

## MEMORANDUM OF UNDERSTANDING

Agreed on 28<sup>th</sup> June 2013.

The parties to this memorandum of understanding (MoU) are:

- (1) **BASINGSTOKE AND DEANE BOROUGH COUNCIL** of Civic Offices, London Road, Basingstoke, Hampshire RG21 4AH;
- (2) **EAST HAMPSHIRE DISTRICT COUNCIL** of Penns Place, Petersfield, Hampshire GU31 4EX;
- (3) **EASTLEIGH BOROUGH COUNCIL** of Civic Offices, Leigh Road, Eastleigh, Hampshire SO50 9YN;
- (4) **FAREHAM BOROUGH COUNCIL** of Civic Offices, Civic Way, Fareham, Hampshire PO16 7AZ;<sup>1</sup>
- (5) **GOSPORT BOROUGH COUNCIL** of Town Hall, High Street, Gosport, Hampshire PO12 1EB;
- (6) **HAMPSHIRE COUNTY COUNCIL** of The Castle, Winchester, Hampshire, SO23 8UJ;
- (7) **HART DISTRICT COUNCIL** of Civic Offices, Harlington Way, Fleet, Hampshire GU51 4AE;
- (8) **COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza, Civic Centre Road, Havant, Hampshire PO9 2AX;
- (9) **NEW FOREST DISTRICT COUNCIL** of Appletree Court, Lyndhurst Hampshire SO43 7PA;
- (10) **NEW FOREST NATIONAL PARK AUTHORITY** of Avenue Road, Lymington SO41 9ZG;
- (11) **RUSHMOOR BOROUGH COUNCIL** of Council Offices, Farnborough Road, Farnborough, Hampshire GU14 7JU;
- (12) **TEST VALLEY BOROUGH COUNCIL** of Beech Hurst, Weyhill Road, Andover, Hampshire, SP10 3AJ;
- (13) **WINCHESTER CITY COUNCIL** of City Offices, Colebrook Street, Winchester, Hampshire SO23 9LJ.

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<sup>1</sup> Fareham Borough Council accepts this MoU as a guide for development in all areas of Fareham Borough other than Welborne which, due to its complexities, requires a separate agreement with the County Council.

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## **1. PURPOSE**

- 1.1 This Memorandum of Understanding (MoU) provides a broad framework to assist its signatories, hereafter referred to as “the Partners”, as they come to determine priorities for planning, funding and delivering future infrastructure.
- 1.2 The Planning Act (2008) provides a wide definition of the infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition encompasses a broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, district heating schemes and police stations and other community safety facilities. This gives local communities flexibility to choose what infrastructure they need to deliver their development plans. The principles set out in this document take account of the varying scale and types of infrastructure needs across Hampshire.
- 1.3 Although this MoU is not legally binding, it is a statement of joint intent which indicates the broad principles that the Partners will seek to apply when making decisions about strategic and community infrastructure, both of which are integral to the economic, social and environmental well-being of Hampshire’s communities.
- 1.4 Due to the diverse range of infrastructure needs across Hampshire Partners fully recognise the need of locally tailored solutions rather than a one-size-fits-all approach. However, they also recognise the need to work in collaboration so that wherever possible priorities can be effectively aligned and to ensure future capital programmes and development plans take account of shared priorities. The principles, outlined in this Memorandum, are designed to help ensure Partners make best use of all potential funding streams in order to maximise investment for Hampshire’s infrastructure.
- 1.5 This MoU aims to provide a framework within which Partners can work to minimise the risk of a growing infrastructure deficit in Hampshire. That risk has been heightened due to recent changes in the planning system, coupled with the on-going reductions in central government grant and the disaggregation of funding streams away from local authorities.
- 1.6 Partners have agreed to develop a good practice guide to follow this document. The purpose is to provide a range of case studies provided by Partners to illustrate how funding can be maximised through effective joint working and best use of the range of funding

mechanisms. It will also include protocols for ensuring timely responses from the County Council, as the provider of transport, education and other strategic infrastructure, to Partner authorities' consultations on planning applications. The good practice guide will remain a live document, to which further case studies can be added over time.

