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# Duty to Co-operate Statement

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# Introduction & Background

## Purpose of this paper

This statement outlines the way Havant Borough Council has cooperated with neighbouring Local Authorities and other key partners to plan for strategic and cross boundary matters during the preparation of the Havant Borough Local Plan ('Local Plan' or 'HBLP').

Proper planning for many matters requires cross boundary working. It is not the purpose of this paper to document every discussion and all the joint working that has taken place to produce the Local Plan. Rather, it focuses on the key strategic matters where strategic cooperation has been and remains crucial to facilitating sustainable development. For Havant, these are considered to be:

- Development needs and distribution
- Internationally protected habitats of the Solent
- Transport Infrastructure

## The 'Duty to Cooperate'

The duty to cooperate was introduced by section 33A of the Planning and Compulsory Purchase Act 2004<sup>1</sup> and the Localism Act 2011<sup>2</sup>. It places a legal duty on local planning authorities, county councils and prescribed public bodies to work together on strategic cross boundary matters.

The Localism Act states that in particular the 'duty' requires that engagement should occur constructively, actively and on an ongoing basis during the plan making process and that regard must be given to the activities of other authorities where these are relevant to the local planning authority in question.

The National Planning Policy Framework 2019<sup>3</sup> (NPPF) includes a specific section on maintaining effective cooperation (Paragraphs 24-27), and two of the four tests of soundness of local plans (Paragraph 35) directly related to the Duty to Cooperate. Plans must be:

*Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.*

*Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.*

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<sup>1</sup> Planning and Compulsory Purchase Act 2004: [www.legislation.gov.uk/ukpga/2004/5/section/33A](http://www.legislation.gov.uk/ukpga/2004/5/section/33A)

<sup>2</sup> Localism Act 2011: [www.legislation.gov.uk/ukpga/2011/20/section/110](http://www.legislation.gov.uk/ukpga/2011/20/section/110)

<sup>3</sup> Paragraph 35 of the NPPF: [www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

## Strategic Geography

The Borough of Havant has a unique setting in South Hampshire, located on the coastal plain between the South Downs and the sea. It is highly urbanised in many parts, but enjoys easy access to open spaces and undeveloped areas. The borough's high quality environment benefits from a range of protected international and national designations, which brings with it benefits for wildlife and leisure, but challenges in terms of development.

The borough has excellent communications, being a historic crossroads for east-west and north-south road and rail routes. The M27/A27 coastal trunk route and the A3(M) London route meet in Havant and link the south coast towns and their expanding ports with London and the rest of the south east. The rail network provides fast coastal and London-bound trains, including direct links to Gatwick Airport.

The eastern edge of the borough adjoins the county boundary with West Sussex and Chichester District Council. To the west lie the city of Portsmouth, and suburban and rural areas of Fareham and Winchester.

To the south are Langstone and Chichester Harbours with their Internationally important nature designations and the Chichester Harbour Area of Outstanding Natural Beauty (AONB). The South Downs National Park sits just to the north of Havant Borough, sharing a very small boundary.

# Strategic Partnerships

## Shared Management of Havant BC & East Hampshire DC

Havant Borough Council has a shared chief executive and management team with its neighbouring authority East Hampshire District Council.

## Partnership for South Hampshire

Havant Borough Council is an active member of the sub-regional Partnership for South Hampshire (PfSH), formerly the Partnership for Urban South Hampshire (PUSH). PfSH is a voluntary partnership of eleven local authorities in South Hampshire: Eastleigh, Fareham, Gosport, Havant, Portsmouth, Southampton and New Forest, and parts of East Hampshire, Test Valley and Winchester Districts and Hampshire County Council.

The Partnership's vision is to improve the economic performance of the sub-region while recognising that to be sustainable, housing and economic growth need to move hand in hand.

