

Committee: Uttlesford Planning Policy Working Group

Agenda Item

Date: 26 January 2015

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Title: Duty to Cooperate

Author: Andrew Taylor, Assistant Director Planning
and Building Control

Item for noting

Summary

1. This report updates members on the Duty to Cooperate work.

Recommendations

2. a) To note the report.

Financial Implications

3. None

Background Papers

4. None

Impact

- 5.

Communication/Consultation	Communication and consultation form the bedrock of cooperating. This paper is published on the website.
Community Safety	The Duty to Cooperate will include all factors.
Equalities	The Duty to Cooperate will include all factors.
Health and Safety	The Duty to Cooperate will include all factors.
Human Rights/Legal Implications	The Duty to Cooperate will include all factors. Failure to comply would result in the Local Plan being found unsound.
Sustainability	The Duty to Cooperate will include all factors.
Ward-specific impacts	Affects all wards equally
Workforce/Workplace	This will involve Councillors, officers from

	the Planning Policy Team and others as necessary.
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Situation

6. This report seeks to update members on the Duty to Cooperate which forms part of Section 110 of the Localism Act 2011. The Duty requires local planning authorities, public bodies and others to engage constructively, actively and on an ongoing basis in relation to the planning of sustainable development.
7. The Inspector considered the Council's work in relation to the Duty to Cooperate at the recent Examination. As part of the submission documents the Council produced a 'Statement of Compliance with the Duty to Cooperate' dated July 2014. In his final comments the Inspector commented that "My overall judgement is that the Council did fulfil its obligation under S33A, albeit somewhat narrowly". It is therefore important for the Council to consider how it can improve on previous work to ensure that the depth of compliance is widened.

Current work

8. A report on the **Strategic Housing Market Assessment (SHMA)** has been provided elsewhere on the agenda. This key piece of work is being procured on behalf of the four authorities by Epping Forest District Council. Officers attend the project steering group and are party to the decision making process. The meetings involve update presentations from the consultants, ORS, and time to discuss and decide on key inputs as requested by the consultants. It is important that the councils have a say in the inputs to the study but it is equally important that the consultants produce a final study which they are comfortable with and which they are confident of defending at appeal or Examination. We expect the first phase of the study to report in February/March 2015 with an update mid-year.
9. The SHMA work forms part of the wider cooperation between the four authorities and a number of others including, Brentwood, Broxbourne, LB Redbridge, Essex and Hertfordshire County Councils. This group has collectively become known as the **Cooperation for Sustainable Development Board**. The agreed Terms of Reference are attached as Appendix 1.
10. The Coop group of Councillors meets as necessary but on average every 2 to 3 months. Two meetings have been held to date with a third planned for 27 January 2015. Cllr Barker was elected Chairman of the Board and Uttlesford provides the secretariat, both these roles will be reviewed at the start of the new municipal year. The notes of the last meeting in October 2014 are attached as Appendix 2.
11. In addition to the Councillor meeting officers also meet regularly to discuss the ongoing technical work, plan the Board meetings and address other issues as appropriate. The last meeting was on 19 January 2015. Epping Forest DC provides the secretariat for the officer group.

