

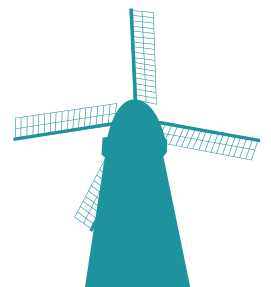
Eastleigh Borough Local Plan 2016-2036



Eastleigh Borough Local Plan 2016-2036

Statement of Common Ground Between Eastleigh Borough Council and Winchester City Council

July 2019



A. Introduction

1. This Statement of Common Ground (SoCG) is an agreed statement between Winchester City Council (WCC) and Eastleigh Borough Council (EBC). It sets out the position and understanding with respect to key relevant Duty to Cooperate and soundness matters and agreed actions to resolve outstanding matters. It is not binding on either party, but sets out a clear positive direction to inform ongoing strategy and plan making.

B. Background and Regulation 18 Representation from WCC

2. During February 2016 WCC first commented on the emerging Eastleigh Local Plan (ELP) raising issues in relation to the evidence base and the need for community engagement. These comments were made at the issues and options (Regulation 18) stage published in December 2015 and included options for substantial housing growth adjacent to Winchester District and associated road proposals within Winchester District. WCC's response at that time raised issues of concern with regard to the proposed road, its routing and its delivery. WCC's Regulation 18 response is set out at Appendix A.

C. Regulation 19 Representation from WCC

3. EBC held a 6 week consultation under Regulation 19 closing on 6 August 2018.
4. WCC submitted a response based on the evidence available at that time that acknowledged that WCC welcomed publication of the ELP to provide certainty and clarity for both EBC and WCC communities.
5. WCC wishes to put on record that it did not raise objections to the principle of development taking place nor did it make objections with a view to 'preventing' Eastleigh from producing a sound Plan. It is in the interests of all communities in the area that any development which takes place is properly planned and mitigated and that can only be within the scope of an adopted Local Plan.
6. However, WCC commented that it did not feel that the ELP met the tests of soundness, particularly in respect of the funding and timely provision of infrastructure to support the Strategic Growth Option (SGO), and accordingly the following formal representation was submitted by WCC:-

“That Eastleigh Borough Council be informed that this Council:

Welcomes the publication of the Eastleigh Local Plan, but makes a formal objection to the Plan on the basis that it fails the Test of Soundness for the following reasons:

- 1. The current evidence base does not demonstrate that it is an Effective strategy because the proposed Strategic Growth Option may not be viable or deliverable as proposed.*
- 2. The proposed link road on which the Strategic Growth Area is predicated has not yet been shown to be technically feasible or fit for purpose.*
- 3. The Duty to Cooperate in relation to the preparation and sharing of the evidence base has not yet been fulfilled.”*

D. The Current Position re. Issue (3) above (Duty to Cooperate)

7. This SoCG confirms that WCC withdraw their objection under (3) above and their satisfaction that the Duty to Cooperate has been complied with.
8. The background to this part of WCC’s objection was its concern that the sharing of evidence and involvement with WCC at Regulation 18 stage and prior to the Reg 19 submission fell short of WCC’s expectations for consultation. WCC were concerned that the level of community engagement at the early stages of plan making could have been more inclusive of WCC communities, particularly in relation to the SGO and the road proposal in Winchester District.
9. Whilst it is not possible for engagement to take place retrospectively, in the light of the discussions involving EBC, WCC, various statutory agencies and the promoting developer, and in the light also of subsequent sharing of the evidence base, WCC acknowledges that the Duty to Cooperate has been complied with and consequently this part of WCC objection has been withdrawn.
10. EBC welcomes WCC’s recognition that the Duty to Cooperate has been met.

E. The Current Position re. Issue (1) above (Viability / Deliverability of SGO)

11. EBC and WCC agree that the analysis (provided by EBC’s consultants) shows that if the link road is delivered it will enable significant development to meet the need for new homes whilst minimising additional traffic congestion. It is recognised that the transport assessment predicts that the net effect of the link road and development on the highway network within Winchester closest to the SGO (Colden Common / Owslebury / Otterbourne / Twyford) is

to slightly reduce delays. This is summarised in the Strategic Growth Option Background Paper 1 Table 27 (SGO001, page 66).

12. WCC have, however, remaining concerns regarding Issue (1) and this SoCG sets out, in Appendix B, the summary position of WCC and EBC on the same, in order to assist the Inspector.