The Partnership has an impressive track record over many years of cross boundary working and cooperation, first inputting collectively into the South East Plan, then creating a sub-regional strategy in 2012, looking forward to 2026. More recently the partnership produced a Spatial Position Statement<sup>4</sup> (2016) setting out the overall need for and distribution of development in South Hampshire, to 2034, setting the foundation for the current round of local plans.

On 30th September 2020, the PfSH Joint Committee approved the PfSH Statement of Common Ground, which sets out the process and workstreams that will lead to the review of the SPS and the production of a new Joint Strategy. Havant Borough Council are committed to inputting into this review.

[www.push.gov.uk/](http://www.push.gov.uk/)

## Solent Recreation Mitigation Partnership (Bird Aware Solent)

The Solent Recreation Mitigation Partnership, also known by its public facing brand Bird Aware Solent, is made up of fifteen local authorities from the New Forest in the west to Chichester in the East, Natural England, the Royal Society for the Protection of Birds, Hampshire & Isle of Wight Wildlife Trust and Chichester Harbour Conservancy. The purpose of the Partnership is to facilitate joint working on the implementation of measures which will mitigate the impact of additional recreational activity which will result from planned housing development so that it does not have a significant effect on the three Special Protection Areas in the Solent. The work of the Partnership is overseen by the PUSH Planning & Infrastructure Panel.

[www.birdaware.org](http://www.birdaware.org)

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<sup>4</sup> PUSH Position Statement [www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/](http://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/)

## **Hampshire and Isle of Wight Local Nature Partnership**

Havant Borough Council is a supporting member of the Hampshire and Isle of Wight Local Nature Partnership. The Partnership steering group includes key bodies that the Council works with on cross boundary environmental and ecological matters, including Natural England, the Hampshire and Isle of Wight Wildlife Trust and Hampshire County Council.

The Local Nature Partnership promotes the concept of a Local Ecological Network (LEN). This has been embedded both within the Council's Biodiversity Strategy and a Local Ecological Network policy in the Pre-Submission HBLP.

<https://hantswightlnp.wordpress.com>

## **Solent Local Enterprise Partnership (LEP)**

The Solent LEP was formed after the Government offered local areas the opportunity to take control of their future economic development. It is a locally-owned partnership between businesses and local authorities and plays a central role in determining local economic priorities and undertaking activities to drive economic growth and the creation of local jobs.

The LEP has been and continues to be a key funding partner of infrastructure projects crucial to the delivery of the development proposals in the Local Plan. The Council secured Growth Deal funding for a link road to Dunsbury Park (Policy KP7) and for a Brent Goose and Wader Refuge to facilitate development (EX2). The LEP also worked with HBC to produce an Infrastructure Investment Plan for Havant, exploring the key infrastructure issues and opportunities and the role of infrastructure investment in supporting economic growth in Havant.

<https://solentlep.org.uk/>

## **Solent Transport**

Transport for South Hampshire (TfSH), the predecessor to Solent Transport, was set up in 2007 by the three highway authorities in the South Hampshire sub-region: Hampshire County Council, Portsmouth City Council and Southampton City Council. They were joined by the Isle of Wight and renamed to Solent Transport in 2014. While Havant Borough Council is not formally a member of this partnership, the higher tier authority to Havant, Hampshire County Council is, providing a link to wider sub-regional working on transport matters. The authorities worked together in recent years on a bid to The Department for Transport's Transforming Cities Fund (see below). The Sub-Regional Transport Model, which the Mainland Transport Assessment is based on, is owned by Solent Transport and used by the local authorities covered by the partnership.

[www.solent-transport.com/](http://www.solent-transport.com/)

# Strategic Issues

## Development need and distribution

### Housing

Housing need and distribution is considered the main area of plan making where cross boundary cooperation is required.

The NPPF makes several references to authorities providing for their own objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas (paragraphs 11b and 60), and one of the tests of soundness (paragraph 35) is that a plan must be informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so.