12. The Council made a submission to the Mayor of London on the **Further Alterations to the London Plan** (FALP) consultation earlier in 2014. As a result the Assistant Director attended the FALP Hearing sessions to put forward the Councils' views. As well as submitting our own comments we signed a joint letter with 51 other authorities. This group became known as the 'Bedford 51' (after the fact that the GLA wrote to Bedford Borough Council advising them of the need to plan for additional housing from London). A total of six officers, including the Assistant Director, represented this group at the Hearings. The report into the FALP was published on 15 December 2014 and is attached as Appendix 3.
13. The report is self-explanatory but in summary the FALP was found Sound subject to a number of modifications and a commitment to a review of the full London Plan to start in 2015. The Council will need to monitor and actively participate in this review of the London Plan. There is a widely held belief, confirmed by the Inspector, that London is not able to fully meet the needs of its growing population within its own boundaries. As a result (and similar to the historic New Towns movement), housing to provide for London's needs will need to be provided outside its boundaries. This will have a significant impact on the wider South East.
14. As part of their engagement process the GLA have met the East of England Local Government Authority, South East Councils as well as groups such as the Essex Planning Officers Association (EPOA) and a specially convened London Stansted Cambridge Consortium (LSCC) officers meeting. In addition the GLA have created a Strategic Spatial Planning Officer Liaison Group (SSPOLG) which is a group of 27 people to lead and guide this process. The Assistant Director has been invited to join this group, the next meeting of which is on 30 January 2015. The Terms of Reference are:
- The working group exists to:*
- *Promote shared understanding and use (where appropriate) of strategic spatial planning policy assumptions, issues and responses.*
 - *Improve shared understanding and use of common data, standards and monitoring.*
 - *Foster dialogue about policy options for strategic spatial planning policies in London and the wider metropolitan area.*
 - *Discuss how shared approaches can strengthen the case for strategic transport, economic development and environmental infrastructure delivery.*
 - *Communicate/disseminate working group findings as appropriate.*
15. These are incredibly important meetings and discussions which will set the context for more formal discussions including Councillors which will lead to decision making regarding the location of new housing in the wider south east to meet the needs of London.
16. The Council continues to participate in meetings with **Stansted Airport** and neighbouring authorities. Regular meetings are held to oversee the transport strategy, the development of the Sustainable Development Plan and ongoing S106 obligation monitoring.

17. Councillors will be aware that we submitted detailed comments as part of M.A.G's consultation on the Sustainable Development Plan. Since then officers have met with the airport informally to discuss comments received as part of the consultation and the potential changes to the plan.
18. The council is part of an Essex wide project to develop a **Planning Compact** for Essex. This project, led by Essex County Council, is sponsored by Essex Chief Executives Association and builds on the existing work of EPOA to understand the planning constraints within the County, start work on preparing an Infrastructure Plan and develop a general planning framework for Essex along the lines of that established in Cambridgeshire. The Notes of the last meeting are attached as Appendix 4 with the next meeting arranged for 22 January 2015.

Conclusion

19. Work with other councils and organisations continues as part of the integrated work of the Planning Policy Team. As part of the development of the revised plan there are some important Duty to Cooperate meetings to be held and decisions to be made. Councillors will be aware that some of these decisions will be difficult and involve a significant amount of discussion and negotiation before an outcome can be secured.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Failure to comply with and demonstrate the Duty to Cooperate	2 – Some Council's have been found lacking in this Duty by Inspectors. Therefore need to ensure that we capture as many groups, issues and outcomes as possible to present a full picture of our work.	3 – Will result in the Local Plan being found unsound. Significant impact on planning policy and planning applications.	Cooperate closely with current organisations and continue to do this through the plan making process. Identify any gaps in cooperation and work closely with those bodies to rectify situation.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix 1

Terms of Reference¹

Co-operation for Sustainable Development Board

October 2014

1. Aims and Objectives

(1) The Co-operation for Sustainable Development Board will support Local Plan making and delivery for sustainable communities across geographical and administrative boundaries in West Essex, East Hertfordshire and the adjoining London Boroughs. It will do this by identifying and managing spatial planning issues that impact on more than one local planning area within West Essex, East Herts and the adjoining London Boroughs.²

1.1 Local authorities are required by law through the Duty to Cooperate to *'engage constructively, actively and on an on-going basis'* on planning matters that impact on more than one local planning area ('strategic planning matters'). The duty is further amplified in the National Planning Policy Framework (NPPF) which sets out the key 'strategic priorities' that should be addressed jointly³.

1.2 The Co-operation for Sustainable Development Board ('the Board') is responsible, on behalf of the core member authorities, for identifying the sustainable development issues that impact on more than one local planning area and agreeing how these should be managed (covering the whole local plan cycle from plan-making, through to delivery and monitoring). This may include evidence gathering. It is an advisory body, and any decisions resulting from its advice remain the responsibility of its constituent councils.

