

SCG009



**Statement of Common Ground  
Between the Environment Agency  
and Fareham Borough Council on  
Flood Risk and the Water  
Environment**

**September 2021**

## **1.0 Introduction**

### What is a Statement of Common Ground?

- 1.1 The Duty to Cooperate, introduced by the Planning and Compulsory Purchase Act 2004 (amended by Section 33A of the Localism Act) places a legal duty on local planning authorities, county councils in England and other prescribed bodies to engage constructively, actively and on an ongoing basis to develop development plan documents, including activities that prepare the way or support the activities of preparing development plan documents, in respect of strategic matters.
- 1.2 The Duty to Cooperate specifically relates to 'strategic matters' which are defined as follows:
  - Sustainable development or use of land that has or would have a significant impact on at least two planning areas, (in particular) in connection with sustainable development or use of land for or in connection with strategic infrastructure which 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— (i) is a county matter, or (ii) has or would have a significant impact on a county matter.
- 1.3 Paragraph 20 of the National Planning Policy Framework (NPPF) also outlines strategic priorities that a local plan should have strategic policies to cover. They include:
  - Conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.
- 1.4 In accordance with the NPPF (paragraph 24), public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities set out above. This forms part of each local planning authority's evidence for their respective emerging Local Plans.
- 1.5 This SoCG has been prepared in accordance with paragraph 27 of the NPPF and the section of the Planning Practice Guidance on Maintaining Effective Cooperation. It has also followed guidance prepared by the Planning Advisory Service (PAS) on this matter. It has been prepared in parallel with the Publication Local Plan (Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012<sup>1</sup>). This Plan, upon adoption, will supersede the existing Fareham Local Plan Parts 1 and 2. The new Local Plan will cover the period to 2037 and sets out the vision, objectives and policies to guide future development in the Borough over the plan period.

### What does this document include?

- 1.6 Section 2 outlines the strategic geography of the Borough including a brief description of the area with regards to flood risk and the water environment.
- 1.7 Section 3 sets out the background, Regulation 18 and Regulation 19 representations received from the Environment Agency which forms the background to this SoCG.
- 1.8 Section 4 sets out the cross-boundary matters which need to be considered by this SoCG. It then sets out where agreements have been reached on issues.

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/2012/767/regulation/19/made>

- 1.9 Section 5 sets out areas of further work agreed by both parties while section 6 sets out the existing areas of agreement.

### **What parties are involved with this Statement of Common Ground?**

- 1.10 This Statement of Common Ground (SoCG) is an agreed statement between the Environment Agency (EA) and Fareham Borough Council (FBC) as the Local Planning Authority in relation to issues and matters associated with flooding and the water environment for the emerging Fareham Local Plan.

## **2.0 Strategic Geography**

- 2.1 Fareham Borough is located in the south-eastern corner of Hampshire, bounded to the north by the chalk hills of the Hampshire and South Downs and to the south by the coastal waters of the Solent, with the estuary landscapes of the River Hamble and Portsmouth Harbour enclosing the Borough's to west and east. Fareham is a Borough of 7,780 hectares (30 square miles) and is the fourth smallest district in Hampshire.
- 2.2 There are three principal rivers running through the Borough. In the west, the River Hamble flows on the Borough boundary shared with Eastleigh Borough Council, the centre of the Borough is the River Meon and in the east the River Wallington. All rivers flow through the Borough into the Solent which is designated for its international importance for wildlife.
- 2.3 There is one Source Protection Zone located in the North East of the Borough around Wallington and the Slopes of Portsdown Hill which is protected by the Environment Agency.
- 2.4 The Borough in places, is vulnerable to flooding from fluvial and coastal sources. Areas at risk of flooding are expected to be exacerbated and made worse by climate change.

## **3.0 Background**

- 3.1 Paragraph 159 of the NPPF states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether now and in the future)". Paragraph 160 goes on to say that "strategic policies should be informed by a Strategic Flood Risk Assessment (SFRA) and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities".
- 3.2 The NPPF requires all plans to take into account current and future flooding impacts as a result of climate change and to apply the sequential test and if necessary, the exception test so as to avoid, where possible, flood risk to people and property.
- 3.3 Given the number of rivers in the Borough and its coastal location, the Borough is in places, vulnerable to flooding from both fluvial and coastal sources. With climate change these areas of flood risk are expected to be exacerbated and made worse.

- 3.4 It is vital therefore that new development proposed within the Fareham Local Plan 2037 is located where possible, away from areas of flood risk both now and in the future. Where a residual flood risk remains, it is important that development has appropriate and suitable measures in place, ensuring that it can be made safe from flooding throughout its lifetime. The Local Plan 2037 has been accompanied by a local sites Strategic Flood Risk Assessment and proposes a variety of policies and mitigation measures which avoids and then mitigates any identified flood risk and flooding issues.

