

Core Strategy Review - Inspectors' Matters

Matter 2: The Duty to Cooperate

July 2020



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Inspectors' Questions for Matter 2

Housing needs, the housing requirement and housing provision

1. Who has the Council engaged with in terms of housing needs, the housing requirement and housing provision and what form has this taken?
2. What are the inter-relationships with other authorities in terms of migration, commuting, housing markets and service provision?
3. How have the issues of housing needs, the housing requirement and housing provision been addressed through co-operation, including the revised housing requirement? What are the specific outcomes for example in terms of statements of common ground?
4. What is the position of other authorities in terms of the approach to identifying and meeting housing needs? Have specific concerns been raised through duty to co-operate discussions or representations?
5. Are there any issues of unmet need to be addressed?

The New Garden Settlement

6. What are the cross-boundary issues raised by the proposed New Garden Settlement for example in relation to transport and service provision?
7. Taking each of these in turn, how have they been addressed through cooperation and what has been the outcome of that co-operation? How has that affected the policies within the Core Strategy Review?

Other strategic matters

8. Are there other genuinely strategic matters as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004 (as amended)?
9. If so, how have they been addressed through co-operation and what is the outcome?

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Overall

10. In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Core Strategy Review?

Council's Response to Matter 2 Questions

1. Housing needs, the housing requirement and housing provision

Question 1

Who has the Council engaged with in terms of housing needs, the housing requirement and housing provision and what form has this taken?

- 1.1 The Duty to Co-operate Statement (document reference EB 01.80) clearly sets out how and those organisations (i.e. neighbouring authorities, statutory bodies and infrastructure providers) the council has engaged constructively, actively and on an on-going basis in terms of housing needs, the housing requirement and housing provision. Appendix 1 to the Duty to Co-operate Statement (document reference EB 01.80) details and records all duty to co-operate meetings that have been held during the preparation of the Core Strategy Review.
- 1.2 Consultation responses received from statutory bodies to the emerging versions of the Core Strategy Review have separately assisted in shaping the site allocation policies that will deliver the housing requirement for the district over the plan period.
- 1.3 In January 2019 the council proactively engaged with neighbouring authorities as a series of officer meetings under the duty to co-operate with the specific intention of jointly preparing and agreeing Statements of Common Ground to provide appropriate consideration (and coverage) of cross-boundary issues raised by the proposed new garden settlement. This work progressed throughout the remainder of the 2019 calendar year. As part of the dialogue, officers of Folkestone & Hythe District Council were clear to explain that the District Council was to go out to a very limited public consultation on a revision to the Regulation 19 Core Strategy in November/December 2019 to bring it 'in check' with the Government's published figures on housing requirement. An

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explanatory paragraph to this effect is contained within the prepared Statements of Common Ground.

- 1.4 Commentary on the housing need, the housing requirement and housing provision is set out below.

Identifying the housing need

- 1.5 The national planning practice guidance¹ defines housing need, as follows (emphasis added):

“Housing need is an unconstrained assessment of the number of homes needed in an area. Assessing housing need is the first step in the process of deciding how many homes need to be planned for. It should be undertaken separately from assessing land availability, establishing a housing requirement figure and preparing policies to address this such as site allocations.”

- 1.6 The national planning practice guidance (PPG) provides clarification on the standard method for assessing local housing need, advising that (emphasis added):

“The National Planning Policy Framework expects strategic policy-making authorities to follow the standard method in this guidance for assessing local housing need.

The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply.

The standard method set out below identifies a minimum annual housing need figure. It does not produce a housing requirement figure.”²

- 1.7 Over the period of time the Core Strategy Review has been progressed the methodology for calculating the housing requirement has changed. The NPPF 2012 and associated PPG set out a methodology for establishing an Objectively

¹ National Planning Practice Guidance, Paragraph: 001 Reference ID: 2a-001-20190220.

² National Planning Practice Guidance, Paragraph: 002 Reference ID: 2a-002-20190220.

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Assessed Need for housing in a defined Housing Market Area (HMA). On 14 September 2017, the Department of Communities and Local Government (CLG) published a consultation on potential revisions to the NPPF, including a standardised methodology for calculating the Local Housing Needs (LHN). An outline of how the housing requirement has changed over time is provided below:

- SHMA completed in 2016/17 identified a need for **633 new homes a year**;
- National methodology had identified a need for **676 new homes a year**;
- Following the publication of revised guidance in February 2019 the annual target was changed to **738 homes a year** (homes built at the end of each monitoring year); and
- Core Strategy Review is planning to meet the new national methodology figures.

