

**Statement of Common Ground**  
**Between**  
**Winchester City Council and Natural England**

**September 2024**



**Winchester**  
City Council

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## 1. Introduction

A Statement of Common Ground (to be referred to throughout as SoCG), of which concerns strategic cross-boundary matters, is a written record of the progress made by strategic plan-making authorities (and other prescribed bodies<sup>1</sup>) during the process of (non-exhaustive) producing or reviewing a local plan. It documents the effective co-operation between the parties and outlines matters that are common ground (agreed) and areas of disagreement. Introduced by the 2018 National Planning Policy Framework, strategic policy making authorities are required to produce, maintain, and keep up to date a SoCG to highlight the agreements on cross-boundary strategic issues.

The SoCG (and associated Duty to Cooperate Statement of Compliance - to be published to support the Winchester City Council Regulation 19 consultation) is used to demonstrate at examination that respective authorities (and relevant bodies) have cooperated on cross-boundary matters; and that the plan has been prepared in a positive and effective manner, therefore meeting the soundness test<sup>2</sup>. The document assists in presenting evidence that plans are deliverable over the plan period and based on effective joint working across local authority boundaries. Furthermore, it is also part of the evidence required for local planning authorities to demonstrate that they have complied with the legal compliance of the Duty to Cooperate.

This SoCG will form part of the Duty to Cooperate Statement of Compliance to inform the Regulation 19 Publication consultation. It documents the outcomes of co-operation to date in preparing the local plan in order to inform and shape a positively prepared and justified strategy. In doing so it addresses, has been produced in accordance with, and takes account of the requirements set out in the National Planning Policy Framework<sup>3</sup> (NPPF), Planning Practice Guidance<sup>4</sup> (PPG), relevant planning acts, and any other applicable information.

The document sets out the following:

- Outlines the strategic geography of the district including a brief description of the area with regards to biodiversity and the natural environment;
- Sets out the Regulation 18 representations received from Natural England which forms the background to the SoCG; and
- The cross-boundary matters which needs to be considered by this SoCG and where agreements have been reached on issues.

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<sup>1</sup> [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>2</sup> [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk) para 35

<sup>3</sup> [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

<sup>4</sup> [Plan-making - GOV.UK \(www.gov.uk\)](https://www.gov.uk) Maintaining Effective Cooperation

## 2. Legislation

The “Duty to Cooperate” was introduced by Section 33A of the Planning and Compulsory Purchase Act (2004)<sup>5</sup> from Section 110 of the Localism Act (2011)<sup>6</sup> as a strategic planning mechanism to replace regional spatial strategies. It places a legal duty on Local Planning Authorities, County Councils and prescribed public bodies to engage constructively, actively, and on an ongoing basis to maximise the effectiveness of local plan and marine plan preparation in the context of strategic cross boundary matters.

Strategic matters regarding plan-making refers to: *“sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas.”* (Section 33A, (4)(a))

Additionally, paragraph 20 of the NPPF outlines the strategic policies that a local plan should address, resolve, and where necessary, make provision for, these being:

- a) *“Housing (including affordable housing), employment, retail, leisure and other commercial development;*
- b) *The provision of infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);*
- c) *Community facilities (such as health, education and cultural infrastructure); and*
- d) *Conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”*

Paragraphs 24 – 27 of the National Planning Policy Framework (NPPF) recognises this duty and considers effective, joint working between relevant bodies as integral to a positive and well-prepared strategy. Paragraph 26 also identifies joint working as helping to determine additional infrastructure, and whether development needs that cannot be wholly met within a particular plan area could be met elsewhere. PPG paragraphs 029 – 033, and 075 provide further information on meeting the Duty to Cooperate, explains the differences between the Duty to Cooperate and a SoCG, illustrates how the Duty to Cooperate is considered during examination, and how the Duty to Cooperate should be addressed during plan review.

Further to this, two of the four “tests of soundness” of Local Plans (NPPF Paragraph 35) directly relate to the Duty to Cooperate, specifically:

- a) *“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*

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<sup>5</sup> [Planning and Compulsory Purchase Act 2004 \(legislation.gov.uk\)](http://legislation.gov.uk)

<sup>6</sup> [Localism Act 2011 \(legislation.gov.uk\)](http://legislation.gov.uk)

*areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*

- c) *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”*

In regard to the production of a SoCG, paragraph 27 of the NPPF specifically states:

*“In order to demonstrate effective and on-going joint working, strategic policy making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance and be made publicly available throughout the plan-making process to provide transparency.”*

The Plan Making chapter of the PPG and in particular the *Maintaining Effective Cooperation* section (paragraphs 009 – 028) provides additional information and guidance on how authorities should (non-exhaustive): produce a SoCG, what cross-boundary matters should be included, carrying out effective cooperation, activities documented, functional geographical area, and preparation and publication.

