

Matter 2: Duty to co-operate

Introduction

This statement sets out Westminster City Council's written response in relation to the Inspector's Matter 2 issues and questions regarding the **duty to co-operate**. Examination document reference numbers are used throughout for convenience e.g. CORE_001. References to modifications in the Schedule of Modifications are in the following format M/E/01 or PS/E/01.

Issue

Whether the Council has complied with the duty to co-operate in the preparation of the City Plan.

Question 1. What are the strategic matters relevant to the preparation of the City Plan (as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004)?

1.1 The New London Plan is the spatial development strategy for Greater London. It contains policies on London's and Westminster's strategic matters. The council has a collaborative working relationship with the Mayor of London and other London boroughs and joint work has informed both the policies in the New London Plan and in the City Plan.

1.2 Through collaboration with its stakeholders, the council has identified a series of strategic matters relevant to the preparation of the City Plan. These are listed in the Duty to Co-operate Statement (Section 3.1, Figure 3.1, CORE_012). The key strategic matters are identified as: air quality, green infrastructure, flooding, Grand Union Canal, heritage, housing, waste, transport, economy, building height, North Bank, Opportunity Areas. These have been defined in accordance with S33A(4) of the Planning and Compulsory Purchase Act 2004. Policy 1 of the City Plan sets out Westminster's Spatial Strategy and provides the overarching spatial strategy for the Plan as a whole.

1.3 In accordance with Paragraph 21 of the National Planning Policy Framework (NPPF), Appendix 3 of the City Plan also details which policies deal with strategic matters. This includes policies that address the above mentioned strategic and cross-boundary matters.

1.4 The council has discussed the above mentioned strategic and cross administrative matters with a wide range of prescribed bodies, stakeholders and partners. The identified strategic matters have also been addressed by the series of Statements of Common Ground (SCG) that the council has submitted, including two joint SCG with the Mayor of London and neighbouring boroughs (SCG_004 and SCG_004_V2) that have been published following the approach set out in national

planning guidance.

Question 2. For each of these, who has the Council co-operated with during the preparation of the City Plan and what form has this taken?

2.1 The City Plan is in general conformity with the London Plan which has recently been reviewed. The council has actively engaged with the Mayor of London and its neighbouring authorities during this time. Special cooperation mechanisms have ensured that the policies in the New London Plan are the result of joint work and cooperation between the Mayor of London and London's councils, including Westminster City Council.

2.2 The Duty to Co-operate Statement (CORE_012) details who are the prescribed bodies with whom the council has a duty to co-operate (see Section 1). It also summarises who are the council's key stakeholders and partners (see Section 2). The council has discharged its duty to co-operate by positively engaging and working with all prescribed bodies and other stakeholders and partners during the preparation of the City Plan as detailed in Sections 2, 3 and 4 of the Statement.

2.3 For each of the identified strategic matter listed in the response to question 1 above, the Statement (see Section 3.1, Figure 3.1, CORE_012) summarises with whom the council has co-operated during the preparation of the City Plan. Note – this is a summary and does not present an exhaustive list of every stakeholder and partner the council has co-operated with in relation to each of the identified matters.

2.4 Co-operation with the prescribed bodies, stakeholders and partners has taken different forms including:

- Formal public consultation: At each consultation stage, the council has consulted the prescribed bodies and many other organisations and individuals that are in the council's Planning Consultation Database. More information about this form of cooperation can be found in the Consultation Statements (CORE_009 and CORE_010).
- Meetings and officer level communication: Officers from the council have regularly met with officers from other bodies, including with those representing many of the prescribed bodies. Further information can be found in the Duty to Co-operate Statement (CORE_012) – see particularly Appendix 1 for the Schedule of meetings with statutory stakeholders. Further information about meetings with non-statutory consultees and partners can be found in Appendix 2. The council have also kept its stakeholders and partners up to date during the whole plan-making process and informed them about any relevant issues or changes through more informal channels (e.g. by email or phone).
- Partnerships and member level communication: Members and officers from the council regularly engage and work together with key stakeholders and partners through strategic partnerships where the council is a member of (see Section 2, Appendix 1, Appendix 2, CORE_010)

2.5 The NPPF (see Paragraph 24-27 and 35) and the Guidance on Plan-making¹ (see Paragraphs 009 -075) require local authorities to produce and update one or

¹ www.gov.uk/guidance/plan-making

more SCGs throughout the plan-making process to demonstrate effective and joint working on strategic matters and what work has been undertaken to resolve differences. SCGs have been used by the council to provide a written record of discussions on strategic matters and policies between us and other bodies and therefore can help demonstrate how we have met the duty-to-cooperate and how the City Plan is based on effective joint working. This is explained in Section 4 of the Duty-to-Cooperate Statement (CORE_012) which also explains that the council has submitted a number of SCG signed with a number of stakeholders. All of Westminster’s SCGs are listed in the examination library on the council’s website².