The Partnership for South Hampshire has provided the main mechanism for collaborating on housing need and distribution, in particular through the PUSH Spatial Position Statement. This joint work, completed in 2016, played a key role in considering the capacity of different areas within South Hampshire to accommodate housing. It is accepted that Portsmouth City is unable to meet its housing need in full based on the 2016 SPS. The issue of planning for unmet needs is part of the work to develop a new Joint Strategy and dealt with in the PfSH SoCG.

PfSH accepts that the Pre-Submission HBLP has maximised the potential for housing delivery within Havant Borough so far as sustainable development can still be achieved, and it would be unlikely that any buffer could be considered as contributing towards Portsmouth City's unmet housing need.

Immediately to the east of Havant lies Chichester District. Being in West Sussex, Chichester is not a member of PfSH. Nevertheless, officers from Havant and Chichester meet frequently to discuss cross boundary matters. A SoCG has been agreed between the two Councils, which confirms that neither is seeking for the other to accommodate any of its housing needs.

### Employment

The Partnership is also instrumental in terms of cross boundary working on employment land needs. The Spatial Position Statement set out the agreed floor space need and distribution between the PfSH authorities, distinguishing between office floorspace and industrial and distribution uses. However, the evidence base work for the SPS did not take into account local circumstances of employment land supply and land availability. On this basis, Havant Borough Council has undertaken its own assessment of local employment need through the Employment Land Review (ELR). This was prepared in association with Lambert Smith Hampton.

The PfSH SoCG confirms agreement at PfSh level that market conditions demonstrate that Havant Borough is a secondary office location by virtue of the lack of demand for higher grade office accommodation and the fact that residual land values do not support speculative development. The predicted office floor space requirement highlighted in the PfSH Economic and Employment Land Evidence Base Paper (March 2016) is therefore not achievable over the plan period. The

HBLP therefore does not specifically set an office target and includes a target for all classes of employment floorspace. This exceeds the total allocated to Havant through the Spatial Position Statement, providing choice and availability of employment sites to allow nimble adaptation to changing circumstances.

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## **Internationally Protected Habitats of the Solent**

Alongside the urban character of the Borough, Havant is fortunate to have a rich natural environment. This includes Langstone and Chichester Harbours which are internationally significant habitats and form part of a critical network of harbours and estuaries along the Solent which support waders and wildfowl that spend the winter in the UK. These are covered by multiple national and international designations. The Council and its partners beyond its boundaries recognise the importance of this unique environment and the need to protect and enhance it. This is especially important in the face of significant pressure for more housing development.

The following matters, in particular, have been subject of intensive cross border cooperation:

- Recreational disturbance (The Solent Recreation Mitigation Partnership (SRMP)/Bird Aware Solent)
- Direct habitat loss of terrestrial habitat used by SPA species (The Solent Waders and Brent Goose Strategy)
- Air Quality (in relation to its effect on protected species and habitats)
- Nutrient Neutrality

## **Recreational Disturbance**

Extensive research was undertaken during 2009-2013 under the Solent Disturbance and Mitigation Project (SDMP) to assess the impact of recreational activity from new development on wintering birds on the Solent coast. Havant Borough Council was involved and contributed to this work alongside other local authorities, PUSH and other partner organisations. Based on this research, Natural England advised in 2013 that the SDMP work represents the best available evidence, and therefore avoidance or mitigation measures were required in order to ensure a significant effect, in combination, arising from new housing development around the Solent, is avoided.

Since then, the Council has been working with the local authorities along the Solent coast, Natural England and other organisations, as part of the Bird Aware Solent Partnership, to prepare the Solent Recreation Mitigation Strategy (SRMS), which was agreed in 2018 and has now moved into its implementation phase.

The Strategy deals with the impact on the Solent's Special Protection Areas (SPAs) from increased recreational activity resulting from the construction of new homes. It provides a simple mechanism, consistent across the Solent sub-region, for developers to discharge their duties under the Habitats Regulations, through a contribution to the SRMP strategic approach.