1.7 This Memorandum of Understanding sets out the basis upon which Partners will seek to collaborate, in terms of:

- (a) Jointly identifying infrastructure needs and providing evidence where funding gaps exist;
- (b) Early and on-going co-operation to inform plans for future development and infrastructure priorities;
- (c) Agreed principles to guide Partners when determining how funding mechanisms can support key developments and maximise infrastructure delivery;
- (d) Collective approach to engaging other key stakeholders.

The Parties acknowledge the need to keep this document under review and consider, as and when necessary, further flexible arrangements between parties to aid the timely delivery of schemes.

## **2. SHARED PRINCIPLES**

2.1 This Memorandum of Understanding includes a range of principles which partners have agreed to apply to their strategic planning, budget setting and policy implementation. These are summarised below:

- (a) to work in collaboration with other partners to enable, wherever possible, the effective alignment of priorities and ensure future capital programmes and development plans take account of shared priorities. (para.1.4)
- (b) a commitment to developing a comprehensive infrastructure needs assessment for Hampshire that identifies infrastructure needs over the next twenty years, based on existing deficiencies, natural growth and development requirements (para 4.1)
- (c) a commitment to use their best endeavours to release local capital and other resources to meet Hampshire's infrastructure needs. (para.6.1)

- (d) to work with a wide range of stakeholders, including those in the private sector and through Government agencies to secure funding. (para.6.2).
- (e) to position themselves so they are ready to respond to Government initiatives, such as Tax Increment Financing and continue to exploit grant schemes from Government Departments and key agencies such as the Highways Agency and the Homes and Communities Agency. (para.6.2)
- (f) to engage positively with Enterprise M3 LEP and the Solent LEP and develop closer relationships with the local business sector. In doing so, partners aim to better align Hampshire's infrastructure priorities so that robust proposals for greater devolution of funding can be put forward to Government in order to invest in local growth schemes. (para.6.3).
- (g) a commitment to maintaining a collaborative approach towards local transport. (para.5.5).
- (h) to work flexibly with neighbouring authorities, including through bi-lateral arrangements with the two cities of Portsmouth and Southampton and other neighbouring counties. (para.5.5).
- (i) aim to ensure that any modifications to capital programmes to not take place in isolation but always in the context of the shared principles and the consideration of all the alternative funding mechanisms and potential opportunities available (para.5.9).
- (j) co-operate both within and beyond Hampshire, particularly in relation to the Community Infrastructure Levy (para.5.6)
- (k) local planning authority partners to consult with the County Council on their CIL charging schedules and in relation to their CIL Regulation 123 Lists (para.5.7)

2.2 In addition Partners have identified and agreed four principles to specifically help maximise developer funding for infrastructure. These are set out in paragraph 6.4 of this Memorandum of Understanding.

### **3. STATUS**

3.1 The Partners acknowledge that this Memorandum of Understanding is not a legally binding contract but, as outlined above, a statement of intent which provides the foundation blocks for early and on-going co-operation between Partners, including bi-lateral arrangements between neighbouring authorities and between the different tiers of local government in Hampshire.