2.6 The Duty-to-Cooperate Statement (CORE_012) is the key document explaining which are the strategic matters and with whom the council has cooperated during the preparation of the City Plan. The statement was, however, a submission document which therefore only reports on cooperation that has taken place up to submission stage. Since November 2019, the council has continued to engage and cooperate with a large number of stakeholders and partners to resolve differences. The cooperation has mainly taken the form of meetings and more informal discussions at officer level. In most cases, the outcome of the co-operation is documented in the form of new or updated SCG with other bodies that have been signed at officer or Member level from the council’s side (see SCGs on the council’s examination library).

2.7 The table below summarises which of the identified strategic matters listed in question 1 have further been discussed and with which bodies, leading to the publication of a new or updated SCG:

Statement of Common Ground / Prescribed body, stakeholder or partner	Document reference	Strategic matter
Sport England	SCG_001	Economy, Green infrastructure
Historic England	SCG_002	Heritage, Building Height
Mayor of London and Transport for London	SCG_003, SCG_003_V2	Transport
Mayor of London, London Borough of Brent, City of London Corporation, London Borough of Camden, London Borough of Wandsworth, Royal Borough of Kensington and Chelsea and London Borough of Southwark.	SCG_004, SCG_004_V2	Housing, Economy, Opportunity Areas, Transport, North Bank, Waste, Heritage, Building Height, Environment, Grand Union Canal
Mayor of London	SCG_007, SCG_007_V2	Housing, Economy, Transport, Green infrastructure, Waste, Heritage, Building Height, Opportunity Areas. This SCG also covers conformity with the London Plan (adopted and New London Plan)
Lambeth Council	SCG_005, SCG_005_V2	Housing, Economy, Transport, Air quality, Waste, Flooding, Environment, Heritage,

² www.westminster.gov.uk/cityplan2040

		Building Height, North Bank
Thames Water and Environment Agency (n.b. although the council has engaged actively with the Environment Agency in the drawing up of the latest SCG, they have not been in a position to review and sign it).	SCG_006, SCG_006_V2, SCG_006_V3	Flooding, Environment, Transport
Marylebone Cricket Club	SCG_008	Economy
Bexley Borough Council	SCG_009	Waste
North London Waste Partnership	SCG_010	Waste
Waste Data Study	EV_ENV_022_V2	Waste

2.8 As explained in the Duty-to-Cooperate Statement (Section 2.1, Appendix 3, Appendix 4 and Appendix 5) (CORE_012), cross-boundary movements of waste have been a strategic matter that the council has discussed with all relevant stakeholders. This engagement has continued following submission of Westminster's City Plan. Full details can be found in Section 8 and Appendix G of the Waste Data Study (EV_ENV_022), which explains how strategic amounts of waste have been used as a starting point for discussions. Co-operation has resulted in Statements of Common Ground that resolve soundness and conformity objections raised at Regulation 19 consultation (see SCG with Bexley Borough Council (SCG_009), the North London Waste Partnership (SCG_010) and the SCG with the Mayor of London within Appendix A of the Waste Data Study (ENV_EV_022_V2).

2.9 As noted in the Duty-to-Cooperate Statement (CORE_012), the degree of cooperation between the council and the prescribed bodies has been proportionate and has depended on the extent to which the matter had already been addressed in the New London Plan, the City Plan and other published plans or strategies. Prescribed bodies have always been informed at each stage of the plan-making process and where issues with the contents of the City Plan have been raised, the council has undertaken more targeted cooperation to resolve matters.

Question 3. What has been the outcome of this co-operation?

3.1 The Duty-to-Cooperate Statement (CORE_012) details how cooperation with prescribed bodies, key stakeholders and partners has informed the content of the City Plan policies that deal with the identified strategic matters (see Figure 3 in Section 3.1).

3.2 The Consultation Statements (June 2019, CORE_009 and November 2019, CORE_010) also show how the comments submitted at public consultation from prescribed bodies, key stakeholders and partners and all other interested parties have been taken into account and informed the development of the City Plan policies.

3.3 As explained in the response to question 2 above, the Statements of Common Ground that the council has signed with a wide range of stakeholders also show how co-operation has led to revised policies. This cooperation has continued post-submission of the City Plan which has helped solve a number of soundness objections and/or issues of general conformity with the New London Plan through proposed modifications to City Plan.