#### **Regulation 18 Representations from Environment Agency**

- 3.5 The Environment Agency responded to all three Regulation 18 consultations, the most recent conducted between the January to March 2020. The Environment Agency's responses include recommendations and comments on the key environmental issues that will need to be addressed and considered for the development of the Fareham Local Plan 2037. The key themes raised include:

- Flood risk (including climate change allowances)
- Water quality
- Water resources;
- Biodiversity including green infrastructure
- Groundwater protection

- 3.6 The Environment Agency monitors the overall water body status for the main rivers and coastal regions in and around the Borough. It is recognised that development within the Local Plan could increase the pressure on the water environment if not appropriately mitigated. The Environment Agency therefore recommended that the Fareham Local Plan 2037 should provide adequate protection and seek to create opportunities to improve the water environment by:

- Ensuring there is adequate infrastructure to support sustainable growth and ensure there is no deterioration of water quality.
- Promotion of Sustainable Urban Drainage Systems (SuDS)
- Protection of ground water sources and remediation of contaminated land.
- Ensure water efficiency measures are in place within development to protect and ensure sustainable consumption of water resources.
- Provide for overall protection and enhancement of the water environment and promotion of multifunctional benefits such as climate change adaptation, delivery of the River Basin Management Plan objectives, flood risk management.

- 3.7 In addition to the above, the Environment Agency also commented on and provided input and feedback to the Council in relation to the various stages of the Strategic Environmental Assessment/Sustainability Appraisal and Habitats Regulations Assessment that accompanies the Plan.

#### **Regulation 19 Representations from Environment Agency**

- 3.8 The Environment Agency responded to the two Regulation 19 consultations, the most recent conducted between the June and July 2021. The Environment Agency's responses include recommendations and comments on individual Policies and allocations in the Local Plan.

FTC4- Fareham Station West- supportive of policy criteria in relation to flooding and flood risk.

HA7 Warsash Maritime Academy- supportive of policy criteria in relation to flooding and flood risk.

HA19 399-403 Hunts Pond Road -supportive of policy criteria in relation to flooding and flood risk.

HA44 Assheton Court- Not enough evidence has currently been produced to demonstrate that this site could be delivered in a safe manner. It is likely that there could be a significant depth of flooding in future years as a result of sea level rise. Careful consideration must be given to whether it would ever be possible to eliminate the risk of tidal flooding. Additional people are to be put at risk. Given the use of the site and the likely level of residual flood risk, consideration of flood response planning i.e. prior evacuation/safe refuge will be important. If this site is to be allocated for redevelopment then there should be no increase in occupancy. Currently there is no evidence that the sequential test has been passed for this site and that there are no other locations suitable in lower areas of flood risk. If the sequential test can be passed, then further assessment of the future flood risk to the site should be undertaken to demonstrate that the site is deliverable in flood risk terms both now and in the future. It is acknowledged that sheltered accommodation already exists on this site but by redeveloping the site this extends the lifetime of the building over a time when the risk of flooding is also likely to increase.

HA54 Land East of Crofton Cemetery and West of Peak Lane- supportive of policy criteria in relation to flooding and flood risk.

Policy CC1 Climate Change- supportive of policy.

Policy CC2 Managing Flood Risk and Sustainable Drainage Systems- supportive of policy.

Policy D4 Water Quality and Resources- supportive of policy.

- 3.9 Whilst the majority of the issues raised were relatively minor recommendations and considerations for the Plan, there are several key topic areas/issues that have been singled out for special mention and discussion. These are set out in section 4 below.

## **4.0 Strategic Matters**

### **Strategic Flood Risk Assessment and Climate Change Allowances**

- 4.1 In December 2019 the Environment Agency released updated climate change allowances for sea level rise. The new climate change allowances for the south-east of England predict a cumulative increase in tidal levels in the next 100 years of between 0.1m - 0.5m (for the upper end and higher central allowances respectively) from the previous 2007 PUSH SFRA predicted tide level ( which was 4.3m Above Ordnance Datum) for the 0.5% probability event in 2115.
- 4.2 On the advice of the Environment Agency, it was decided in January 2020 at a meeting of the Partnership for South Hampshire (PfSH) that the previous PfSH Strategic Flood Risk Assessment (carried out in 2007 and subsequently updated in 2012 and 2016), required revision to take into account this new evidence on future flood risk as a result of climate change. This work has since commenced with various progress meetings being held discussing and agreeing such things as the modelling approach to the SFRA work.

However, the timescales associated with such a large piece of work mean that any final PfSH SFRA update would not be available in time for consideration in the Fareham Local Plan 2037.

