

BABERGH DISTRICT COUNCIL

From: Head of Economy	Report Number: M132
To: Strategy Committee	Date of meeting: 17 January 2013

The Ipswich Area Policy Board – Approval of Revised Terms of Reference

1. Purpose of Report

1.1 This report reviews the Ipswich Policy Area (IPA) Board in the context of recent changes to national Planning legislation. Strategy Committee is invited to formally reaffirm the basis of the Council’s continuing involvement in the (IPA) Board. Specifically, it requests the approval of amended Terms of Reference, a proposed work plan, and resourcing requirements.

2. Recommendations

- 2.1 That the revised Terms of Reference for the Ipswich Policy Area Board attached at Appendix 1 be approved.
- 2.2 That the draft work plan at Appendix 2 be noted.
- 2.3 That the Corporate Manager - Spatial Planning Policy be authorised to make such changes to the Terms of Reference and Work Plan in consultation with the Chairman of Strategy Committee as may be necessary from time to time.
- 2.4 That a substitute Member representative be appointed in accordance with the revised Terms of Reference.

The Committee is able to resolve 2.1 to 2.3 but is asked to make a recommendation to Council in respect of 2.4.

3. Financial Implications

3.1 None.

4. Risk Management

4.1 This report is most closely linked with the Council’s Corporate Risk/Significant Business Risk number: 5 – Partnerships.

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to make arrangements for a properly constituted forum to demonstrate ‘duty to co-operate’. This could lead to loss of influence over major planning issues and joint decisions and/or partnership working on cross-boundary matters	High	Critical	Member level commitment to work with neighbouring authorities to develop the existing IPA Board and construct Terms of Reference that meet each constituent partner’s needs.

5. Consultations

- 5.1 This report and appendices has been jointly developed by the relevant authorities and those involved (Members and officers) have had opportunities for input as necessary.

6. Equality Analysis

- 6.1 The nature of this report is such that an equality analysis is not required. The IPA Board is not a decision-making group or body, and any subsequent activities or actions requiring a decision by this Council will be fully assessed at the time, as required.

7. Shared Service / Partnership Implications

- 7.1 Ipswich Borough and Suffolk Coastal District Councils have both considered and approved the proposals and recommendations set out in this paper. This is a joint BDC and MSDC report that MSDC will be considering at the Executive meeting on 14th January 2013. Suffolk County Council will be considering the proposals in January or February.
- 7.2 It is important that the constituent councils of the IPA Board consider this new basis for joint working following the NPPF. Approval by all councils will indicate commitment to continuing to use the IPA as a basis for understanding and considering the growth needs of the “greater” Ipswich area and, in particular, in planning for the future housing and business growth needs of this area.

8. Key Information

8.1 Background

- 8.1.1 The functional economic and indeed housing, market area of Ipswich extends substantially beyond its tightly drawn administrative boundary. For this reason, there has been ongoing liaison between Ipswich and its neighbours over strategic planning matters for many years. The Ipswich Policy Area was used (and mapped) in the Suffolk Structure Plan 2001 when considering the housing requirements for Ipswich in the development strategy for the county.
- 8.1.2 Explicit external recognition of this situation occurred at the time of the preparation of the first East of England Regional Spatial Strategy (RSS) in 2005/06 when the concept of an “Ipswich Policy Area” and the need for joint working was formally introduced. The RSS ultimately set requirements in terms of targets for housing and job growth at this spatial level.
- 8.1.3 The Ipswich Policy Area at that time covered Ipswich, parts of Babergh, Mid Suffolk and Suffolk Coastal District Council areas. Ipswich Borough Council took the lead and set up a formal IPA Board, with Member representation from these 4 districts and Suffolk County Council in 2007 together with an officer support group. These arrangements included some Terms of Reference for the Board. The IPA officer group has met reasonably frequently but meetings of the Board have been intermittent in recent years. However, it is now recognised that these arrangements are potentially ideal to help the constituent authorities to demonstrate that they have met the duty to co-operate, introduced by the Localism Act 2011, referred to in more detail in paragraph 8 of this report. The Board has therefore recently met to review its activities and has agreed the basis of a standard report to each Authority.

8.2 The Duty to Co-operate and the National Planning Policy Framework

8.2.1 The National Planning Policy Framework (NPPF), published on 27 March 2012, is an important new document. One of the key points to highlight about it is the different emphasis it now brings to joint working between local authorities. The “Duty to Co-operate”, introduced by the Localism Act, was more about the process of co-operation – for example developing joint evidence bases and meeting together. The NPPF now introduces a more challenging requirement and one that will form part of the test of “Soundness” of local plan preparation, namely, it requires consideration of meeting local authority neighbours’ needs and evidencing how they can or cannot be accommodated. In other words, it emphasises the need to now evidence joint action.