F. The Current Position re. Issue (2) above (Feasibility / Fitness for Purpose of Proposed Link Road)

13. It is both EBC's and WCC's position that no substantial amounts of development should occur without the road, because the road is essential to mitigate impacts on local communities in Eastleigh Borough and Winchester District. EBC points to submitted Local Plan Policy S5 criterion 9 as establishing the appropriate controls in this regard. This states:

“Development will support and not prejudice the delivery of the full link road as set out in policy S6. All phases of development will make a proportionate financial contribution to the link road. No development will be permitted until the link road (or at least phases 1-3 as defined by policy S6) has full planning permission; all the land is in the control of the developers; and there is at least a strong likelihood that the full road will be funded. Phases of development will not be occupied until phases of the link road are completed, as determined by the infrastructure delivery phasing plan.”

14. WCC acknowledges the requirements of Policy S5 and criterion 9, but requests the following modifications to ensure that there is funding committed for the road:-

“Development will support and not prejudice the delivery of the full link road as set out in policy S6. All phases of development will make a proportionate financial contribution to the link road.

No development will be permitted until the link road:-

- ~~{or at least phases 1-3 as defined by policy S6}~~ has full planning permission;*
- all the land is in the control of the developers or the highway authority;*
- and there is ~~at least a strong likelihood~~ substantial evidence that the full road will be funded*

Before the construction of the link road commences funding commitments must be in place which will ensure that the road is delivered in its entirety.

Phases of development will not be occupied until phases of the link road are completed, as determined by the infrastructure delivery phasing plan.”

15. EBC agree in general terms to the amendments from the 3rd bullet point onwards (reference to “substantial evidence” and the sentence “before the construction of the link road commences funding commitments must be in place which will ensure that the road is delivered in its entirety”. EBC reserve the right to comment on the detail of this wording further as necessary.
16. With respect to WCC’s other proposed modifications to policy S5 criterion 9, EBC will consider these points further.
17. The SGO requires part of the road serving the site to pass through Winchester District to the south of Colden Common, and to then link with the M3. ELP includes policy S6, which sets out the requirements and phasing of the road.
18. Insofar as part of the road will pass through Winchester District, EBC commented on the emerging Winchester Local Plan 2036, (Cabinet 4 April 2019) as follows:-

“Winchester City Council has commenced a review of their Local Plan. They are undertaking a ‘call for sites’ and they will continue to discuss ‘issues and options’ with interested parties through 2019. It is recommended that Eastleigh Borough Council makes the following key strategic comments on the emerging Winchester Local Plan at this stage:

1. *To welcome the commencement of the Winchester Local Plan review to 2036.*
2. *To request that the emerging Winchester Local Plan:*
 - a) *Plans positively for housing needs, taking account of unmet needs in the wider area, in accordance with the National Planning Policy Framework (NPPF);*
 - b) *Notes that the submission Eastleigh Local Plan (2016 – 2036) makes a significant contribution to meeting housing needs, and requests that the emerging Winchester Local Plan also seeks positively to help to meet unmet needs in the wider area;*
 - c) *Includes a policy to safeguard the route and identify the requirements for the north of Bishopstoke link road as it passes through Winchester’s district, to facilitate major housing and employment growth in Eastleigh’s ‘Strategic Growth Option’ which will reduce pressure for development elsewhere, and minimise additional traffic congestion for communities in Eastleigh and Winchester; and*
 - d) *Continues to safeguard, and to actively support the delivery of the Botley by-pass.”*

19. WCC has, accordingly, made it clear that it has no objection to including a safeguarding policy for the route of the proposed link road within the Winchester District, in its emerging Local Plan, pending the ELP being found sound and proceeding to adoption. EBC welcome this commitment. EBC and WCC agree that the road would be implemented with the necessary mitigation measures to address flood risk and meet the Habitats Regulations.

20. WCC have, however, remaining concerns regarding Issue (2) and this SoCG sets out, in Appendix C, the summary position of WCC and EBC on the same, in order to assist the Inspector.

G. Conclusion

21. This SoCG:

- Confirms the agreement of WCC and EBC that the Duty to Cooperate has been complied with (section D); and
- Sets out the key differences between WCC and EBC on issues concerning the viability/deliverability of the SGO (Section E and Appendix B) and the feasibility/fitness for purpose of the link road (Section F and Appendix C).

