriate connectivity in respect of sustainable modes of travel within Bracknell Forest.
 - Impact of development on landscape character (including Old Wokingham Road) and the setting and separation of settlements.
 - November 2024: Meeting to discuss BFC's response to the Regulation 19 version of the local plan. Issues addressed included the background to the proposed South Wokingham extension, planning applications submitted and the transport and landscape impacts on Bracknell Forest. It was decided to set up 3 further meetings including one that would deal with the content of a Statement of Common Ground. Wokingham Borough Council was to compile a draft and circulate.
- Surrey Heath Borough Council
 - April 2024: meeting to discuss strategic cross boundary planning matters affecting the two authorities with a particular focus on the emerging Surrey Heath Local Plan. It was agreed that there were no outstanding cross boundary issues, with the exception of unmet need for Gypsy and Traveler sites in both Authorities.
 - July 2024: This was a member level request regarding Surrey Heath Borough Council's unmet Gypsy and Traveler need. The BFC member level response furthered a letter sent in February 2023. The summarised that due to unmet needs in Bracknell Forest, BFC is not in a position to assist with Surrey Heath Borough Council's unmet need.
 - September 2024: BFC provided a response to the Regulation 19 consultation on the Surrey Heath Local Plan 2019-2038. The response concluded that there was no unmet need for housing with the exception of Gypsy and Traveler sites, there was sufficient provision to mitigate any impact on the Thames Basin Heaths SPA, and there was no significant adverse effects of Bracknell Forest's highway network. In

addition, BFC's response summarised the tensions between Policies ER7 and ER8 (Criterion 5).

- October 2024: Meeting to discuss revisions required to Surrey Heath Borough Council's draft Statement of Common Ground in order to address BFC's response to the Regulation 19 consultation.
- November 2024: Revised version of draft Statement of Common Ground issued. Following the exchange of comments, a final version was agreed.
- December 2024: Statement of Common Ground signed by both parties.
- Kent County Council
 - February 2024: SEWPAG, on behalf of BFC and others, responded to the Regulation 19 consultation on the Kent Minerals and Waste Plan 2024 - 2039 stating that it was considered that Kent County Council was providing a full contribution towards meeting waste management requirements within the region, and therefore raised no objection.
- Hertfordshire County Council
 - June 2024: BFC responded to a request concerning the movement of waste (including any information on projected changes) between the Authorities. It was commented that strategic levels of movement had been identified from Bracknell Forest to Hertfordshire for both the non-hazardous (HIC) (13,896 tonnes) and hazardous (402 tonnes) waste streams. It was also confirmed that there were no comments to be made on the identified waste movements relating to the other Joint Central and Eastern Berkshire Authorities (Reading Borough, the Royal Borough of Windsor & Maidenhead and Wokingham Borough).
- NHS England
 - June 2024: Request for information regarding time scales for housing development in Bracknell Forest. BFC responded by providing the Housing Trajectory in Appendix 1 of the BFLP.

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Nepali

यस प्रचारको सक्षेपं वा सार निचोड चाहिं दिइने छ ठूलो अक्षरमा, ब्रेल वा क्यासेट सून्नको लागी । अरु भाषाको नक्कल पनि हासिल गर्न सकिने छ । कृपया सम्पर्क गर्नुहोला ०१३४४ ३५२००० ।

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