8.2.2 The IPA Board has recognised that it offers a valuable means by which its constituent authorities may seek to demonstrate co-operation and compliance. The ‘**duty to co-operate**’ is a legal requirement of the plan preparation process. It is the first thing that the Planning Inspectorate (PINS) will look at. PINs will need to see sufficient evidence to demonstrate that the ‘**duty to co-operate**’ has been undertaken appropriately for the plan being examined. There is no fixed format for how this evidence should be presented, nor what it should comprise, but it should be:

- succinct
- flow from the issues that have been addressed jointly
- highlight the practical policy outcomes that have resulted.

Whilst a local plan may pass the legal test of the **duty**, it does not mean it will be found ‘sound’ in dealing with strategic matters. The policy outcomes of co-operation will need to be tested against the evidence at examination in the normal way.

8.2.3 Situations may arise where an invitation to co-operate is not accepted, or agreement on shared policy outcomes cannot be reached. Where co-operation is not forthcoming PINs are likely to consider the extent to which the request to co-operate is ‘reasonable’ based on the evidence. If the deliverability of the plan is dependent on a reasonable request for co-operation by the plan-making body that is not forthcoming, the plan may still be found unsound unless some form of working arrangement can be brokered. If PINS consider that the legal requirement to co-operate has been met through joint working but there is disagreement about the policy outcome (for example the proposed level of housing provision), then this will need to be resolved through the examination process based on the evidence.

8.2.4 For information, the Inspector taking the Mid Suffolk Core Strategy Focussed Review and Stowmarket AAP Examination has taken the new NPPF into account and has asked for answers to some searching questions on the subject of co-operation and strategic cross border planning. Suffolk Coastal faced similar scrutiny at their recent Examination, and this Council will face similarly rigorous assessment at the forthcoming Examination of the Babergh Core Strategy and Policies document.

8.2.5 It is therefore vital to recognise that while the existence of the IPA Board serves a very useful purpose, it will need to operate in a proactive and positive way in order to address the requirements of the NPPF. With this in mind, the Board has reviewed its programme against completed and ongoing work and has identified gaps that now need to be addressed through a future Work Plan.

8.3 Proposals

8.3.1 Terms of Reference – Following discussion by the IPA Board at recent meetings consideration was given to the various options for the IPA group and it was agreed to continue to operate through a Board, and the recommended revised draft set of Terms of Reference for the Board are attached at Appendix 1

8.3.2 Member Representative It is understood that each Authority has appointed a nominee Councillor to the IPA Board.

8.3.3 Proposed work plan - In order to create a logical work plan going forward, suggested areas of work have now been identified under the headings used in the NPPF. This is set out at Appendix 2. This has been agreed as a starting point by the Board and the work plan will be continually monitored/reviewed and adjusted to suit requirements from time to time.

8.4 Legal Considerations

8.4.1 Section 110(1) Localism Act 2011 inserts a new Section 33A into the Planning and Compulsory Purchase Act 2004 relating to a “duty to co-operate in relation to planning of sustainable development”. Basically, local planning authorities must now co-operate in maximising the effectiveness with which specified ‘activities’ are undertaken. The duty imposed requires the local planning authority to engage “constructively actively and on an ongoing basis in any process by means of which activities are undertaken”. The engagement required includes, in particular, considering whether to consult on and prepare and enter into and publish agreements on joint approaches to the undertaking of activities and considering whether to agree to prepare joint development documents. The activities are:

- (a) the preparation of development plan documents;
- (b) the preparation of other local development documents;
- (c) the preparation of marine plans...
- (d) activities that can reasonably be considered to prepare the way for activities within any of the above paragraphs (a) to (c) that are, or could be, contemplated; and
- (e) activities that support activities within any of paragraphs (a) to (c), so far as relating to a strategic matter. For these purposes, ‘strategic matter’ is defined:
 - (i) sustainable development or use of land that has or would have a significant impact on at least two planning areas (‘planning area’ means the area of a district council) including sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and
 - (ii) 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.

8.4.2 Local Planning Authorities must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

8.4.3 The NPPF sets out the strategic issues where co-operation might be appropriate and provides guidance on ‘planning strategically across local boundaries’, and highlight the importance of joint working to meet development requirements that cannot be wholly met within a single local planning area, through either joint planning policies or informal strategies such as infrastructure and investment plans.