22. WCC reiterates its view that it wishes EBC to have a sound local plan to provide certainty for local communities.

Appendix A

WCC Response to EBC at Regulation 18:-

- a) *WCC could not support option A to distribute housing around the Borough as this would not deliver the social and physical infrastructure required to make the proposed level of growth acceptable*
- b) *WCC express strong concerns regarding option B which is dependent on a new road and urge that no significant housing allocations are made in this area until there is certainty that a road is deliverable and financially viable. WCC requested that if this option is to be progressed further work is undertaken in relation to landscape sensitivity.*
- c) *Road options to support option B - WCC could not support option 2 due to impact on the Itchen flood plain, nor option 3 as it would be least effective in diverting north bound traffic from B3354 and connection to the proposed development would require a further primary route at additional expense. Option 1 would require modelling to identify areas of mitigation WCC request to see fully costed phasing and implementation plan for whole length of the new road before any sites are allocated to ensure that the road would be completed and aligned with the phasing of allocated sites*
- d) *WCC request clarification as to how EBC and HCC would see any road proposals being delivered in WCC area*
- e) *WCC request of EBC that there is on-going and meaningful dialogue under duty to co-operate and a process of community engagement before any sites are allocated or policies drafted which would directly impact Winchester District.*

Appendix B

Summary of WCC Concern re Issue (1) (Viability / Deliverability of SGO)

1. WCC remains concerned that the evidence provided by EBC demonstrates that, assuming the financial analysis proves completely accurate, there are reasonable scenarios in which the SGO might not be deliverable because it is not commercially attractive. If external public funding or forward funding is provided this could improve the viability picture but, given the long lead in time, such funding cannot be guaranteed. WCC is also concerned that on some scenarios the financial appraisal is finely balanced and if the costs of developing the SGO have not been correctly appraised, there is a reasonable prospect that the SGO would not be viable and deliverable.
2. Whilst WCC recognise that there have been various discussions on these issues and that EBC have some control measures, including the application of external funding, this part of WCC's objection is maintained, noting that the impact on communities in the WCC area would be severe if the SGO were to be permitted to go ahead without confidence that every aspect of mitigation and infrastructure provision will be provided.
3. WCC raise the following specific issues and / or questions in these regards:
 - a. How realistic are the assumptions used in the viability appraisals, (developer profit; land costs; availability of grants etc.) given that this is a significant development that will take many years to build out and indeed receive the necessary consents to commence the development, particularly given the commitment in Policy S5 for the production of a supplementary planning document and master plan, where more details are likely to be revealed and identify potential for additional costs?
 - b. If an outline consent is to be sought for the whole site (which WCC supports), how will the S106 costs be calculated given the unknowns, is there evidence that a S106 will be forthcoming given the number of land interests involved?
 - c. WCC request the promoting developers to confirm that, in their judgement, the assumptions supporting the viability evidence are realistic.
 - d. Costs of the link road seem to be based on 2016 data from Hampshire County Council, which estimated the costs of constructing only part of the road. Both Environment Agency and Natural England have

highlighted the need for substantial mitigation given the environmental sensitivities of the locality - have these costs been accounted for and do these include elements for on-going maintenance and adoption processes?

- e. Are these requirements likely to change over the plan period and what if, once WCC has undertaken its own HRA to support its local plan or when a planning application is submitted to WCC, more environmental mitigation is deemed necessary?
- f. WCC has always questioned the use of data from the Harman Report (2012) as a basis for calculating costs per dwelling for elements of strategic infrastructure. It is not clear in the report what items of strategic infrastructure the assessment includes and what items should be calculated separately. In any event, there should be a clear distinction between normal developer costs for providing serviced plots and those items of infrastructure that are policy requirements of the local plan.
- g. How would the developers manage cash flows particularly if there were no grants or forward funding available; and given that the development is unlikely to commence for a number of years what certainty is there that future grants/funding would still be available?