- 4.3 The Council approached the Environment Agency to explore ways of resolving the issue of the PfSH SFRA update running behind the Fareham Local Plan preparation. The Environment Agency advised that because there are not many areas of the Borough at risk of flooding and based on discussions around the location of potential housing allocations, a potential way forward could be found.
- 4.4 The primary source of flood risk in the Borough is from coastal sources. However, there are three principle rivers that flow through or adjacent to the Borough as well as other localised areas of flood risk from surface water.
- 4.5 New climate change allowances released by the Environment Agency predict an additional 0.1m - 0.5m increase in sea level is now predicted for the South-east of England. It has been assumed that areas of the Borough that are up to and around 5m above current sea levels could now be at risk of future flooding (4.3 + 0.1m / 4.3m + 0.5m). 5m Above Ordnance Datum (AOD) was chosen because it is suitably precautionary, allowing for variations in the predicted increases as well as taking into account other environmental variables that influence tidal flood risk such as wave height, wind speeds, and storm surges etc.
- 4.6 A detailed terrain model was used within GIS to highlight all areas within the Borough that are between -2m and 5m AOD. These are the areas that would be at the greatest risk of future flooding given the new allowances. Potential housing sites were overlaid onto the terrain model to allow the Council to identify those sites that could be at future risk of flooding from tidal sources because they were situated in areas that are in or less than 5m AOD. This formed the basis of the Strategic Flood Risk Assessment (SFRA) which accompanies the Fareham Local Plan 2037.
- 4.7 New climate change allowances for flooding from fluvial sources were released in July 2021. However, the Revised Regulation 19 Fareham Borough Local Plan and its accompanying SFRA was already out to statutory and public consultation at the time. Consequently, the existing predictions within the PfSH SFRA for fluvial sources and climate change predictions have been used. Despite this, the Environment Agency has had the opportunity to comment on any proposed allocation which it feels may be impacted by the release of the updated climate change allowances for flooding from fluvial sources.
- 4.8 The updated climate change allowances for flooding from fluvial sources will be factored in to the emerging PfSH SFRA update which the Council is a part of. It is also recognised that the SFRA accompanying the Local Plan may have to be updated as requested by the Environment Agency.
- 4.9 In line with the flood risk management hierarchy, the assumption was made that only those sites where flood risk could be avoided or adequately and safely mitigated should be considered for taking forward for allocation. This is in line with national guidance on applying the sequential test for site selection for the Local Plan<sup>2</sup>.

## **Water Resources**

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<sup>2</sup> <https://www.gov.uk/guidance/flood-risk-and-coastal-change>



- 4.10 Parts of the Borough are situated within a water stressed area. As a result, the Environment Agency as part of their response to the 2017 Draft Local Plan, recommended the inclusion of a policy relating to water resources. In addition, the two water supply companies that service the Borough (Portsmouth and Southern Water) each made representation regarding the need for a policy relating to water resources. Furthermore, the water companies have campaigns and aspirations to drive down water consumption in Fareham to below what can currently be required by optional technical standards.
- 4.11 The Fareham Local Plan 2037 contains a policy stating that all new dwellings to achieve the Optional Technical Housing Standard for water efficiency (minimum of 110 litres per person per day). Where development achieves a higher technical standard of 100 litre per person per day, this will be supported. The Policy in the Fareham Local Plan is Policy D4: Water Quality and Resources.

### **Water Quality**

- 4.12 The Environment Agency also recommended a policy pertaining to water quality. The Council has responded by producing a policy stating that development proposals must not be detrimental to the management and protection of river, coastal and groundwater sources (including the source protection zone). The policy supports opportunities to enhance these resources in line with the Water Framework Directive. The Policy in the Fareham Local Plan is Policy D4: Water Quality and Resources.
- 4.13 Additionally, the Council is aware of the likely impact that increased nutrient loading from the wastewater produced by new development is having on the internationally designated sites within the Solent. This particular issue is predominantly covered in the Statement of Common Ground with Natural England as it is a matter concerning the Conservation of Habitats and Species Regulations 2017. However, it is recognised that as regulator of Wastewater Treatment Works, the Environment Agency has an important role to play working with the Council, other South Hampshire Authorities and Natural England in local plan making and tackling the issue.
- 4.14 The Habitats Regulations Assessment which accompanies the Local Plan, details the Nutrient Budget for the development contained within the Fareham Local Plan 2037. In addition, Policy NE4 within the Fareham Local Plan 2037 demonstrates how development within the plan will not result in adverse effects to the integrity of the designated sites within the Solent through increased nutrient loading. As a statutory consultee in the planning process, the Environment Agency have been consulted on the Local Plan and its policies including its associated documentation such as the HRA and the information contained within it, including the Local Plan Nutrient Budget. as well as having the opportunity to comment on specific policies in the Local Plan regarding water quality and nutrient neutrality.