## 4. IDENTIFYING INFRASTRUCTURE NEEDS

- 4.1 Hampshire local authorities have a good track record of working together to identify and deliver infrastructure needed to support development. The Partners are committed to developing a [Strategic Infrastructure Statement](#), identifying a defined set of Hampshire's infrastructure needs over the next fifteen years. The identified infrastructure is based on needs arising from existing deficiencies, natural growth and development pressures. The intention is to update the statement regularly in collaboration with Partners to reflect progress in Local Plan documents and infrastructure project delivery. The latest version is published on [www.hants.gov.uk/strategic-planning/infrastructure](http://www.hants.gov.uk/strategic-planning/infrastructure).
- 4.2 Version 1 of this Statement was prepared by Hampshire County Council ("the County Council") in consultation with Partners. It was endorsed by the County Council's Cabinet (subject to amendments) in December 2012 and published in January 2013. It focuses on the County Council's own service areas, based on an understanding of the development strategies set out in the district and boroughs' adopted and emerging Local Plan documents. The Statement also includes infrastructure identified by other key public sector partners: the PCT, Hampshire Fire & Rescue and Hampshire Constabulary.
- 4.3 The Statement sets out the infrastructure assets for County Council services and explains the basis for determining where new infrastructure is required. It includes current funding arrangements, the potential funding available in future, and identifies projects for each district (and the New Forest National Park Authority area) for the infrastructure defined. This, combined with evidence contained in the District Transport Statements, illustrates the need for a significant amount of new infrastructure to meet local needs. Therefore robust plans, developed in collaboration with Partners will become increasingly important.
- 4.4 The Statement will provide a useful starting point to inform bi-lateral discussions, whereby Partners will consider local needs and agree joint priorities. Indeed, Version 1 of the Statement has started to highlight funding gaps that may be relevant for Community Infrastructure Levy (CIL) funds or other developer funding. The Partners have agreed to work speedily through a series of bilateral talks and to involve other key stakeholders to build on this Statement and, by providing links to Local Plans, be ready to provide a more comprehensive picture as to where developer contributions will be required. Furthermore, the Statement should help inform capital spending as well as Hampshire's two Local Enterprise Partnerships ("LEPs") when prioritising the allocation of funding to infrastructure projects.

## **5. INFORMING FUTURE DEVELOPMENT PLANS**

- 5.1 Historically a significant proportion of the County Council's Capital Programme, particularly for education and transport infrastructure, was funded through Hampshire's developer contributions policy. Developer contributions have been equally important for funding District and Borough Council infrastructure priorities, most notably affordable housing, but also a wide range of community infrastructure such as open space, flood defences, and leisure facilities. Due to the changes in the planning system, the use of Section 106 (S106) developer contributions will be significantly restricted, thus prohibiting the use of the current developer contributions policy. Instead, alternative funding mechanisms, including CIL, will need to be utilised to meet the strategic infrastructure needs set out in the Interim Statement (see para 3.2) and community infrastructure needs identified in the development plans.
- 5.2 The Government has announced that affordable housing will continue to be funded from S106 developer contributions for the present time. The ability to plan, fund and deliver Extra Care Housing for Hampshire's growing elderly population remains crucial and a number of worked examples to address how this might be done are provided in the good practice guide.
- 5.3 In future Hampshire County Council and Hampshire's district and borough councils will each seek to deploy capital and other resources to help fund infrastructure priorities. The County Council's Capital Programme will play a fuller part in infrastructure. This follows a shift within the County Council to taking a more strategic overview in terms of prioritising and funding capital investment needs. In future it will apply a similar approach when considering the needs and priorities for infrastructure investment across the county. Working together, the Partners will not only use traditional forms of capital resource such as S106 and capital receipts but will also make use of all other funding sources and new mechanisms, for example through the LEPs and new Transport Bodies.
- 5.4 As indicated above, the Interim Infrastructure Statement will help inform Local Plan documents. In addition, the County Council will continue to provide Partners with population, economic and housing data to further inform their Local Plan documents.
- 5.5 Partners are committed to maintaining a collaborative approach towards local transport. District Transport Statements and Town Access Plans are produced and their priorities are reflected in Local Plan documents. Whilst this MoU endorses county-wide

collaboration wherever possible, it recognises that Partners need to work flexibly with different neighbouring authorities. This will include a range of bi-lateral arrangements with the two cities of Portsmouth and Southampton and other neighbouring counties.

- 5.6 All Partners are fully committed to the duty to co-operate as set out in the Planning Section of the Localism Act (2011). There is a strong desire to co-operate both within and beyond Hampshire, particularly in relation to CIL which will be one significant mechanism for funding infrastructure.
- 5.7 Decisions over the allocation of CIL monies rests with individual Local Planning Authorities ie the CIL Charging Authorities. However, the Partners recognise the need for co-operation beyond the public examination stage of the CIL Charging Schedule, not least because the contents of their CIL Regulation 123 List will list what will be funded by CIL and, consequently, will determine what can and cannot be funded by S106 monies. Therefore the CIL Charging Authorities who are party to this MoU have agreed to not only consult the County Council on their CIL Charging Schedules but also to engage the County Council as they come to determine which schemes and types of infrastructure will be funded by CIL. Those details will be set out in their CIL Regulation 123 Lists, which will be produced following approval of the Charging Schedules and which will need to be updated as schemes come forward.
- 5.8 Partners recognise that a 'one size fits all' approach is not appropriate given the scale of development and the variety of infrastructure across Hampshire. However there is an understanding that individual priorities will be informed by the shared principles set out in Section 5 of this document. The intention is for Partners to add case studies to the good practice guide.
- 5.9 The Partners recognise that, due to the nature of CIL with its set tariff and viability tests, it is likely that local planning authorities in Hampshire will secure significantly less for off-site infrastructure through CIL than under the old pooling arrangements. Therefore, this collective approach aims to ensure that any modifications to capital programmes and the development of CIL policies do not take place in isolation but always in context of the shared principles and after consideration of all the alternative funding mechanisms and potential opportunities available.