Developers seeking planning permission are required to provide mitigation against their 'in combination' effects on the SPAs in order to meet their Habitat Regulations requirements. In most cases they can do so by making a contribution to the SRMP strategic approach. It can be necessary for them to create a bespoke mitigation plan in consultation with their local authority and Natural England.

The Bird Aware Solent team have also secured £1.3 million of Local Growth Deal funding from the Solent LEP which has been spent on creating or enhancing alternative local greenspaces to reduce recreational pressure on the coast.

[www.birdaware.org](http://www.birdaware.org)

## **Habitat Loss**

The Solent Waders and Brent Goose Strategy is a conservation partnership project, which aims to conserve the internationally important Brent goose and wading bird populations within and around the Special Protection Areas and Ramsar wetlands of the Solent coast.

The steering group members include Hampshire & Isle of Wight Wildlife Trust, Natural England, RSPB, Hampshire County Council and the Eastern Solent Coastal Partnership.

Following earlier iterations of the strategy in 2002 and 2010, the new strategy is focused on understanding bird movements from the SPA to inland sites and between inland sites through extensive surveying and data analysis, coordinated by the Hampshire and Isle of Wight Wildlife Trust and funded by the Hampshire Ornithological Society, the Environment Agency, the National Grid, HBIC, Natural England, the Solent Forum, the Local Planning Authorities for the New Forest, Southampton, Eastleigh, Gosport, Fareham, Portsmouth, Havant, and Chichester, Chichester Harbour Conservancy and the New Forest National Park Authority.

This work has identified the network of sites that are regularly used and are of fundamental importance to over-wintering waterfowl across the Solent. A site classification system has been developed, together with guidance on mitigation and off-setting requirements. The classification and associated guidance are designed to ensure the protection of the network of important sites required to support over-wintering waterfowl in the Solent.

<https://solentwbgs.wordpress.com/>

## **Air Quality**

Air quality is an ongoing issue of concern for many local authorities within the PfSH region. In the context of human health and the UK's national air quality objectives, the main pollutant emissions arising from increased road traffic are nitrogen dioxide (NO<sub>2</sub>) and particulate matter (both PM<sub>10</sub> and PM<sub>2.5</sub>). The potential air quality impacts on natural habitats are also a concern, in particular as in South Hampshire a number of major roads pass through or nearby designated sites. These sites may be adversely affected by increases in air concentrations of pollutants, particularly oxides of nitrogen and ammonia, and the deposition of these pollutants within the habitats.

To underpin the development of emerging Local Plans, PUSH commissioned a joint Air Quality Impact Assessment, which considered both the air quality implications of planned growth on human health and on protected sites. The study gives a comprehensive picture of the impact of

development on air quality, and makes recommendations for policy development and mitigation measures, suggesting that the partnership offers a unique opportunity for the development of a sub-regional mitigation strategy.

This strategic work has then allowed local authorities to undertake Habitats Regulations Assessment on emerging Local Plans. For Havant, this provided a starting point for the Air Quality Habitats Regulations Assessment. The existing Partnership structure means that effective discussions have been taking place regarding joint approaches to air quality. This will be considered as the review of the Spatial Position Statement takes place.

## **Nutrient Neutrality**

During the development of the Local Plan a new issue arose out of case law. This concerned the impact from nutrients arising from development on the water quality in European Designated Nature Conservation Sites. In the spring of 2019, Natural England provided new guidance highlighting that it may be unlawful to grant planning permission for any development likely not to be 'nutrient neutral', which would be the case for most residential development.

Havant takes its obligation to protect designated habitats very seriously, but equally is committed to meeting the development needs for the area. For this reason, the Council acted quickly to put in place a position statement, and agree a way forward which would allow the continued granting of planning permissions. In August 2020, the Council published its Mitigation Strategy<sup>5</sup>.

