

Cheltenham Borough Council
Council – 18 July 2022
Gloucestershire Statement of Common Ground

Accountable member	Cllr Rowena Hay, Leader
Accountable officer	Tracey Birkinshaw, Director Community & Economic Development
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>The Gloucestershire Statement of Common Ground (GSoCG) has been prepared by:</p> <ul style="list-style-type: none">• The six local planning authorities of Gloucestershire,• Gloucestershire County Council, and• GFirst LEP. <p>It is a non-statutory document, which when approved will be subject to regular updates, which captures progress in working together and GSoCG outcomes.</p> <p>The GSoCG includes a series of 37 high level agreements dealing with a broad range of environmental issues and land uses matters including addressing the climate and ecological emergencies, housing and economic needs, the Green Belt, transport provision, the natural environment and green infrastructure, health and social infrastructure, infrastructure delivery and minerals and waste.</p>
Recommendations	<p>Council is asked to RESOLVE to:</p> <ol style="list-style-type: none">1. Approve the Gloucestershire Statement of Common Ground as set out at Appendix 2.

Financial implications	<p>None arising from this report</p> <p>Contact officer: Director of Finance and Assets: Gemma.Bell@cheltenham.gov.uk</p>
Legal implications	<p>Section 33A(1) of the Planning and Compulsory Purchase Act 2004 (“the duty to co-operate”) requires that local planning authorities, county councils and certain other bodies (such as the Environment Agency and Homes and Communities Agency) must co-operate with each other and local enterprise partnerships in maximising the effectiveness with which certain activities are undertaken.</p> <p>These activities are the preparation of local development plans (including development plan documents) and any activities that can reasonably be considered to prepare the way for/support for such activities so far as relating to a strategic matter</p> <p>A strategic matter for the duty is sustainable development or use of land that has or would have a significant impact on at least two planning areas and sustainable development or use of land in a two-tier area if the development or use is a county matter or has or would have a significant impact on a county matter.</p> <p>Paragraph 27 of the National Planning Policy Framework 2021 (NPPF) states that 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.</p> <p>Appendix 1 of the GSoCG sets out what under the national planning policy guidance a statement of common ground is expected to contain and this includes a record of where agreements have (or have not) been reached on key strategic matters.</p> <p>Once published, authorities responsible for the statement will need to ensure that it reflects the most up to date position in terms of joint working across the area. Updates can occur when either agreements are reached, or a decision is taken to update strategic policies in the area covered by the statement.</p> <p>When soundness of plans are tested one element of this under paragraph 35 of the NPPF is that the plan should be 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. Therefore, although not a statutory document, statements of common ground dealing with these matters will be expected when plans are at examination. The formal approval of the Statement of Common Ground will remain the responsibility of each of the parties to it.</p> <p>Contact officer: cheryl.lester@onelegal.org.uk</p>

HR implications (including learning and organisational development)	None arising from this report Contact officer: HR Business Partner, Publica georgie.tweddell@publicagroup.uk
Key risks	As outlined in Appendix 1.
Corporate and community plan Implications	The GSoCG will directly contribute to the key priorities in the 2019-2023 Corporate Plan Contact officer: Director Community & Economic Development: Tracey.Birkinshaw@cheltenham.gov.uk
Environmental and climate change implications	The GSoCG provides a platform for collaborative working and agreed outcomes across environmental and climate change issues. Looking at these through a larger geographical lens at a county scale allows for a more comprehensive approach to the understanding of environmental and climate change impacts to be more fully assessed. Contact officer: Director Community & Economic Development: Tracey.Birkinshaw@cheltenham.gov.uk
Property/Asset Implications	None arising from this report Contact officer: Director of Finance and Assets: Gemma.Bell@cheltenham.gov.uk

1. Background

1.1 The Gloucestershire Statement of Common Ground (GSoCG), has been prepared by

- the six local planning authorities of Gloucestershire,
- Gloucestershire County Council, and
- GFirst LEP.

This process has been overseen by the Gloucestershire Economic Growth Joint Committee (GEGJC) since 2019. The Strategic Planning Co-ordinator produced an initial draft of the GSoCG May 2020. Since then, numerous revisions to the document have been subject to further discussions at Gloucestershire Leaders Board, more locally the GSoCG has been reviewed by the councils Planning and Liaison Member Working Group.

1.2 The GSoCG, as now presented includes a series of 37 very **broad** and **high level** agreements dealing with a range of environmental issues and land uses matters including addressing the climate and ecological emergencies, housing and economic needs, the Green Belt, transport provision, the natural environment and green infrastructure, health and social infrastructure, infrastructure delivery and minerals and waste. The GSoCG is appended in full to this report, the 37 broad agreements are those highlighted in the yellow boxes throughout the document.

1.3 In reviewing the GSoCG, some members may feel that the document as drafted does not go far enough and that we should be more challenging. However, reaching agreement on how to address these strategic planning matters has been a long and challenging process to get to a position where there is now broad consensus across the issues. Notwithstanding the time involved to get to this point and some of the more generalities of the broad agreements, having a

countywide document that identifies the key issues for collaborative action is a key milestone in partnership working and provides us with a platform against which to drive positive change.

