

# THE CITY OF DURHAM TRUST

Response to the County Durham Plan Pre-Submission Draft

## COUNTY DURHAM PLAN PRE-SUBMISSION DRAFT - Consultation October 2013

For Office Use Only

Consultee ID:

Received:

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Please use a separate form for each representation.

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Preferred method of contact (please tick):      Email          Letter

To which part of the County Durham Plan does your representation relate?  
**Paragraph 1.19 - Duty to Cooperate**

**Q1**

**Do you consider that this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant and Sound?**

**Legally and Procedurally Compliant** No (Go to Q3)

**Sound** No (Go to Q3)

**Q2** – not relevant.

**Q3**

**Why do you consider that this Policy/Proposal of the Pre-Submission Draft Local Plan is not Legally & Procedurally Compliant or sound? Is it:**

**Positively Prepared?**      No

**Justified?**      No

**Effective?**      No

**Consistent?**      No

### Q4

**If you do not consider this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant or Sound please use this box to explain why.**

1. The *Duty to Cooperate Statement* should highlight the practical policy outcomes that have resulted<sup>1</sup> and the statement says at the top of page 7 that these are covered in Appendix 3. However, while Appendix 3 identifies the issues, says which forum is addressing them, and says whether they are a priority, it does not actually highlight any practical policy outcomes. Nor can we find them elsewhere in the Statement. For example:
  - a) There is no evidence that the population figures for County Durham have been prepared in collaboration with neighbouring authorities. It appears that each authority is seeking to maximise its own population: Durham County Council is looking to achieve an **11.2% increase** in the county's population between 2011 and 2030. This needs to be put in the context of the latest ONS projection of a 5.9% growth in the population of the north-east region over the same period. As Durham County accounts for about 20% of the population of the wider region, growth at the rate projected by the Council implies a significant lowering of projected growth elsewhere in the region, unless there is a substantial increase in inward migration from outside the region to the whole of the north-east.
  - b) There is no evidence that the related housing requirement has been assessed taking into account neighbouring authorities' assessments.
2. Furthermore, the vast majority of the examples cited in Appendix 3 are of officer-level engagement. Evidence that the political leadership of Durham County Council and of the partner authorities have altered the content and implementation of their respective local policies to reflect this officer-level dialogue is not provided.
3. The Pre-Submission Draft does not include any reference to the North East Leadership Board which it is intended will take over transport functions, and share economic growth functions, on 1 April 2014. While the NELB is not yet in place, it will be before the Examination in Public, and yet the implications of this on the implementation of the plan have not been addressed. In more detail:
  - a) On Monday 24 June 2013 the Cabinets of seven north-eastern local authorities (Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland) all met and each resolved that a Combined Authority (CA) would be established pursuant to section 103 of the Local Democracy, Economic Development and Construction Act 2009 ("LDEDCA"), to come into existence on 1 April 2014. This body will be called the North East Leadership Board (NELB)<sup>2</sup>.
  - b) As the report says at paragraph 3, a Combined Authority is a legal structure to lead collaboration between local authorities and enable strategic decision-making on economic growth and transport. They are designed to enable groups of local

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1 See more at: [http://www.pas.gov.uk/strategicplanning/-/journal\\_content/56/332612/15096/ARTICLE#9](http://www.pas.gov.uk/strategicplanning/-/journal_content/56/332612/15096/ARTICLE#9) which the *Duty to Cooperate Statement* seems to have drawn on, without attribution.

2 The minutes of the Durham Cabinet meeting, and the background papers which include the constitution and set out the powers of this new body, may be reached via the page <http://democracy.durham.gov.uk/ieListDocuments.aspx?CId=154&MId=7193&Ver=4> on the Durham County Council website.

authorities to work closely together to deliver improvements in economic growth and transport across local authority boundaries.

- c) The NELB will share economic growth functions with the constituency authorities.
  - d) The strategic transport functions currently undertaken across Tyne & Wear and Northumberland and Durham will be undertaken by the NELB. These will include preparation of the Local Transport Plan and public transport functions. On the creation of the Combined Authority it will become a levying authority for transport functions.
  - e) Neither of the terms 'Combined Authority' or 'North East Leadership Board' occurs in the Pre-Submission Draft and we conclude that the consequences of its creation have not been taken into account when the Plan was being prepared.
  - f) Obviously, since the NELB does not yet exist, it could not be consulted at this stage. But, assuming that Parliament makes the necessary Order, it will be in place before the Examination in Public. The Secretary of State for Communities and Local Government is currently (since 7 November 2013) consulting on the proposals<sup>1</sup> with a closing date of 2 January 2014. The draft statutory instrument has an implementation date of 1 April 2014.
  - g) Paragraph 181 of the NPPF states “Cooperation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.”
  - h) The Plan includes descriptions of how the various policies will be implemented, how it will be monitored and what the targets are. These should have taken account of the impact of the creation of the NELB. The most obvious effect will be on the transport aspects of the Plan at policies 48, 49 and 50, which will be taken out of the Council's hands. Policies 9 and 10 relating to the Durham Relief Roads would presumably need to be justified in any emerging combined Transport Plan. The economic aspects of the Plan will need to be reviewed to determine how their implementation will change on creation of the NELB.
4. The *Duty to Cooperate Statement* does refer to the NELB in two places: On page 8 is a description of moves to establish it, as set out above. However, on page 17 the reference is preceded by the phrase “exploring the option” and we infer that this was written at an earlier stage and not updated.
  5. The only references to the Duty to Cooperate in the Pre-Submission Draft are at paragraphs 8.27 (coastal management and planning), 10.59 (supply of brick-making raw materials) and 10.95 (waste management). We would have expected to see evidence of cooperation much more widely, certainly in chapters 7 (Housing) and 9 (Transport and Infrastructure).
  6. The foregoing overarching comments are supplemented in our critiques of individual policies where these fail to demonstrate cooperation that might reasonably be required.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255909/ConDocNorthEast.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255909/ConDocNorthEast.pdf)

### Q5

**What change(s) do you consider necessary to make this policy/proposal of the Pre-Submission Draft Plan Legally & Procedurally Compliant and Sound?**

1. The Council should set out, in a succinct form, the practical policy outcomes that have resulted from its cooperating with neighbouring authorities. Reference should also be made to these at the relevant places in the Pre-Submission Draft.
2. The Pre-Submission Draft Plan should be reviewed in its entirety, and changes made that take into account that economic growth functions will be shared with the Combined Authority and that strategic transport functions will be the sole responsibility of the Combined Authority.
3. The *Duty to Cooperate Statement* should be revised and updated to recognise that the NELB is very likely to come into existence on 1 April 2014.

### Q6

**Do you wish to participate in the Examination in Public? (Please note that the Planning Inspector will make the final decision on who will be invited to attend individual sessions at the Examination).**

Yes

### Q7

**Do you want to be informed of the following:**

**The submission of the Local Plan to the Secretary of State? Yes**

**The publication the Inspector report? Yes**

**The adoption of the County Durham Plan? Yes**