

March 2017

MEMORANDUM OF UNDERSTANDING
Plymouth and South West Devon Joint Local Plan
Transport Strategy Working Group

between

PLYMOUTH CITY COUNCIL

DEVON COUNTY COUNCIL and

HIGHWAYS ENGLAND

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THIS AGREEMENT is dated February 2017

PARTIES

The parties to this memorandum of understanding **MoU** are:

Plymouth City Council of

Ballard House, West Hoe Road, Plymouth, PL1 3BJ

Devon County Council of

County Hall, Topsham Road, Exeter, EX2 4QD

Highways England of

National Traffic Operations Centre, 3 Ridgeway, Quinton Business Park, Birmingham, B32 1AF

1. BACKGROUND

Plymouth City Council (PCC), Devon County Council (DCC) and Highways England (HE) have agreed to work together on the development of the transport evidence base in support of the Plymouth and South West Devon Joint Local Plan (**Project**).

PCC is working with South Hams District Council and West Devon Borough Council (SHWDC) to prepare a Joint Local Plan (JLP). The JLP will bring together work that has previously been carried out separately by the three local authorities over a new 20 year plan period running from 2014 to 2034. The JLP is scheduled to be submitted in May 2017 and is expected to be Examined in Public in autumn 2017 (date to be confirmed).

PCC, DCC and HE wish to use the **Project** because they are the highway authorities for the Local and Strategic (A30 and A38) Road Network within the JLP area.

The parties wish to record the basis on which they will collaborate with each other on the **Project**. This MoU sets out:

- the key objectives of the **Project**;
- the principles of collaboration;
- the governance structures; and
- the respective roles and responsibilities the parties will have during the **Project**.

2. KEY OBJECTIVE-FOR THE PROJECT

The parties shall undertake the **Project** to achieve the following **Key Objective**

- To prepare a robust transport evidence base for the JLP to satisfy the requirements of the National Planning Policy Framework (NPPF), Department for Transport Circular 02/2013 and National Planning Practice Guidance (NPPG).

The parties acknowledge that the current position with regard to the **Project** and the contributions already made, at the point of signing this **MoU**, are as detailed in Position

Statement One (10.02.17)¹. Further position statements will be produced, from time to time, as key milestones for the **Project** are reached.

3. PRINCIPLES OF COLLABORATION

The parties agree to adopt the following principles when carrying out the **Project** (**Principles**):

- collaborate and co-operate. Establish and adhere to the governance structure set out in this **MoU** to ensure that activities are delivered and actions taken as required;
- be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this **MoU**;
- be open. Communicate openly about major concerns, issues or opportunities relating to the **Project**;
- learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- adopt a positive outlook. Behave in a positive, proactive manner;
- adhere to statutory requirements and best practice;
- act in a timely manner. Recognise the time-critical nature of the **Project** and respond accordingly to requests for support;
- manage stakeholders effectively;
- deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this **MoU**.
- act in good faith to support achievement of the **Key Objective** and compliance with these **Principles**.

4. PROJECT GOVERNANCE

4.1 Overview

The governance structure defined below provides a structure for the development and delivery the **Project**.

¹ Position Statement One is available online at <http://web.plymouth.gov.uk/positionstatement1transportevidencebase.pdf>

4.2 Guiding principles

The following guiding principles are agreed. The Project's governance will:

- provide strategic oversight and direction;
- be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- align decision-making authority with the criticality of the decisions required;
- be aligned with Project scope and each Project stage (and may therefore require changes over time);
- leverage existing organisational, group and user interfaces;
- provide coherent, timely and efficient decision-making; and
- correspond with the key features of the Project governance arrangements set out in this **MoU**.

4.3 Transport Strategy Working Group

A Transport Strategy Working Group (TSWG) has been created to address strategic transport issues and opportunities within the JLP area and oversee the **Project**.

The TSWG demonstrates that the statutory duty to cooperate, as set out in Section 110 of the 2011 Localism Act, has been fully met by all relevant public bodies in respect of strategic transport matters.

The duty to cooperate requires member organisations to engage constructively, actively and on an ongoing basis in the preparation of plans and activities which support the preparation of local plans. Continuous, active and positive engagement between PCC, DCC, and HE is undertaken through the Transport Strategy Working Group (TSWG).