- 1.4 The GSoCG is, by its very nature, high level and there has been much check and challenge through the process, not just across the parties now being asked to formally sign it off, but across the many specialist bodies and partnerships engaged in its preparation to date. The Leaders of the Councils have had close supervision and aided the route to agreeing the final version. Five of the six local authorities, together with Gloucestershire County Council and GFirst LEP are now in agreement with the version of the GSoCG now presented. Tewkesbury Borough Council are not in full agreement on a handful of matters, these areas of disagreements are set out in appendix 3 of the GSoCG and relate **only** to the views of that council.
- 1.5 None of the principles in the GSoCG is at odds with the adopted Cheltenham Plan or Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) policies nor the emerging replacement of this plan, the Gloucester, Cheltenham and Tewkesbury Joint Strategic Plan (JSP). Indeed, agreeing to the GSoCG does not restrict local decision making of the individual councils, but does provide a useful steer on the key issues and clearly demonstrates a willingness to address cross boundary matters and strategic issues and the leadership needed to support this.

2. Duty to co-operate

- 2.1 At the initiation of the preparation of the GSoCG, a key driver for preparation was to meet the government requirement around Duty to Co-operate. This is a legal duty set by the Planning and Compulsory Purchase Act 2004 as detailed in the legal implications of this report and appendix 1 of the GSoCG. This Duty is placed on local planning authorities and county councils in England, and prescribed public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plans in the context of strategic cross boundary matters.
- 2.2 To fulfil the Duty to Co-operate, local planning authorities are required to prepare and maintain several statements of common ground, which document the cross-boundary matters being progressed and progress in co-operating on them. The GSoCG is one of these statements. Members will recall that through the JCS and the Cheltenham Plan examination stages a variety of statements of common ground were agreed on a variety of topic areas. These form part of our overall management and delivery of these plans.
- 2.3 The Duty to Co-operate has however been a longstanding issue of controversy across England with the courts confirming that it is not a 'duty to agree' and that it depends on the issues to be addressed as to what level of duty should be engaged. So long as there is evidence that genuine engagement has taken place, the fact that there is no final agreement on the matters, does not amount to a failure to comply with the Duty.
- 2.4 Going forward, it is very unlikely that this Duty to Co-operate will be retained in legislation. Abolition of the Duty was initially set out in the government white paper *Planning for the Future* and this has flowed through into proposals set out by the Levelling Up and Regeneration Bill published earlier this year. The Bill proposes to abolish local authorities' Duty to Co-operate with prescribed bodies with regard to plan making, which would be replaced by a requirement to assist with certain plan making. This is a clear recognition that the Duty has not worked and acts as a blocker in moving plan making forward effectively and in a timely manner.
- 2.5 Whatever the outcome of the future of the Duty to Co-operate, having an agreed suite of principles in place across the county as starting point for collaborative working is a positive outcome, and it is this commitment to collaborative working which this report is seeking Councils support on.

3. Next Steps

- 3.1** Once the GSoCG has been approved by all signatory bodies, the intention is that an action plan will be developed and reported to GEGJC. Progress on collaborative and any relevant joint working will be reflected in future iterations of the GSoCG which should be kept up to date. Any proposals for changes to current strategic planning arrangements or changes to the GSoCG will be reported for decisions to Cabinet or to other meetings of this Council, as appropriate.
- 3.2** An action plan will act as a delivery tool, identifying the actions to be taken, those responsible for taking that action, and a timeframe and budget to address the actions. We will ensure that Cheltenham member engagement is used to advise progress on this through the Planning Member Liaison Group and the Gloucester, Cheltenham and Tewkesbury Joint Strategic Plan member group.
- 3.3** I will commit to providing briefings as appropriate through Cabinet and Council.

4. Alternative options considered

- 4.1** The preparation of statements of common ground are currently required by national planning policy. The geography and scope/scale of strategic planning matters mean that the preparation of this GSoCG at the county level is most appropriate.

5. How this initiative contributes to the corporate plan

- 5.1** The GSoCG will support each of the Council’s corporate priorities. It does this by facilitating joint working with neighbouring authorities as well as Gfirst LEP and the County Council. None of the priorities are able to be achieved in isolation and the GSoCG and the action plan associated with it will aid in collaboration and alignment of goals.

6. Consultation and feedback

- 6.1** The development of the GSoCG has been subject to numerous rounds of feedback from each of the member authorities. Portfolio holders and/or Leaders have had input and an informal agreement on this final version.
- 6.2** The GSoCG has been reviewed on a number of occasions by the Cheltenham Planning and Liaison Member Working Group and informally by Cabinet.

7. Performance management – monitoring and review

- 7.1** The GSoCG contains an Action Plan template. This will allow the document to be iterative and to grow and change as the circumstances demand. The administration arrangements for the Action Plan have not yet been finalised by the GEGJC but it is anticipated that this will be discussed at a forthcoming meeting.

Report author	Contact officer: Planning Policy Team Leader john.rowley@cheltenham.gov.uk 01242 264180
Appendices	1. Risk Assessment 2. Gloucestershire Statement of Common Ground
Background information	N/A

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council does not support the GSoCG then there is a risk it will not be fulfilling the current legal requirement under the Planning and Compulsory Purchase Act 2004 in respect of the Duty to Co-operate	Director Community & Economic Development	29.6.2022	3	1	3	Reduce	Risk mitigated by Council decision of this report if accepted	18.07.22	Head of Planning	N/A
	If the Council does not support the GSoCG then there may arise a reputational partnership risk with the other prescribed bodies who have worked collectively to prepare the GSoCG over many years to reach a successful conclusion	Director Community & Economic Development	29.6.2022	3	1	3	Reduce	Risk mitigated by Council decision of this report if accepted	18.07.22	Head of Planning	N/A
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											