1.3 As part of this process, the Board will review cross boundary issues (strategic planning matters) being progressed through emerging local plans and constituent Local Development Frameworks documents as appropriate, and identify issues which are likely to be vulnerable in the legal tests applied under the Duty to Cooperate. In doing so it will consider the plans of local planning authorities outside the core membership where these are likely to impact upon more than one member authority.⁴

¹ These initial terms of reference are expected to be reviewed and updated at the start of each municipal year.

² The core constituent administrative areas are identified as Epping Forest, Harlow and Uttlesford districts, Brentwood Borough and Essex County Council, East Herts and Broxbourne districts and Hertfordshire County Council, and the London Boroughs of Waltham Forest, Redbridge and Enfield.

³ 'Strategic priorities' that local planning authorities have a duty to cooperate on are defined in Paragraph 156 of the National Planning Policy Framework (NPPF).

⁴ Initial identification of cross boundary issues will arise from the NPPF, NPPG and from issues identified at member workshops in 2014, but are expected to change as new issues arise.

(2) The Board will support better integration and alignment of strategic spatial and investment priorities in West Essex, East Herts and adjoining London boroughs, ensuring that there is a clear and defined route through the statutory local planning process, where necessary.

1.4 In order to support the economic growth points within the area and investor confidence, recognising the different attributes and contributions made by the individual member councils, the Board will work jointly with the Local Economic Partnerships identified in Section 4 to understand long term investment priorities and ensure that these are aligned with other public and private sector investment plans.

1.5 Initially the Board will seek to understand work that is already underway which is relevant to the Board's strategic planning role.

2. Membership and Accountabilities

2.1 The Board provides a forum for local authorities to manage issues that impact on more than one local planning area, developing the necessary evidence base and ensuring wider corporate and other relevant matters are fully taken into account. Although there is a clear emphasis on reaching a common approach on key strategic approaches, the Board is an advisory body only. Any decisions on taking forward outputs from its meetings and work programme (e.g. shared views, policy approaches, evidence or research) will be the responsibility of individual local authorities and the statutory planning process.

2.2 Core membership of the Board will comprise representatives from Epping Forest, Harlow and Uttlesford districts, Brentwood Borough, Chelmsford City and Essex County Council, East Herts and Broxbourne districts and Hertfordshire County Council, and the London Boroughs of Waltham Forest, Redbridge and Enfield. The GLA will be given Observer status and will be sent minutes of meetings and invited to engage at appropriate times.

Each core member authority will be invited to contribute to the work programme and to consider strategic planning issues that impact on the wider area. Other authorities may be invited to attend on an occasional basis if an issue being considered is likely to have a significant impact on the authority's planning area. Each core member authority will be represented on the Board by the relevant holder of the Planning portfolio or Leader as appropriate, to ensure confidence of authority and commitment to resources.⁵ Officers may attend meetings in support of members.

2.3 Regular feedback and briefing to the constituent members' political and corporate leadership is the responsibility of member representatives, and should be used as a way of ensuring wider ownership and support for the Board's work as it progresses. There should also be appropriate liaison between the local authority representatives of both the Board and the South East, Hertfordshire, Greater Cambridge and Greater Peterborough Local Economic Partnerships, and London Enterprise Panel

2.4 The Chairman of the Board will be appointed on a rotating basis which should be reviewed at least annually to ensure fair and equal opportunities amongst the

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⁵ Councils will identify their lead member

constituent member authorities. Officers of the Chairman's authority will provide administrative and clerical support to meetings.

3. Ways of Working

3.1 Refer to Diagram in Annex 1 for details of initial working arrangements. The Board will agree a work programme, including steering and management arrangements for each project, on an annual basis. This could include setting up 'task and finish' groups for specific projects, either reporting directly to the Board or on a shared basis with other bodies. The Board will meet regularly, as required and its meetings will rotate between Harlow, Epping Forest DC and East Herts Councils as the most convenient locations for all. In the interests of transparency, notes of the Board's meetings will be publicly available once they have been agreed.