3.4 Although at Regulation 19 consultation the Mayor of London identified non-conformity issues relating to parking and waste management (see CORE_017), co-operation with the Mayor and other bodies has led to the Mayor and the council agreeing that the City Plan (with all the proposed modifications and subject to further modifications relating to waste) is in general conformity with both the adopted London Plan, and the New London Plan (see SCG_007_V2). In this sense, the Statements of Common Ground have helped resolve objections from the Mayor of London. In relation to parking, the council has signed a Statement of Common Ground with the Mayor of London and Transport for London (the integrated transport authority for London) which includes a revised policy approach to the council's policy on residential car parking.

3.5 Likewise, in relation to waste, the council has signed a Statement of Common Ground with seventeen³ Waste Planning Authorities (WPA) regarding strategic waste movements from Westminster, with the London Borough of Bexley regarding Westminster's waste apportionment and the Mayor of London also with regards to apportionment. At time of writing, a further Statement of Common Ground on waste has been agreed with Wokingham Borough Council and The Royal Borough of Windsor & Maidenhead; the wording has been agreed and is awaiting signature at a meeting of Wokingham's Executive on 30th July.

3.6 As explained in our response to question 2, the council has sought to engage constructively with the Environment Agency (EA). The council signed a Statement of Common Ground with the EA and Thames Water in October 2019 (SCG_006), where all parties agreed to co-operate and work on a new Statement of Common Ground that would show how discussions have moved on and which amendments to City Plan policies have been agreed. A draft Statement (SCG_006_V3) containing proposed modifications to City Plan policies has since then been finalised and signed with Thames Water. At time of writing, the Environment Agency has not had capacity to review and sign the Statement.

3.7 The revised Schedule of Modifications (April 2020)(CORE_025_V3) contains a list of all proposed Modifications to the Regulation 19 version of the City Plan. Many of them are the result of co-operation and engagement. When the modifications are necessary for soundness or have been agreed through Statements of Common Ground, it has been noted accordingly.

Question 4. Have any substantial concerns been raised in terms of compliance with the duty to co-operate?

4.1 No substantial concerns have been raised in terms of compliance with the duty-to-cooperate, notably none from the prescribed bodies.

4.2 A number of non-substantial comments (see responses 19, 46, 55 and 152 in CORE_011) in relation to the duty-to-cooperate have been received at Regulation 19 stage but owing to the nature of these comments, the council considers these were mainly due to a misunderstanding on the requirements of the duty-to-cooperate. The comments can be found in Reg 19 Full Representations (CORE_011).

³ Note - five other WPA did not consider the waste movements from Westminster to their authorities to be strategic and therefore a Statement of Common Ground has not deemed necessary.

Question 5. In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the City Plan?

5.1 Yes, the council has engaged constructively, actively and on an ongoing basis with the prescribed bodies and other stakeholders and partners when preparing the City Plan.

5.2 City Plan has been prepared in accordance with the duty-to-cooperate in line with section 33A of the Planning and Compulsory Purchase Act and the Town and Country Planning (Local Planning (England) Regulations. As explained in the responses to questions 1 to 4, the Duty-to-Cooperate Statement (CORE_012) is the main document explaining how the duty has been met and how this has led to revised policies in the Plan, maximising its effectiveness. This is also evidenced in the PAS Toolkit Part 3 (CORE_015).

5.3 During the whole plan-making process, we have actively sought the views of the prescribed bodies and key stakeholders and partners on the identified strategic matters. As explained above, we have regularly met with them and engaged constructively on an on-going basis to discuss strategic matters and try to find common ground. Co-operation has taken place with a wide range of stakeholders beyond those we are statutorily required to engage with at set out in the Duty to co-operate Statement. Co-operation has taken different forms and, on several occasions, has led to the signature of Statements of Common Ground and to amendments to policy approaches and wording as explained above. Constructive work has been on-going and is evidenced by the publication of different iterations of Statements of Common Ground, signed at appropriate times, which reflect how issues and discussions have evolved. Active and constructive co-operation has helped overcome a number of concerns raised by stakeholders on strategic matters and also soundness and conformity issues with the New London Plan objections raised during the plan-making process as explained above. Active and positive engagement has helped us find common ground on many strategic matters even if disagreements remain on some matters.

5.4 The City Plan responds to the views expressed and comments made during its preparation by several of the prescribed bodies and other stakeholders and partners. The council is confident it has met its duty and will continue to work together with its stakeholders.