The issue affects all the local authorities along the Solent coast. While initially each authority took its own legal advice and has moved at its own pace to find a locally appropriate solution the problem, a more strategic approach is being worked on. Moving forward, the Council will continue to work towards a more definitive mitigation strategy. This is planned to be on a PfSH wider (or larger) basis. The Council will continue to positively and proactively work with its partner authorities, through PfSH, together with Natural England, the Environment Agency, Southern Water, Homes England and any other stakeholder in order to address this issue appropriately.

[www.havant.gov.uk/supplementary-planning-documents/nutrient-neutrality](http://www.havant.gov.uk/supplementary-planning-documents/nutrient-neutrality)

## **Transport**

The NPPF sets an expectation that Local Plans should be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned (Paragraph 104b).

A key piece of evidence underpinning the Local Plan are two transport assessments: one for the Mainland part of the Borough<sup>6</sup>, and another more detailed one for Hayling Island<sup>7</sup>, each of which includes an Addendum with more detailed work.

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<sup>5</sup> Position Statement and Mitigation Plan for Nutrient Neutral Development  
<https://www.havant.gov.uk/appendix-1-revised-position-statement-and-mitigation-plan-pdf-446-kb>

<sup>6</sup> Mainland Transport Assessment [www.havant.gov.uk/mainland-transport-assessment](http://www.havant.gov.uk/mainland-transport-assessment)

<sup>7</sup> Hayling Island Transport Assessment [www.havant.gov.uk/localplan/evidence-base](http://www.havant.gov.uk/localplan/evidence-base)

The Mainland TA used model runs of the Sub-Regional Transport Model, commissioned and owned by Solent Transport, and used extensively for strategic transport work in the sub-region, including by PUSH. The Hayling Island Transport Assessment uses a microsimulation model, commissioned specifically to inform this work. Specially created microsimulation modelling also underpins the Addendum to the Mainland TA, which specifically assesses the need for and highway effects of a direct link from the Strategic Site at Southleigh (KP5) into the A27.

Hampshire County Council as Local Highway Authority are a key partner to Havant Borough Council in delivering transport improvements in the Borough. The Statement of Common Ground between the two authorities confirms that the parties agree that the methodology and process for undertaking the transport assessments underpinning the Local Plan is sound and that there was sufficient consultation and engagement with HCC on the Mainland TA and the Hayling Island TA. The two authorities are committed to working together to deliver sustainable transport outcomes for the borough, both to mitigate the impacts of development, but also to achieve better outcomes in relation to climate change and sustainability.

Highways England are responsible for the operation of two strategic routes through Havant Borough – the A27 running West to East from Portsmouth through to Chichester and beyond. The A27 also joins to the A3(M), which runs northwards from Havant to Guildford on to the M25 and London beyond. Highways England also attended workshops on the Mainland TA. In addition, Havant’s civil engineers engaged with Highways England in assessing the feasibility of junction options onto the A27 for Southleigh<sup>8</sup>. The Council continues to discuss matters relating to their network with Highways England.

The Council has also worked with neighbouring Chichester District Council throughout the development of the Local Plan. Chichester and Havant have engaged with the preparation of each other’s Local Plan Transport Assessments, providing expected development inputs into the modelling. West Sussex County Council as the relevant Local Highway Authority have confirmed that they are satisfied with the methodology in Havant’s strategic transport. The forecasted changes in flows on the modelled highway network in West Sussex, together with the transport mitigation strategy in Havant, are not likely to result in a severe residual impact as defined in national policy.

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<sup>8</sup> A27 Junction Feasibility Study [www.havant.gov.uk/localplan/evidence-base](http://www.havant.gov.uk/localplan/evidence-base)

## Further Information on Cooperation

This statement has summarised the strategic partnership approach Havant Borough Council has taken in cooperating on key cross-boundary projects and issues. Other statements and reports complete the picture of consultation and cooperation. Please also see:

- Consultation Statement
- Statements of Common Ground with various partners
- Legal Compliance Check
- Soundness Self Assessment