3.2 The Co-operation for Sustainable Development Officer Group will provide either direct advice or support, and/or deliver agreed projects.

3.3 Once the work programme has been established, good project management principles should be applied, such as risk management, particularly around political sensitivities and funding, and keeping the work programme under review to ensure that it is meeting the agreed objectives and the identified priorities remain relevant.

4. Key relationships

4.1 **South East Local Economic Partnership:** The Board will work closely with SELEP to ensure the long term integration of strategic planning and investment priorities. The LEP plays a key support role on economic development and regeneration and is responsible for major funding streams. It is also identified in Local Planning Regulations as a body that local authorities need to take account of in meeting its 'duty to cooperate' obligations.

4.2 **Hertfordshire LEP:** The Board will work closely with Hertfordshire LEP to ensure the long term integration of strategic planning and investment priorities. The LEP plays a key support role on economic development and regeneration and is responsible for major funding streams. It is also identified in Local Planning Regulations as a body that local authorities need to take account of in meeting its 'duty to cooperate' obligations.

4.3 **Greater Cambridge and Greater Peterborough LEP:** The Board will work closely with GCGP LEP to ensure the long term integration of strategic planning and investment priorities. The LEP plays a key support role on economic development and regeneration and is responsible for major funding streams. It is also identified in Local Planning Regulations as a body that local authorities need to take account of in meeting its 'duty to cooperate' obligations.

4.4 **London Enterprise Panel** – this acts as the Local Economic Partnership for London.

4.5 **East Herts West Essex Border Liaison Group:** this is an established forum for members from many of the core Board authorities to come together and discuss issues of common interest several times a year. Its terms of reference specifically include reference to the duty to co-operate. Its wide membership (in

terms of the number of elected members invited from the constituent authorities) means that it provides a useful forum for the Board to communicate on its activities, and receive updates on issues. The Chairman of the Board or an agreed member should report to each meeting of the EHWEBLG.

4.6 London Stansted Cambridge Consortium: this is an established partnership of public and private sector organisations, including councils, which covers the area from Tech City, the City Fringe, Kings Cross, and the Olympic Park, up through the Lee Valley and M11/A10 and West Anglia Rail corridors to Harlow and Stansted, and through to Cambridge. The principal objective of the consortium is to drive economic development and enhance quality of life in the north London – Stansted – Cambridge corridor. This means not only driving job growth through productivity and investment, but more importantly increasing economic activity, by ensuring local communities access employment opportunities.

4.7 Other Key Partners: A number of key bodies and organisations will be necessary to support the work of the Board either through direct support/advice or through joint projects. Most of these will be subject to the legal requirements of the ‘duty to cooperate’ and may well already be involved in the other partnerships mentioned above. Key bodies include the Lee Valley Regional Park, the Corporation of the City of London (responsible for Epping Forest), the Environment Agency, Highways Agency, and Homes and Communities Agency. Private sector infrastructure providers, particularly utility companies, will also be key partners particularly in terms of ensuring alignment between investment plans and priorities.