1.8 Bringing together the different sources of housing supply outlined above creates the anticipated supply of housing over the Core Strategy Review plan period, as bulleted above. This gives an anticipated housing supply over the Core Strategy Review plan period which would exceed the national minimum requirement of 13,284 homes, as set out in the council's response to Matter 8: The Supply and Delivery of Housing Land.

1.9 It was agreed by all East Kent local authorities through duty to co-operate and strategic planning meetings that the intention remained for East Kent Councils to each meet their own housing requirements.

Identifying and meeting the housing requirement

1.10 National policy is clear in expecting local plans to *“positively seek to meet the development needs of their area”* (NPPF paragraph 11). It adds that, *“to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where*

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it is needed”, adding that the needs of groups with specific housing requirements should be addressed (NPPF paragraph 59).

1.11 Policy CSD1 ensures that there new developments provide balanced neighbourhoods. The basis of Core Strategy Review Policy CSD1 is largely unchanged from Policy CSD1 in the adopted 2013 Core Strategy, with changes made only to reflect updates in legislation and the new requirement.

1.12 In undertaking the Core Strategy Review the council has had regard to national planning practice guidance which states:

“Under regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must review local plans, and Statements of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community. Most plans are likely to require updating in whole or in part at least every 5 years. Reviews should be proportionate to the issues in hand.”

1.13 Officers of Folkestone & Hythe District Council were clear to explain to neighbouring authorities that the District Council was to go out to a very limited public consultation on a revision to the Regulation 19 Core Strategy in November/December 2019 to bring it ‘in check’ with the Government’s published figures on housing requirement. An explanatory paragraph to this effect is contained within the prepared Statements of Common Ground.

Question 2

What are the inter-relationships with other authorities in terms of migration, commuting, housing markets and service provision?

1.14 The Shepway and Dover Strategic Housing Market Assessment (SHMA) Part 1 report published in 2017 considered housing market geographies, based on existing research, house prices, migration and commuting patterns. It concluded that the geography of housing markets identified in the national CLG/CURDS Study was inappropriate, as the CURDS geography was based on the 2001

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Census. The consultants, therefore, undertook an updated analysis of commuting and migrations flows derived from the 2011 Census as a more robust basis for defining the housing market area.

- 1.15 Part 1 of the 2017 SHMA identified that Shepway District (now Folkestone & Hythe District) falls within a Housing Market Area (HMA) that asserts that the strongest flows and links are with nearby Dover urban centre and Dover District more widely. Flows to the west of the district into Rother and Hastings are very weak. The Ashford District SHMA Addendum (2014) does not suggest an Ashford housing market area extends into either Shepway or Dover. Although a joint housing market area was identified between the two districts, Folkestone & Hythe District Council and Dover District Council agreed to meet their own objectively assessed housing needs.
- 1.16 The Shepway and Dover SHMA Part 1 report provides commentary on the Thanet housing market area, which includes Dover but excludes Shepway. Further discussion on this matter is provided in detail within the Dover component of the SHMA report. The Shepway and Dover SHMA concludes that, on balance, Dover and Shepway form a reasonable Housing Market Area, and cross-boundary Dover-related issues, especially relating to unmet Thanet district need, should be managed through the duty to co-operate. In migration terms, it is considered that the two districts of Dover and Folkestone & Hythe form a reasonable housing market area.
- 1.17 In August 2015, new Travel to Work Areas (TTWAs) were published by the Office for National Statistics (ONS) based on 2011 Census data, and supersede the 2001-based TTWA data which informed the NHPAU analysis. This data is useful to consider how the geographies, and therefore commuting flows and linkages, have changed over time. In the 2001-based TTWA geography, Dover and Folkestone were in separate TTWAs. However, in the latest set, their TTWA has been merged. However, the merger is not simple: the northern parts of Dover district, which are less accessible to Dover (town) and especially Folkestone, are now placed in the Margate and Ramsgate TTWA (Thanet). In

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commuting terms, it is considered that the two districts of Dover and Folkestone & Hythe form a reasonable housing market area.