## **6. MAXIMISING FUNDING FOR INFRASTRUCTURE**

- 6.1 Partners are aware that in order to maximise funding for infrastructure all possible funding streams will need to be explored and utilised where appropriate. They are committed to using their best endeavours to release local capital and other resources to meet Hampshire's infrastructure needs.
- 6.2 In addition to developer contributions and CIL, the Partners will need to work with a wide range of stakeholders, including those in the private sector and through Government agencies to secure funding. In addition they will need to position themselves so they are ready to respond to Government initiatives, such as Tax Increment Financing and continue to exploit grant schemes from Government Departments and key agencies such as the Highways Agency and the Homes and Communities Agency.
- 6.3 Partners will also want to consider how Hampshire can maximise its share of locally retained business rates through influencing business and central Government. Partners will want to engage positively with Enterprise M3 LEP and the Solent LEP and develop closer relationships with the local business sector. In doing so, Partners aim to better align Hampshire's infrastructure priorities so that robust proposals for greater devolution of funding can be put forward to Government in order to invest in local growth schemes. Joint working with the LEPs and other sub national Partnerships is vital because, although the Government continues to direct more funding streams to those strategic Partnerships, it is often only with the co-operation and delivery capacity of local government can LEP priorities be met.
- 6.4 In terms of securing developer funding, Partners agree to apply the following principles wherever possible: -
- (i) That S106 developer contributions be sought to fund infrastructure schemes which are dedicated to supporting new large developments, such as a development of 500 or more homes. This would include securing S106 to fund infrastructure that is on site or in the vicinity of the development, for example a new household waste recycling centre or a new school.
  - (ii) That Section 278 of the Highways Act be used by the County Council, as the Highways Authority, to secure funding for transport schemes which are directly related to the impact of the development.

(iii) That CIL receipts be used to fund infrastructure schemes where the need for that infrastructure arises from the impact of new development including increasing the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development and also schemes which will benefit multiple developments for strategic off-site schemes and those that cross district boundaries, for example the Bus Rapid Transit.

(iv) That a combination of CIL and Section 278 be sought to fund major transport schemes which are unlikely to be able to be fully funded through CIL and where there is a clear requirement for the scheme to be delivered in order to support one or more developments.

6.5 This MoU also recognises that Partners may also need consider what CIL contributions are required to meet infrastructure needs beyond those set out in Hampshire Strategic Infrastructure Statement. This includes dedicating a 'meaningful proportion', as defined in the CIL Regulations, to the community and requirements for coastal defence, green infrastructure and mitigation measures under the Habitats Regulations Assessment (HRA).

## **7. REVIEW AND DISPUTE RESOLUTION**

7.1 The MoU will be subject to periodic review by all the Partners and amended as appropriate.

7.2 Partners agree to monitor the application of the principles set out in this MoU and to develop more detailed arrangements as and when required.

7.3 By following the principles set out in the document and pursuing a collaborative approach wherever possible it is expected that disputes on how to address infrastructure needs will be avoided or at least kept to an absolute minimum. Where differences arise parties will take all reasonable steps to reach a mutually acceptable resolution. This will involve escalating issues up through the respective organisations in an attempt to secure a resolution. Where differences cannot be resolved the individual sovereignty of the respective organisations will need to be respected.

- 7.4 Nothing in this document shall serve to limit the discretion of a Partner authority or otherwise bind that Partner to a decision with which that Partner does not agree.

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