The remit of the TSWG is to oversee the development of a robust transport evidence base to support the JLP, including transport modelling work and the development of an informed transport strategy to support the JLP which satisfies the requirements of National Planning Policy Framework (NPPF), DfT Circular 02/2013 and National Planning Practice Guidance

(NPPG) (Appendix One). The TSWG also has the remit to address strategic cross-boundary transport issues and opportunities in the JLP area.

The TSWG will provide strategic management at **Project** and work stream level. It will provide assurance to the **Project** that the **Key Objective** is being met and that the **Project** is performing within the boundaries set by the Transport Strategy Working Group.

The TSWG consists of representatives from each of the parties. The TSWG shall have responsibility for the creation and execution of the project plan and deliverables. The core TSWG members are:

Philip Heseltine, Simon Pickstone and/or other officers representing Plymouth City Council and/or their appointed consultants

Gina Small and/or other officers representing Devon County Council and/or their appointed consultants

Ed Halford, Highways England and/or other officers representing Highways England and/or their appointed consultants

Other member organisations represented on the TSWG are: Cornwall Council, South Hams District Council, Torbay Council, West Devon Borough Council and Network Rail. However, this **MoU** specifically concerns the three Highway Authorities within the JLP area.

To reflect that the delivery of the strategy will require a co-ordinated approach across boundaries a second MoU covering the delivery of the transport strategy of the JLP, post adoption, will be prepared. The signatories to this **MoU** will also be signatories to the second MoU along with those other parties named above.

The TSWG shall meet at least quarterly, until the adoption of the Joint Local Plan. The frequency of meetings post the adoption of the JLP will be set out in the second MoU outlined above.

The TSWG shall be managed in accordance with this MoU.

5. ROLES AND RESPONSIBILITIES

The parties agree that PCC shall support² all of the necessary activities to progress the **Project** as the **Lead** and that DCC and HE shall act in an **Assurance** role to deliver the **Project**:

For the purpose of the above:

Lead: the party that has principal responsibility for undertaking the particular task, and that will be authorised to determine how to undertake the task, unless in doing so the overriding duties of the respective parties (HE's licence, government policy etc.) would not be met. The Lead must act in compliance with the **Objective** and **Principles** at all times, and consult with the other party in advance if they are identified as having a role to **Assure** the relevant activity;

Assure: the party that will defer to the **Lead** on a particular task unless in doing so the overriding duties of the respective parties (HE's licence, government policy etc.) would not be met. **Assurers** will have the opportunity to review and provide input to the **Lead** before they take a final decision on any activity. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the **Lead** and/or concerns regarding compliance with the **Key Objective** and **Principles**.

As the **Lead**, PCC will provide administrative support to the operation of the TSWG. This will include the convening, hosting and administration of meetings.

PCC will fund the secretariat of the TSWG. It is expected that other partners and stakeholders will provide assistance "in kind". It may be possible over time for a number of stakeholders to pool resources to allow more efficient working to achieve shared objectives. In this eventuality new financial, monitoring, and reporting arrangements may be required outside of this **MoU** alternatively, a new version of the MoU may need to be agreed.

The **Lead** will deal with communications and public relations on behalf of and in consultation with the TSWG. All enquiries from the press, public or elected representatives will be directed to the **Lead** accordingly.

² PCC will lead on all the necessary activities within the PCC administrative boundary with DCC leading on the necessary activities on the local road network across the rest of the JLP area and HE leading on the necessary activities on the Strategic Road Network within the JLP area.

The TSWG does not have any statutory powers. Each member has a responsibility to ensure their own organisation acts upon recommendations. They may need to ratify or adopt recommendations or direction.

6. REPORTING

Responsibility and accountability for reporting, representation and engagement with overarching structures, organisations and stakeholders e.g. Political Groups, LEPs/LTB, Theme/Locality Groups etc. will reside with individual group members and will vary according to the structures and relationships within/between the organisations they represent. However, when reporting and providing representation on behalf of the TSWG it must be agreed beforehand and made clear who is reporting to whom and what is being reported on.

7. FREEDOM OF INFORMATION

The Freedom of Information Act 2000 (the Act) came into force on 1 January 2005. Under the Act, anybody may request information from a public authority that has functions in England, Wales and/or Northern Ireland. The Act gives applicants two statutory rights:

- To be told whether or not the public authority holds that information
- If so, to have that information communicated to them.

Although the TSWG does not qualify as a public authority itself, a number of its stakeholders do. Therefore, in the interests of openness, the TSWG will act as much as possible like a public body in relation to the Act. The **Lead** will log all FOI requests dealing specifically with information directly in relation to the operation of the TSWG (i.e. meeting action points or minutes, reports and analysis). Any person requesting information that is not specifically associated with the operation of the TSWG, and is not held by its secretariat or other departments within PCC, will be directed to the organisation that holds that information.