The Government consulted upon reforms to national planning policy during December 2022 as part of the Levelling Up and Regeneration Bill (LURB), stating that the Levelling Up and Regeneration Act (LURA) will remove the Duty to Co-operate, but that the duty will remain in place until those provisions come into effect. To secure appropriate engagement between authorities where strategic planning considerations concern cross-boundary matters, the Government intends to introduce an alignment policy as part of a future revised Framework. Further consultation on what should constitute the alignment policy is anticipated to be undertaken.

The LURA was enacted during November 2023, and now includes provisions to remove the legislative that imposes the Duty to Co-operate. However, these provisions have not yet been enacted and will ‘come into force on such day as the Secretary of State may by regulations appoint’. Transitional arrangements mean that the Duty to Cooperate will remain for plans submitted for examination before June 2025 and adopted by December 2026.

### 3. Statements of Common Ground

This section comprises the Statement of Common Ground that Winchester City Council and Natural England have entered into in support of the forthcoming Winchester City Council Regulation 19 Local Plan. This statement demonstrates the current understanding of points of common ground in addition to outstanding matters, for relevant strategic cross-boundary matters.

<b>1. List of Parties involved:</b>
Winchester City Council and Natural England
<b>2. Strategic Geography &amp; Background</b>
<p>This Statement of Common Ground focuses on the Winchester Plan Area, which covers parts of the Winchester District outside of the South Downs National Park.</p> <p>The district has many areas which are highly important for biodiversity and nature conservations. At an international level, the District is adjacent to or within some parts of designated Special Areas of Conservation (SAC).</p> <p>Paragraph 185 of the NPPF states to protect and enhance biodiversity and geodiversity, plans should:</p> <ul style="list-style-type: none"><li>a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and</li><li>b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.</li></ul> <p>A key objective of the Winchester Local Plan has been to ensure that important habitat sites across the District are protected and enhanced whilst directing development to appropriate and less sensitive areas.</p> <p>Paragraph 186 a) of the NPPF states that:</p> <p>If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.</p> <p>Paragraph 180 of the NPPF states that ‘Planning Policies and decisions should contribute to and enhance the natural and local environment by:</p>

c) *Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of...water pollution. Development should, wherever possible, help to improve local environmental conditions such as...water quality, taking into account relevant information such as river basin management plans’.*

The Local Plan is supported by a Habitats Regulations Assessment (HRA) which proposes a variety of policies and mitigation measures which avoids and mitigates any identified likely significant effects.

### **3. Regulation 18 Representations**

Natural England responded to the Regulation 18 consultation conducted in November - December 2022. Natural England’s response included recommendations and comments, including support for a number of policies, on the environmental issues that will need to be considered for the development of the Winchester Local Plan.

### **4. Strategic Matters**

This section sets out where agreement has been reached on cross-border strategic matters, or where further work to reach common ground is required. Duty to Cooperate meetings have taken place over the course of the Local Plan to discuss and resolve matters presented as part of the plan preparation, details of which and minutes documenting the outcome of the meeting(s) will be included in the Duty to Cooperate Statement of Compliance that will assist the Regulation 19 consultation.

The housing need for the Winchester Local Plan area, based on the standard methodology, is 676 dwellings per annum. This equates to a total of 13,565 dwellings over the plan period 2020 – 2040.

Following Duty to Cooperate meetings with Natural England over the course of the plan preparation it was agreed between parties that the following strategic matters should be the focus of this Statement of Common Ground:

- Nutrient Neutrality
- Air Quality

#### Nutrient Neutrality

New ‘overnight’ accommodation necessitates the provision of connections to the foul water drainage network and can increase surface water run-off. This can increase the amount of nutrients entering designated Habitat Sites (Special Protection Areas and Special Areas of Conservation).

Natural England advised that there is a significant effect on Habitat sites from overnight accommodation and that nutrient neutrality should be demonstrated to avoid detrimental impacts on the protected sites.

Winchester City Council have prepared a Nutrient Neutrality Topic Paper<sup>7</sup> which sets out the national policy requirements and legislation, background to nutrients in Winchester, the overall nutrient demand and the nutrient mitigation supply. The district falls within three riverine catchments in relation to nutrient neutrality. This includes the East Hampshire catchment and the Test and the Itchen catchment.