Summary of EBC Response re Issue (1) (Viability / Deliverability of SGO)

1. EBC welcome WCC's recognition that there have been various discussions on these issues and consider these to have been extensive, and to have informed EBC's latest (June 2019) viability study. Further, EBC consider that the key points above are answered by its evidence base. EBC therefore provide only a summary response below. (EBC will, of course, be happy to provide answers to any questions the Inspector may have).
2. The assumptions in EBC's SGO viability assessment are considered to be robust and are justified fully in the relevant evidence document. EBC do not rely on one scenario but tested a range of scenarios to provide a robust assessment of viability.
3. Policy S5 sets out a detailed range of infrastructure and policy requirements to inform subsequent master plans. EBC has sought to capture all the key infrastructure costs in its viability appraisal and does not consider the subsequent master planning work will add significantly to infrastructure costs.

Policy requirements must be set out in the Local Plan and cannot be delegated to a master plan.

4. EBC's proposed modifications require one outline planning application to be submitted for the whole site. This will ensure that the section 106 agreement will apply to the whole site. Local Plan Policy S5 requires there to be full planning permission for the link road prior to any permission for the SGO and therefore the link road costs will have become more certain.
5. The link road feasibility report (SGO008) includes a factor for inflation since 2016. EBC have included a specific cost for the whole of the link road outside of the SGO policy area, and considers that the cost of the road within the SGO policy area is reflected in the 'site works and infrastructure' allowance (equivalent to the 'Harman' allowance). The habitat regulations assessment provides a comprehensive assessment of the environmental mitigation measures which will be required. The mitigation measures for the link road which result in significant additional costs have been incorporated into the costs used in EBC's viability assessment. This is set out in more detail in EBC's 'Deliverability and Viability of the SGO' Appendix 5 (June 2019).
6. The Harman report was prepared by the Local Housing Delivery Group (chaired by Sir John Harman) specifically to advise on Local Plan viability assessments. Furthermore, EBC do not rely solely on the Harman report's allowances, and have included specific costs for a wide range of individual infrastructure, based on specific feasibility studies, policy requirements and other evidence. This, and the relationship with the Harman allowances, is set out in more detail in EBC's 'Deliverability and Viability of the SGO' report (June 2019).
7. On the viability / deliverability of the SGO specifically, EBC assessed 58 reasonable scenarios to provide a comprehensive picture. 51 of these 58 scenarios indicate the development is viable. Of these, 12 of the 18 solely developer funded scenarios are viable and the remaining 6 become viable with modest amounts of public support. EBC have a good track record at attracting funding and being pro-active in delivering development where required.
8. The NPPF seeks a reasonable prospect of delivery, and a balanced conclusion should be drawn from all 58 scenarios. On this basis, EBC consider there is a reasonable prospect of delivering the SGO and supporting infrastructure.

Appendix C

Summary of WCC Concern re Issue (2) (Feasibility / Fitness for Purpose of Proposed Link Road)

1. WCC remains of the view that the road has not yet be shown to be technically feasible and that this remains of concern given that the SGO cannot be considered deliverable without it.
2. WCC considers that until HCC as highway authority has approved the technical design, the full costs of construction and mitigation cannot be considered finalised and the impact of the road fully appraised. WCC does not offer its own view on this matter as it considers HCC the competent authority and will be guided by its judgement.
3. WCC therefore remains concerned that the costings of the road (see Appendix B above) are substantial and without certainty over the technical approvals the costing of the road and therefore its funding requirement remains uncertain, this being part of WCC's concern over viability.

Summary of EBC Response re Issue (2) (Feasibility / Fitness for Purpose of Proposed Link Road)

4. EBC consider that the road is technically feasible, and this has been appropriately demonstrated to a level proportionate to a Local Plan. This is based on a comprehensive evidence base which includes the link road feasibility report produced by Hampshire County Council's Engineering Consultancy team (SGO008), the Allbrook rail bridge / Itchen navigation / Highbridge Road reports (TRA007, TRA008, TRA009 and examination documents [June 2019]), the Transport Assessment (TRA001 and TRA002), and the M3 junction 12 / Allbrook Way reports (TRA006 and examination documents [June 2019]).
5. EBC consider that it is normal for there to be some uncertainties at this stage in the project, and for technical approvals to follow at a later stage. Furthermore, these uncertainties are already factored into the costs used, with high levels of optimism bias / contingency and risk in accordance with Department for Transport guidance for a project at this stage in the process.
6. Overall, EBC's SGO viability evidence includes substantial cost allowances for all the off-site highways infrastructure, based on engineering feasibility studies. EBC's viability evidence is therefore based on robust infrastructure costs and WCC's concerns are not grounds for concluding that there is not a reasonable prospect for delivery proportionate to the Local Plan stage.

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