- 1.18 There is no suggestion, in evidence or alternative SHMAs, suggesting Folkestone & Hythe district forms part of a housing market with Thanet or Canterbury.
- 1.19 With regards to service provision and cross-authority interrelationships, the Statement of Common Ground between Folkestone & Hythe District Council and Ashford Borough Council provides commentary on education infrastructure, and the following excerpts are drawn from section 2 of the Statement:

“In relation to education infrastructure, both parties concur that there’s no requirement to amend the wording of relevant policy and/or supporting text. The position agreed within this SoCG takes a lead from relevant wording contained within the agreed SoCG between F&HDC and KCC (as lead education authority), and relevant comments drawn from the SoCG between F&HDC and KCC is repeated below:

“Some pupils travel across the border to access education. In defining the education requirements for the Otterpool Park Garden Settlement, KCC as the Local Education Authority has been clear to explain it requires sufficient flexibility to be able to negotiate, agree and ultimately secure what represents the actual infrastructure requirement in what is a fluid context. The S106 agreement is the appropriate mechanism to define the education infrastructure requirements.

It is advised that in order for the settlement to be self-sufficient for education provision and deliverable over the plan period, there may be a requirement for the safeguarding of land for the provision of two secondary schools within the site. For the wider masterplan of up to 10,000 homes, the education need is likely to consist of up to 13FE of secondary provision, eight 2FE of primary provision provided on site and up to 92 specialist education (SEN) places on site.”

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1.20 Other examples of service provision that exhibit a cross-boundary inter-relationship include, but are not limited to:

- Transportation (rail services and highway infrastructure);
- Potable water supply;
- Conservation and enhancement of the natural environment (arising from recreational pressures); and
- Flood risk.

1.21 Fuller commentary on these matters is provided within the prepared Statements of Common Ground.

Question 3

How have the issues of housing needs, the housing requirement and housing provision been addressed through co-operation, including the revised housing requirement? What are the specific outcomes for example in terms of statements of common ground?

1.22 Issues of housing needs, the housing requirement and housing provision have been discussed and addressed through positive co-operation with neighbouring authorities in accordance with the duty to co-operate.

1.23 Officers of Folkestone & Hythe District Council were clear to explain that the council was to go out to a very limited public consultation on a revision to the Regulation 19 Core Strategy in November/December 2019 to bring it 'in check' with the Government's published figures on housing requirement. An explanatory paragraph to this effect is contained within the prepared Statements of Common Ground.

1.24 The National Planning Policy Framework 2019 (paragraph 27) clarifies the role that preparation of statements of common ground can play in detailing cross-boundary matters, as follows:

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“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.”

- 1.25 Paragraph 35 sets out the tests of soundness that will be applied during examination of local plans and spatial development strategies. With regard to determining whether plans are “effective”, plans are expected to demonstrate they are *“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”*.
- 1.26 The national planning practice guidance on plan-making sets out the Government’s expectations regarding the scope and content of Statements of Common Ground:

“A statement of common ground is a written record of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters. It documents where effective co-operation is and is not happening throughout the plan-making process, and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries. In the case of local planning authorities, it also forms part of the evidence required to demonstrate that they have complied with the duty to cooperate.”³

- 1.27 The national planning practice guidance makes it clear that Statements of Common Ground are expected to contain:

“a) A short written description and map showing the location and administrative areas covered by the statement, and a brief justification for these area(s);

³ National Planning Practice Guidance, Paragraph ID 61-010-20190315.

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- b) The key strategic matters being addressed by the statement, for example meeting the housing need for the area, air quality etc.;*
- c) The plan-making authorities responsible for joint working detailed in the statement, and list of any additional signatories (including cross-referencing the matters to which each is a signatory);*
- d) Governance arrangements for the cooperation process, including how the statement will be maintained and kept up to date;*
- e) If applicable, the housing requirements in any adopted and (if known) emerging strategic policies relevant to housing within the area covered by the statement;*
- f) Distribution of needs in the area as agreed through the plan-making process, or the process for agreeing the distribution of need (including unmet need) across the area;*
- g) A record of where agreements have (or have not) been reached on key strategic matters, including the process for reaching agreements on these; and;*
- h) Any additional strategic matters to be addressed by the statement which have not already been addressed, including a brief description how the statement relates to any other statement of common ground covering all or part of the same area.”⁴*

1.28 The jointly prepared and agreed (signed) Statements of Common Ground signed between Folkestone & Hythe District Council and Dover District Council, Rother District Council, Ashford Borough Council and Canterbury City Council respectively reflect the housing requirement placed upon the District in accordance with the revised methodology. The Statements of Common Ground explain that the profiled housing supply of 13,515 homes over the Core Strategy plan period shall exceed the national minimum requirement of 13,284 homes by

⁴ Planning Practice Guidance, Paragraph ID 61-011-20190315.