Within the Topic Paper a nutrient budget has been prepared that sets out extent of nutrient loading and the amount of nutrient mitigation required from any 'overnight' accommodation from either sites allocated in the plan and windfall allowance to ensure there is no likely significant effect on designated sites.

### ***Plan Nutrient Assumptions and Demand***

Winchester City Council have set out the overall nutrient budget for each relevant riverine catchment in the Nutrient Neutrality Topic Paper. The Council in consultation with Natural England have agreed the following assumptions that are contained within the Local Plan Nutrient Budget:

- 2.4 occupancy per dwelling;
- Receiving waste water environmental TN/TP limit (depending on the catchment that the site is located within) with deductible acceptable loading included. The permit limits vary by catchment and are set out in Table 1, page 11 of the Nutrient Neutrality Topic Paper; and
- Current and future land uses for each allocation and their specific nitrogen loading figures.

In relation to current land use, the Council have used available information from the Crop Map of England (CROME) 2020 and information from planning applications. The CROME data was verified and refined using Officer's knowledge of the site from recent site visits and tools such as Google maps.

In relation to future land use, the Council have used information from planning applications where relevant or any proposed master plan has been drawn up for the Council. Where no such information is available in respect of future land use the Council have assumed that 100% of the site is to be developed (urban).

Winchester City Council recognise that the information presented in relation to the nutrient budget is that of a scenario and is the best information available at the time. There may be further information in relation to the site allocation nutrient budgets that are currently in the planning application stage or with Natural England as part of their Discretionary Advice Service (DAS).

### ***Plan Nutrient Mitigation Supply***

Nutrient mitigation for sites allocated in the Plan is either onsite or offsite.

Winchester City Council have set out the strategic offsite nutrient mitigation supply available to meet the demand calculated over the plan period in the Nutrient Neutrality Topic Paper. There are third party strategic nutrient mitigation schemes available in the

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<sup>7</sup> See Local Plan Topic Papers Heading - [Regulation 19 Local Plan - Winchester City Council](#)



East Hampshire, Test and Itchen Catchment for Nitrogen and the availability of credits of each scheme is set out in section 5 of the Topic Paper.

The supply also includes detailed information on the progress of the two Council owned nutrient mitigation projects. This includes the retrofitting of Council Owned properties, and the upgrading of Council owned sewage treatment works to Package Treatment Plants (PTP's).

***Policy NE16 – Nutrient Neutrality Water Quality Effects on the Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites of the Solent and River Itchen***

To address nutrient neutrality, the Proposed Submission Local Plan contains Policy NE16 which seeks to ensure that any 'overnight' accommodation within the plan area must demonstrate that it is nutrient neutral over the lifetime of the development. The Policy also proactively supports proposals for nutrient mitigation schemes within the plan area.

Natural England's Regulation 18 Consultation response supports the inclusion of Policy NE16 in the Local Plan.

***Habitats Regulation Assessment***

An initial HRA screening report was produced in July 2020 which identified the scope of the assessment and key impact pathways for the Local Plan. The Assessment concluded that the Plan without appropriate measures and mitigation is likely to result in significant affects and should proceed to Appropriate Assessment.

An Appropriate Assessment was also carried out in October 2022 to support the Regulation 18 Local Plan and a revised version has now been published to accompany the Proposed Submission (Regulation 19) Local Plan. The Appropriate Assessment concluded in relation to nutrients that Policy NE16 is sufficient to avoid adverse effects on the integrity of the designated Habitats sites, subject to continuing engagement with Natural England in relation to strategic nutrient mitigation.

Natural England commented on the Regulation 18 HRA in respect of nutrients. The response advised that a plan level nitrogen and phosphorus budget is calculated, and a suitable nutrient mitigation strategy is devised to ensure the total housing provision over the plan period can achieve nutrient neutrality. The response also encourages the allocation of land to address the impact of nutrients on new development.

Winchester City Council have set out a plan level nutrient budget for both nitrogen and phosphorus in the HRA. The budget is split, as appropriate, by riverine catchment to demonstrate the amount of nutrient mitigation required over the plan period. The Nutrient Neutrality Topic paper also provides further detail on the plan demand and how the Council intend to address this through strategic nutrient mitigation and the Council's own nutrient mitigation projects. The Council have agreed to review and update this SoCG before the Local Plan examination.