8.4.4 Joint Vehicle Models

- A ‘forum’ and a ‘board’ in legal terms are the same – they both usually refer to a body which does not have formal decision-making powers, they just tend to be operated differently. A forum tends to denote an arena in which views are aired and there may be no consensus resulting or recommendations made – differing views may be reported back to the Councils. A ‘board’ is suggestive of a more formal body which may make recommendations. In either case, officers and other parties can be authorised to participate.
- A Joint Committee is a legally created body which may be given formal decision-making powers and to which strict rules of procedure (as prescribed by the Local Government Act 1972) apply. Meetings must be conducted in public unless very limited exceptions apply. It is essential to have detailed terms of reference. Political balance rules apply (unless agreed to the contrary with no dissenting votes). Officers support the Committee and present reports, answer questions, provide advice but do not otherwise participate. Third parties may be co-opted onto the committee without voting rights. Whilst formal in nature, a Joint Committee can otherwise be as complicated or straightforward to establish as the partnership choose.
- The benefit of a ‘forum’ or ‘board’ is that they offer flexibility of approach and membership. Which is preferred very much depends upon what the Councils’ want to achieve – collection of ideas, responses etc (of a forum) or debate and recommendations (from a board). The better structured a ‘board’ is the greater credibility and influence it may achieve.

8.5 A Protocol on communications and data exchange is being prepared and circulated around the constituent authorities to be agreed at a future meeting of the reconstituted Board.

9. Appendices

	Title	Location
A.	Ipswich Policy Area Board Revised Terms of Reference	Attached
B.	Draft Future Work Plan	Attached

10. Background Documents

10.1 [National Planning Policy Framework](#) (NPPF) March 2012

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Ipswich Policy Area Board Revised Terms of Reference

Purpose

- To provide a mechanism to ensure that all partners and stakeholders work together to facilitate the delivery of the housing and employment growth targets for the Ipswich Policy Area and co-ordinate the delivery of the necessary infrastructure – including transport, education, skills, health provision, power, green infrastructure, flood and coastal defences etc
- To provide a forum in which the five local authorities can work together to develop, promote and deliver their vision for the Ipswich Policy Area as a major economic growth area within the Haven Gateway sub region, County of Suffolk and New Anglia Local Enterprise Partnership.
- To enable them to co-operate as local planning authorities on the preparation and monitoring of their Local Development Frameworks and share relevant evidence and intelligence.

Constitution

The Board will consist of one Councillor and one Officer from the following authorities:

Ipswich Borough Council
Suffolk Coastal District Council
Mid Suffolk District Council
Babergh District Council
Suffolk County Council

Each authority will nominate its representatives to the Board and each representative will be accountable to their own governing body and ensure all information and recommendations are appropriately fed back. They may also nominate a substitute who may attend and vote if the [Cabinet] Member is unavailable, or otherwise attend in an "observer role".

The Board will be supported by up to two representatives from the Haven Gateway Partnership.

The authorities will host meetings of the Board by rotation. The Chair will be elected annually by the Board.

The Board will act as an advisory board which will formulate agreed recommendations but have no decision making powers. There will be no voting, all recommendations will be reached by consensus.

Meetings

The Board will meet at least twice a year (once in Spring and once in Autumn) but additional meetings may be called if required.

The Board will meet in private but will publish minutes and develop an agreed protocol for the disclosure of documents to ensure consistency of approach amongst its constituent members and ensure compliance with the Freedom of Information Act and Environmental Information Regulations.

Sub-groups may be established by agreement. Other organisations may be co-opted onto sub-groups or invited to attend meetings.

The Haven Gateway Partnership or one of the constituent local authorities will act as secretariat and ensure proper Minutes are taken of all meetings.

Draft future work plan

NPPF theme	Future Workplan	Proposed timing
Building a strong economy	<p>Report back on evidence base for Port related growth/site availability work and proposed interventions</p> <p>Report back on Inward Investment activity by SCC</p>	<p>October 2012 to March 2013</p>
Evidence Base	<p>Strategic Housing Market Assessment – to review initial findings of current work being led by Babergh</p> <p>Review of initial results from the 2011 Census and also latest results from the East of England Forecasting Model</p> <p>Report on IPA wide framework for monitoring key indicators and agreeing a standardised approach to AMR reporting</p> <p>Regular future monitoring of key indicators</p>	<p>October 2012</p> <p>October 2012</p> <p>October 2012</p> <p>Ongoing</p>
Planning strategically across boundaries	<p>Identification of key strategic issues and development of protocol for Joint Working</p> <p>Local Transport Plan 3 and examining how well it supports the needs of the IPA.</p>	<p>October 2012</p> <p>October 2012</p>

	<p>Consideration of five year housing land supply within the Ipswich Policy Area</p> <p>Monitoring/influencing draft proposals for CIL</p> <p>Monitoring/influencing work on provision of strategic green infrastructure</p>	<p>March 2013 to October 2013</p> <p>June 2013 to March 2014</p>
Viability and deliverability	Monitoring of infrastructure delivery e.g. approved LTP 4 year programme and A14 Challenge	Ongoing