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around 230 homes and, as a result, the district's housing need requirement can be met in full.

- 1.29 Fundamentally, it has been agreed by all East Kent local authorities through duty to co-operate, attendance at strategic planning meetings and through preparation of each Statement of Common Ground that it is the intention of all East Kent Councils, to include those neighbouring Folkestone & Hythe District, to each meet their own housing requirements.

Question 4

What is the position of other authorities in terms of the approach to identifying and meeting housing needs? Have specific concerns been raised through duty to co-operate discussions or representations?

- 1.30 To respond to the specific question raised, officers of Folkestone & Hythe District Council sought responses from neighbouring authorities, and the subsequent responses are set out below.

Ashford Borough Council – “As indicated in paragraph 2.9 of the Statement of Common Ground, Ashford Borough Council’s Local Plan was adopted in February 2019 and covers the period to 2030 and meets the Council’s housing requirement in full.”

Dover District Council – “As set out in Table 4.1 of the Statement of Common Ground between FHDC and DDC, each authority has agreed to meet its own housing need based upon the standard methodology. DDC is at the early stages of its plan production, and at the present time is proposing to meet housing need required by the standard methodology within Dover District. No specific concerns have been raised in this regard through duty to co-operate discussions or representations between the two authorities.”

Canterbury City Council – “adopted the Canterbury District Local Plan in July 2017, which meets the housing needs of the Canterbury district, based on the SHMA. The City Council’s Policy and Resources Committee approved a new

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Local Development Scheme in October 2019⁵, with the aim of preparing a new District Plan by July 2022.”

Rother – “Rother District worked with Folkestone and Hythe District Council to prepare a Statement of Common Ground (dated January 2020) in support of the Core Strategy Review. This was signed by Rother District Council and published by Folkestone and Hythe District Council as part of its evidence base.

Rother District Council’s Core Strategy Local Plan was adopted in September 2014 and is now more than 5 years old. Consequentially, in line with the NPPF, the overall level of housing need is now determined through the standard methodology, and this is a starting point for plan making through the Local Plan Update.

Although work has progressed on Rother District Council’s Local Plan Update, the position of Rother District Council has not changed since the Statement of Common Ground was published. Rother District Council are currently in the process of undertaking early engagement on the Local Plan in the lead up to formal public consultation (Regulation 18), later in 2021. The Council is still at an early stage of developing its evidence base in support of the Local Plan update, and as such cannot currently confirm its ability to meet the level of local housing need identified through the standard methodology (727 dwellings per annum).

Rother District Council are currently considering its plans for early engagement, and as a neighbouring planning authority, Folkestone and Hythe District Council will be involved in this process.

Rother District Council, through its Duty to Cooperate discussions and the Statement of Common Ground, state that whilst we do not currently require neighbouring planning authorities to assist in helping with any local unmet meet,

⁵ https://www.canterbury.gov.uk/info/20014/planning_and_building/313/local_plan_review_2019

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the position may change in the future as the Rother District Local Plan Update evidence is developed.”

- 1.31 Within the signed Statement of Common Ground between the District Council and Ashford Borough Council (document reference EB 13.20) the position of Ashford Borough Council is explained more fully, as follows:

“ABC is also meeting the Borough’s own needs for Housing as set out in the Ashford Local Plan 2030 (adopted February 2019). It is agreed at this time that both authorities are meeting their respective needs for housing within their administrative boundaries.”

- 1.32 No specific concerns been raised through duty to co-operate discussions or representations.

Question 5

Are there any issues of unmet need to be addressed?

- 1.33 There are no issues of unmet housing need to be addressed, as confirmed through signed Statements of Common Ground.

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2. The New Garden Settlement

Question 6

What are the cross-boundary issues raised by the proposed New Garden Settlement for example in relation to transport and service provision?

- 2.1. Matters raised as having the potential to impart cross-boundary issues were discussed in turn between officers of the District Council and neighbouring authorities under the duty to co-operate.
- 2.2. In January 2019 the District Council proactively engaged with neighbouring authorities as a series of officer meetings under the duty to co-operate with the specific intention of jointly preparing and agreeing Statements of Common Ground to provide appropriate consideration (and coverage) of cross-boundary issues raised by the proposed New Garden Settlement. This work progressed throughout the remainder of the 2019 calendar year.
- 2.3. All Statements of Common Ground were signed off in advance of the submission of the Core Strategy Review (Submission Version) to the Planning Inspectorate in March 2020, and copies of signed Statements of Common Ground have been made available to the Inspectors appointed to examine the Core Strategy Review. For interested parties the statements can be viewed within the evidence base library.
- 2.4. Table 2.1 summarises those matters of a strategic/cross-boundary nature that have been duly recorded within prepared and agreed Statements of Common Ground.