Air Quality

Winchester City Council have included additional criterion xv. for Policy W5 which states,

***‘Where it has been demonstrated that the proposals will have a significant adverse effect on the integrity of the River Itchen SAC it must be demonstrated, as part of the design process, that adequate measures in line with Policy NE1 and Policy D7, will be put in place to avoid or mitigate any adverse effects. Such measures must be agreed with the Council and Natural England. In order to assist the Council in Policy W5 Bushfield Camp - continued carrying out a Habitats Regulations Assessment, the developer will be required to provide evidence to inform the Appropriate Assessment. This is likely to include an air quality assessment of the effects of the development on the River Itchen SAC as a result of any increase in traffic associated with the development. The effects on local roads in the vicinity of the proposed development on nearby designated nature conservation sites, and the impacts on vulnerable sites from air quality effects on the wider road network in the area can be assessed using traffic projections and the 200m distance criterion followed by local Air Quality modelling where required’***

Natural England support the additional policy criteria in Policy W5 proposed for inclusion within the Regulation 19 Local Plan.

Whilst Natural England welcome the inclusion of Policy W5 within the Local Plan, Natural England expect the Local Plan to address the impacts of air quality on the natural environment and therefore reserve the right to give further comment in relation to Air Quality following receipt of the Reg 19 HRA.

Natural England and Winchester City Council commit to working together to better understand the potential for Air Quality to affect sites protected by the Habitat Regulations.

## **5. Regulation 19 Representations**

Natural England reserves the right to provide further commentary in response to the forthcoming Proposed Submission (Regulation 19) Local Plan

## **6. Areas of Agreement**

Natural England and Winchester City Council as Local Planning Authority have reached common ground on aspects of the emerging local plan relating to biodiversity and the natural environment.

In respect of the Local Plan’s effect on the deteriorating water environment on the Special Protection Areas (SPA’s), Special Areas of Conservation (SAC’s) and Ramsar sites of the Solent and River Itchen agreement has been reached on:

- The assumptions used in the calculation of the Local Plan nutrient budget; and

- The plan nutrient demand.
- The proposed mitigation measures set out in the Nutrient Background paper and in Policy NE16 which will ensure that development will not adversely affect the integrity of the designated Habitat sites in the Solent and River Itchen SPA/SAC's.
- The Council will continue to engage with Natural England in respect of the Plan nutrient mitigation strategic supply, and will update the Topic Paper where relevant before the Local Plan Examination. This will ensure the Topic Paper has the most up-to-date information on nutrient neutrality.

## **7. Outstanding Matters**

Natural England expect the Local Plan to address the impacts of air quality on the natural environment. In particular, it should address the traffic impacts associated with new development, particularly where there are impacts on European sites and SSSIs. The environmental assessment of the plan (SA and HRA) should also consider any detrimental impacts on the natural environment alone and in-combination and suggest appropriate avoidance or mitigation measures where applicable.

Natural England advises that one of the main issues which should be considered in the plan and the SA/HRA are proposals which are likely to generate additional nitrogen emissions as a result of increased traffic generation, which can be damaging to the natural environment. Natural England advise that the Air Quality assessment follows the methodology set out in the [NE001 Air Quality Assessment guidance](#).

A further iteration of the statement of common ground will be required to reflect Natural England's response to the Reg 19 Consultation and their assessment of the HRA in relation to the consideration of Air Quality Assessment.

## **8. Timetable for Review and ongoing cooperation**

Winchester City Council will continue to work collaboratively with Natural England to address strategic matters that, in addition to the above, arise through the plan-making process or require a resolution where there is yet to be an agreed matter. This will occur on an ongoing basis with the aim is to resolve any outstanding matters through regular meetings where cross-boundary strategic matters will be addressed.


## **9. Signatories**

Both parties agree that this statement is an accurate representation of matters discussed and issues agreed upon, or where there are areas of disagreement, this statement documents the issue, and that both parties confirm their respective position.

It is agreed that these discussions will inform the Winchester City Council Local Plan 2020 – 2040. Both parties will continue to work collaboratively to meet the Duty to Cooperate obligations and will both continue to work proactively on the key strategic cross boundary issues identified in this document.

For Winchester City Council the Statement of Common Ground is signed by Julie Pinnock, Corporate Head of Planning and Regulatory Services.

For Natural England this Statement of Common Ground is signed by Ellen Satchwell, Sustainable Development Senior Officer.

Signed: 

Name: Julie Pinnock

Position: Corporate Head of  
Planning and Regulatory Services.

Winchester City Council

Signed: 

Name: Ellen Satchwell

Position: Sustainable Development  
Senior Officer

Natural England