5 Technical Support

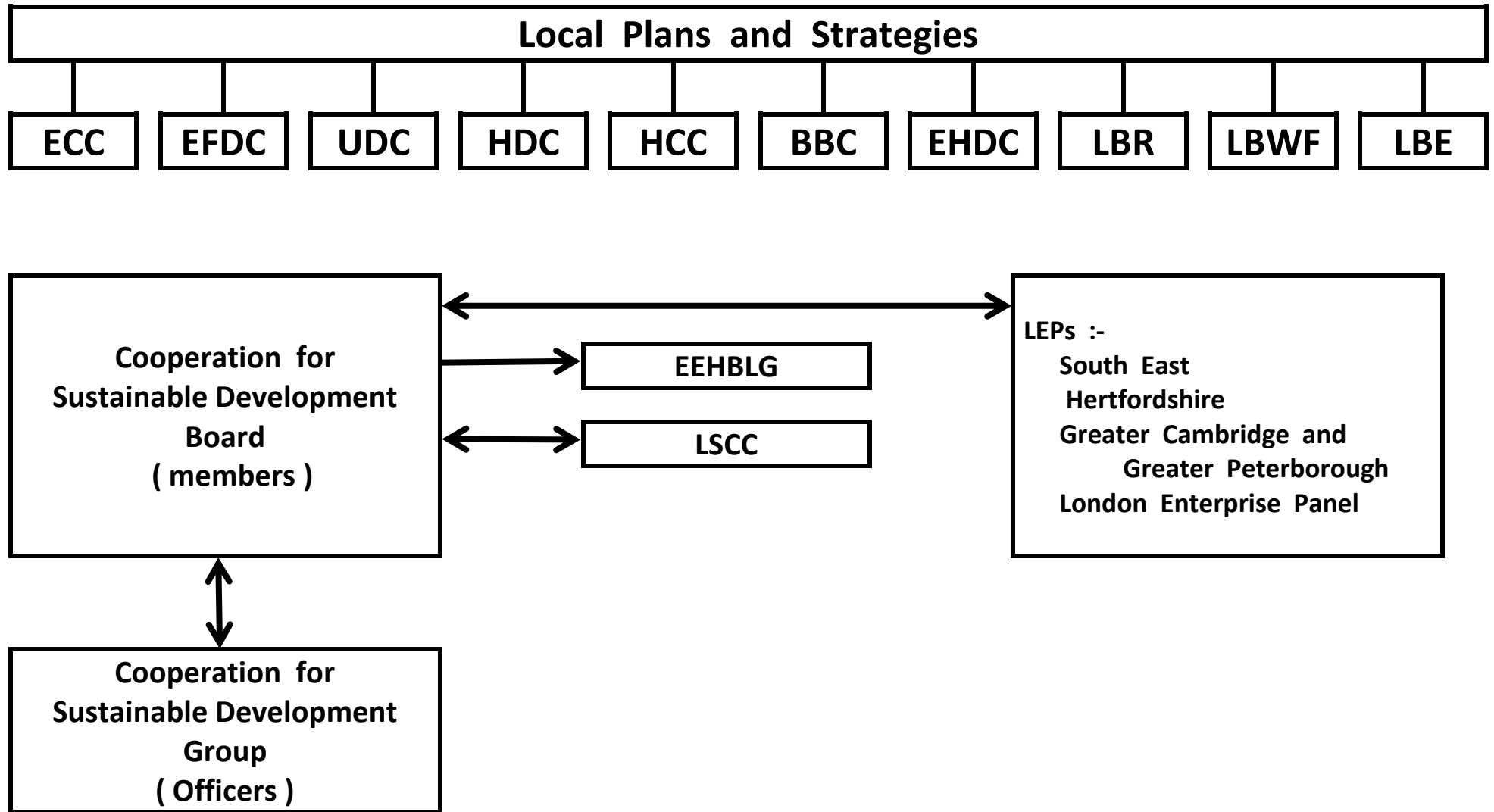
5.1 The Board will be supported by an officer group, known as the Co-operation for Sustainable Development Group, with representatives from each of the constituent authorities. The group will advise the Board on technical issues, and act as a steering group for any identified project, establishing suitable technical support and project management arrangements for each. This may involve the use of ‘task and finish’ groups and could include the use of external expertise e.g. from key statutory bodies identified in Section 4 above or the use of consultants. The group will therefore also be responsible for any necessary joint procurement arrangements.

5.2 A representative of the officer group (the chairman or a suitable substitute) will attend the Board meetings and provide regular progress updates on the work programme to the Chairman.

6. Review

6.1 These are initial terms of reference, and will be formally reviewed before May 2015. It is important to keep arrangements flexible to respond to changes in planning policy, priorities and work programmes and to move forward from plan policy development stages to implementation. It is therefore anticipated that the terms of reference will continue to be reviewed annually.