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Table 2.1. Strategic/cross-boundary issues recorded within prepared and agreed Statements of Common Ground

Statement of Common Ground entered into between F&HDC and a named authority/body	Strategic/cross-boundary issue(s)
Ashford Borough Council	Housing Transportation (road and rail) Education Drainage Waste water Phasing of Infrastructure Retail
Rother District Council	Housing Conservation and enhancement of the natural environment
Dover District Council	Housing Infrastructure (rail and water supply)
Canterbury City Council	Housing Transport (highway capacity and air quality)
Kent County Council	Transport – road and rail Transport – sustainable travel Education Social Care, Public Health and Prevention Services Community and Leisure Services Public Realm Water, wastewater and drainage Minerals Waste Management Public Rights of Way

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	<p style="text-align: center;">Heritage Biodiversity and Environment Digital Infrastructure (broadband) Energy Air Quality Phasing of infrastructure</p>
<p style="text-align: center;">Environment Agency</p>	<p style="text-align: center;">Housing Flood Risk Water resources Groundwater and contaminated land</p>

2.5. The plan’s policies and approach in respect of transport and infrastructure are positively-prepared, justified, effective and consistent with national policy.

Question 7

Taking each of these in turn, how have they been addressed through cooperation and what has been the outcome of that co-operation? How has that affected the policies within the Core Strategy Review?

2.6. In reference to the cross-boundary issues raised in relation to the proposed new garden settlement, as recorded in Table 2.1 of this statement, where a neighbouring authority has included a specific request that an amendment is made to a specific policy and/or passage of supporting text as a requirement for that authority to enter into signing the Statement of Common Ground, the District Council has captured such requests and generated a table of proposed Main Modifications that has been passed onto the Inspectors appointed to examine the Core Strategy Review in advance of the Examination in Public to allow sufficient time for their consideration by the appointed Inspectors.

2.7. It is considered the examination process is the appropriate mechanism for more fully considering the specific changes to policy wording and/or supporting text as recorded within each signed Statement of Common Ground in turn. The District Council has been transparent in its approach to identifying where

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modifications may be necessary to appropriately address cross-boundary matters. In the main the modifications proposed are minor in nature.

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3. Other Strategic Matters

Question 8

Are there other genuinely strategic matters as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004 (as amended)?

- 3.1. No, the council considers that there are no other genuinely strategic matters as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004 (as amended).

Question 9

If so, how have they been addressed through co-operation and what is the outcome?

- 3.2. This is not applicable, on the basis there are no other genuinely strategic matters as defined by S33A(4) of the Planning and Compulsory Purchase Act 2004 (as amended).

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4. Overall

Question 10

In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Core Strategy Review?

- 4.1. Yes. The duty to co-operate statement clearly sets out how the council has engaged constructively, actively and on an on-going basis with its neighbouring authorities.
- 4.2. Under section 33A of the Planning and Compulsory Purchase Act 2004 (amended by section 110 of the Localism Act 2011) and in accordance with the National Planning Policy Framework (NPPF) 2019 it is a requirement under the duty to co-operate for local planning authorities, county councils and other named bodies to engage constructively, actively and on an ongoing basis in the preparation of development plan documents and other local development documents. This is a test that local authorities need to satisfy at the local plan examination stage and is an additional requirement to the test of soundness.
- 4.3. The duty to co-operate applies to strategic planning issues of cross boundary significance. Local authorities all have common strategic issues and as set out in the National Planning Practice Guidance:

“... local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination.”
- 4.4. The statutory requirements of the duty to co-operate are not a choice but a legal obligation. While the obligation is not a duty to agree, cooperation should produce effective and deliverable policies on strategic cross boundary matters in accordance with the government policy in the National Planning Policy Framework and guidance in the National Planning Practice Guidance.

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- 4.5. The National Planning Policy Framework states that plans are ‘sound’ if they are: *“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; ...”* (Paragraph 35 (c))
- 4.6. Accordingly, the District Council considers it has carried out effective joint-working on cross-boundary strategic matters.