Any correspondence and information passed between an external organisation and a public authority will also be subject to the FOI Act. If such data is requested and held by the TSWG secretariat, then it may consult with the external organisation before the information is released, if it considers the information to be potentially sensitive. However, under the terms of the FOI Act it may not be possible to withhold such information, even if the partner organisation does not wish for it to be released.

8. DATA PROTECTION

The TSWG do not expect that we will need to share any confidential information relating to individuals in partner or stakeholder organisations. Most analysis associated with transportation networks can be undertaken and reported without reference to, or identification of, individuals using the network.

9. EQUALITY AND DIVERSITY

The TSWG will act as much as possible like a public body in relation to equality and diversity. Equality legislation requires that all public authorities can demonstrate that they engage effectively with specific groups of people when consulting with staff or the public to review or develop policy and procedures. All of our communications will take account of the needs of different people. We respect the diversity of our membership. We will cater for the special requirements of participants at our meetings and workshop events.

10. ESCALATION

If any party has any issues, concerns or complaints about the **Project**, or any matter in this **MoU**, that party shall notify the other party(s) and the parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the TSWG, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the TSWG within 10 working days, the matter may be escalated to appropriate senior managers of the parties with the responsibility of overseeing the TSWG for resolution. If any party receives any formal enquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the **Project**, the matter shall be promptly referred to the TSWG (or its nominated representatives). No action shall be taken in response to any such enquiry, complaint, claim or action, to the extent that such response would adversely affect the **Project**, without the prior approval of the TSWG (or its nominated representatives).

11. INTELLECTUAL PROPERTY

The parties intend that notwithstanding any secondment, any intellectual property rights created in the course of the **Project** shall vest in all parties jointly.

For the avoidance of doubt the intellectual property of the **Project** refers to the outputs of the strategic SATURN Highway Assignment Model, referred to as HAM 2, which has been used to inform the JLP transport evidence base, as set out in Position Statement One, and which DCC and HE have been given access to via the Plymouth ProjectViewer tool. It does not refer to any other strategic or detailed junction modelling commissioned by PCC.

12. TERM AND TERMINATION

This **MoU** shall commence on the date of signature of all parties, and shall expire on the adoption of the Plymouth and South West Devon Joint Local Plan.

13. VARIATION

This **MoU**, including the Annexes, may only be varied by written agreement of all parties.

14. CHARGES AND LIABILITIES

Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this **MoU**.

All parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and no party intends that any other party shall be liable for any loss it suffers as a result of this **MoU**.

15. STATUS


This **MoU** is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this **MoU**. The parties enter into the **MoU** intending to honour all their obligations.

Nothing in this **MoU** is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party as the agent of one or more of the other parties, nor authorise any of the parties to make or enter into any commitments for or on behalf of any of the other parties.

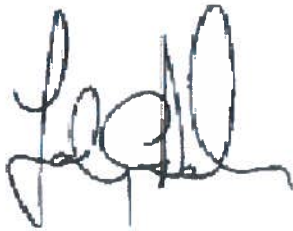
16. GOVERNING LAW AND JURISDICTION

This **MoU** shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 10; each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Name: Philip Heseltine, Head of Transport, Infrastructure and Investment

Signed:  Date: 10th March 2017
For Plymouth City Council and Chair of the Transport Strategy Working Group

Name: Sally Parish, Asset Manager



Signed: Date: 10th March 2017
For Highways England

Name: Jamie Hulland, Transportation Planning and Road Safety Manager



Signed: Date: 10th March 2017
For Devon County Council

APPENDIX ONE: Transport Policy Context

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) set out the policy and guidance relevant to the preparation of transport evidence to support local plans. The NPPF requires that local planning authorities should work with other authorities and providers during the plan making process to assess the quality and capacity of infrastructure for transport and its ability to meet forecast demands. (NPPF paragraph 162). The aim of this co-operation is to arrive at a final position where plans are in place to provide the land and infrastructure necessary to support projected future levels of development (NPPF paragraph 181).