ANNEX 1



Appendix 2

Cooperation for Sustainable Development Board

Held at Epping Forest District Council, Monday 20th October 2014

Present:

Cllr Susan Barker (Chairman)	Uttlesford DC
Cllr Phil Baker	Brentwood BC
Cllr Jim Metcalf	Broxbourne BC
Cllr Mike Carver	East Herts DC
Cllr Richard Bassett	EFDC
Cllr Gary Waller	EFDC
Cllr Helen Kane	EFDC
Cllr Chris Whitbread	EFDC
Cllr David Stallan	EFDC
Cllr Jon Clempner	Harlow BC
Cllr Anthony Durkan	Harlow BC
Cllr Helen Coomb	LB Redbridge
Cllr Julie Redfern	Uttlesford DC
Phil Drane	Brentwood BC
Gordon Glenday	Brentwood BC
Claire Sime	East Herts DC
Laura Pattison	East Herts DC
Derek Macnab	EFDC
Alison Blom-Cooper	EFDC (consultant)
Anna Cronin	EFDC
Zhanine Oates	Essex CC
David Sprunt	Essex CC
Paul McBride	Harlow BC
Graeme Bloomer	Harlow BC
Paul Donovan	Herts CC
David Hughes	LB Redbridge
Andrew Taylor	Uttlesford DC
Apologies:	
Cllr R Hurst	Essex CC
Cllr R Thake	Herts CC

Strategic Housing Market Update

ORS gave a presentation on the work in progress on updating the Strategic Housing Market Assessment (SHMA) for the Harlow/Uttlesford/East Herts/Epping area.

Members had a number of questions on the emerging findings. Representatives of EFDC were concerned to understand what lay behind the figures for EFDC, which appeared to have increased considerably on the previous SHMA.

There was some discussion of how best to address these questions before finalisation and publication of the SHMA. ORS agreed to look into the inputs and assumptions and discuss with Edge Analytics. It was agreed that the SHMA officer steering group would then consider the issues.

Junction 7a of M11

David Sprunt of Essex CC gave a presentation on the need for a new junction on the M11 north of existing junction 7 in order to accommodate existing and projected growth in the wider area around Harlow.

He explained that while some modelling had been carried out, a new model was being constructed to support consideration of the issue. Public consultation on a preferred design was expected to take place in 2015 and, if approved, construction would take place from 2018 to 2020.

It was important that local plans in the area referred to Junction 7a but it was also important that councils in the area signed up to generally support the new junction prior to completing their plans, as this would help in making the case for the junction. This Group provided a suitable forum for discussion and generating such commitment.

David Sprunt indicated his willingness to return to the Group early in 2015 and explain the findings of the new modelling.

The Group indicated its general support in principle for the new junction.

Notes of Members' Event 15th September

The notes of the meeting facilitated by the Planning Advisory Service at Harlow on 15th September 2014 were agreed.

Chair and Future Support

Consideration was given to a note which had been tabled on possible models for future chairmanship and officer support for the Group.

The Chairman for the meeting, Cllr Barker, suggested that a chairman should be agreed to cover the remaining portion of the municipal year, and this was agreed.

She indicated her willingness to continue in this role for the remainder of the year, supported by Uttlesford officers, and this was agreed, there being no other nominations.

Members agreed that officers should discuss amongst themselves the issue of whether a small financial contribution from member councils was necessary and appropriate to cover support for the Group.

Terms of Reference

The Interim Terms of Reference were agreed with the following amendments:

It was agreed that Brentwood BC and Chelmsford CC should be included as core members (para 2.2). Member councils should identify a lead member from each council.

Regarding para 3.1 it was agreed that notes of meetings should be jointly agreed before being made public.

It was also agreed to amend this paragraph to indicate that the Board would meet “regularly” rather than on any particular timescale.

Meetings would circulate around Harlow, EFDC and E Herts as the most accessible locations for all.

AOB/Date of Next Meeting

It was suggested that the next meeting should include a wider presentation and discussion around public transport generally, including such issues as the Central Line, plans for four tracking the West Anglia main train lines, and Crossrail.

The date and location of the next meeting would be discussed by officer Group in the light of the amended Terms of Reference.

Appendix 3