The JLP is consistent with the following Core Planning principles as set out in the National Planning Policy Framework (NPPF):

‘actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable’ (paragraph 17)

‘... The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel...’ (paragraph 29)

‘Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.’ (paragraph 30)

‘...the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure...’ (paragraph 32)

‘Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities’. (paragraph 37)

‘Local planning authorities should identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice’. (paragraph 41)

(planning policies should) ‘ ... optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks ...’ (paragraph 58)

It reflects the principles in the NPPF which (at paragraph 162) requires that local planning authorities should work with other authorities and providers during the plan making process

to assess the quality and capacity of infrastructure for transport and its ability to meet forecast demands.

Pursuing sustainable development requires careful attention to viability and costs. The sites and the scale of development identified in the plans should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. (NPPF paragraph 173)

NPPF (at paragraph 177) states that there needs to be a reasonable prospect that planned infrastructure is deliverable in a timely fashion.

To ensure viability, the costs of any requirements likely to be applied to development, such as infrastructure contributions or other requirements should provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. (NPPF paragraph 173).

National Planning Practice Guidance (NPPG)

The transport evidence base should identify the opportunities for encouraging a shift to more sustainable transport usage, where reasonable to do so; and highlight the infrastructure requirements for inclusion in infrastructure spending plans linked to the Community Infrastructure Levy, Section 106 provisions and other funding sources.

A robust evidence base will enable an assessment of the transport impacts of both existing development as well as that proposed, and can inform sustainable approaches to transport at a plan-making level.

A robust assessment will establish evidence that may be useful in:

- improving the sustainability of transport provision
- enhancing accessibility
- creating choice amongst different modes of transport
- improving health and well-being
- supporting economic vitality
- improving public understanding of the transport implications of development
- enabling other highway and transport authorities/service providers to support and deliver the transport infrastructure that conforms to the Local Plan
- supporting local shops and the high street

The Strategic Road Network and the Delivery of Sustainable Development

Highways England has been appointed by the Secretary of State under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network. Within the Joint Local Plan area the Strategic Road Network comprises the A38 and A30 trunk roads.

The Strategic Road Network is a critical national asset and HE is responsible for ensuring that it operates and is managed in the public interest, both in respect of current activities and needs, and in providing effective stewardship of its long term operation and integrity.

HE policy relevant to the acceptability of new developments is set out in Department for Transport Circular 02/2013 – “The Strategic Road Network and the Delivery of Sustainable Development”. Paragraphs 9, 10 and 11 of the Circular summarise the correct approach to development proposals as follows:

- “9. Development proposals are likely to be acceptable if they can be accommodated within the existing capacity of a section (link or junction) of the strategic road network, or they do not increase demand for use of a section that is already operating at over-capacity levels, taking account of any travel plan, traffic management and/or capacity enhancement measures that may be agreed. However, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 10. However, even where proposals would not result in capacity issues, the Highways Agency’s prime consideration will be the continued safe operation of its network.*
- 11. Local authorities and developers will be required to ensure that their proposals comply in all respects with design standards. Where there would be physical changes to the network, schemes must be submitted to road safety, environmental, and non-motorised user audit procedures, as well as any other assessment appropriate to the proposed development. The Design Manual for Roads and Bridges sets out details of the Secretary of State’s requirements for access, design, and audit, with which proposals must conform.”*

Applying the principals of paragraph 9 of Circular 02/2013, development proposals are likely to be unacceptable, by virtue of a severe impact, if they increase demand for use of a section that is already operating at over-capacity levels, or cannot be safely accommodated, i.e., a development which adds traffic to a junction which already experiences road safety issues, or would increase the frequency of occurrence of road safety issues or would in itself cause those road safety issues to arise would be considered to have a severe impact.

HE’s policy on the delivery of sustainable development confirms that HE will work in partnership with the JLP local highway authorities. This will include working in partnership with the JLP local highway authorities to understand the implications of development options. This will include assessing the cumulative and individual impacts of the JLP proposals upon the ability of the transport network affected to accommodate the forecast flows in terms of capacity and safety.

HE’s planning guide “The Strategic Road Network: Planning for the Future” confirms that HE will work with local planning and highways authorities to ensure that development plans are underpinned by a robust transport evidence base which assesses the transport implications

of the growth options being considered. The Guide also sets out how HE will work with local planning authorities to identify the impact and infrastructure requirements of development allocations.

In accordance with HE's commitment to 'support economic growth, providing the conditions that help businesses to succeed and grow, facilitating new development around the network, and supporting investment and trade. This will take place alongside maintaining a safe and efficient SRN (*para. 8, Planning for the future – working with Highways England 2015*).