### **Sustainability Appraisal/ Strategic Environmental Assessment**

- 4.15 A Strategic Environmental Assessment/Sustainability Appraisal (SEA/SA) accompanies the Fareham Local Plan 2037. The Environment Agency provided guidance and input to ensure that the SEA/SA covered the key strategic issues relating to the Local Plan. At each stage of the Local Plan making process the relevant SEA/SA output which has influenced the development of the Plan, has been made available for public consultation.

### **Habitats Regulations Assessment**

- 4.16 A Habitats Regulations Assessment (HRA) accompanies the Fareham Local Plan 2037. An initial screening report was produced in September 2017 which identified the scope of the assessment and key impact pathways for the Local Plan. It concluded that the Plan without appropriate measures and mitigation is likely to result in significant effects and should proceed to the Appropriate Assessment stage. An Appropriate Assessment was carried out and a report produced in September 2020 to accompany the Regulation 19 version of the Fareham Local Plan and then again to accompany the Revised Regulation 19 version of the Fareham Local Plan. Both Appropriate Assessments concluded that with the specific avoidance and mitigation measures in place, the Fareham Local Plan 2037 would not result in any likely significant effects. The relevant HRA outputs have been made available for public consultation at each appropriate stage of the local plan making process.

### **Flood Risk at HA44 Assheton Court**

- 4.17 In order to overcome the comments raised by the Environment Agency with regards to flood risk on this particular allocation, the Council has been in discussions with the promoter of the site (Fareham Housing) in order to understand what measures are being proposed to ensure safe delivery of development. It is understood that proposals being produced to accompany a planning application for the site include raising the ground floor level and reducing the overall number of ground floor flats (ensuring a net reduction in ground floor units to what is currently existing). This would be in addition to the other policy compliant measures required such as the use of Sustainable Drainage Systems. Furthermore, there is an overriding need to provide a much-improved standard of accommodation for existing residents and the contribution to the regeneration of Portchester provides substantial benefits to keeping the site allocated within the emerging Local Plan. The site promoter is aware of the requirements regarding a Flood Risk Assessment that would need to be undertaken alongside a planning application and will work with the Environment Agency at that time on a suitable mitigation package.

## **5.0 Areas of Further Work**

- 5.1 Fareham Borough Council recognise the concerns of the Environment Agency in relation to flood risk at HA44 Assheton Court. The Council will work with the site promoter to ensure a full FRA is carried out. The Environment Agency will be consulted on any planning application for this site which should provide the evidence required to demonstrate safe delivery of development.
- 5.2 The Council is committed to continue conversations with the Environment Agency and anticipate a further iteration of the SoCG in the coming months,

## **6.0 Areas of Agreement**

- 6.1 The Environment Agency and Fareham Borough Council as Local Planning Authority have reached common ground on aspects of the new Local Plan 2037 relating to flood risk and the water environment
- 6.2 In respect of the overall approach to taking into account current and future flood risk within the Local Plan as evidenced by the Strategic Flood Risk Assessment accompanying the Local Plan, agreement has been reached on:
- The assumptions used in the SFRA with regards to taking into account the new climate change allowances for tidal flooding.



- The Environment Agency has had opportunities to comment (with regards to the soundness considering current and future flood risks and impacts to the water environment) on the Local Plan, its policies and allocations and the SFRA.
- Notwithstanding paragraph 5.1 in section 5 Area of Further Work the Sequential and Exception Tests have been appropriately applied.
- Notwithstanding paragraph 5.1 in section 5 Area of Further Work, where a residual flood risk has been identified, sufficient mitigation, which is appropriate to the strategic scale and nature of the Local Plan and its SFRA, has been identified.
- Notwithstanding paragraph 5.1 in section 5 Area of Further Work, the proposed development allocations within the Fareham Local Plan 2037 are considered safe from flooding both now and in the future.

6.3 In respect of dealing with water resources and water quality within the Local Plan, agreement has been reached on:

- The aims, scope and content of Policy D4: Water Quality and Resources and NE4 Water Quality Effects on the Special Protection Areas, Special Areas of Conservation and Ramsar Sites of the Solent are satisfactory

6.4 In respect of the SEA/SA process carried out in support of the Local Plan, the Environment Agency in their role as a statutory consultee agrees that:

- It has had opportunities to comment on the content and conclusions of the SEA/SA throughout its development.
- Raises no issues with the sustainability outcomes of the Fareham Local Plan 2037.
- The SEA/SA in their view, is legally compliant having been prepared in accordance with the relevant legislation.

6.5 In respect of the HRA process carried out in support of the Local Plan, the Environment Agency in their role as a statutory consultee agrees that:

- It has had opportunities to comment on the content and conclusions of the HRA throughout its development.
- The conclusions set out in the HRA with respect to the identified likely significant effects and mitigation required are appropriate.
- The HRA in their view, is legally compliant having been prepared in accordance with the relevant legislation.

6.6 The Council will continue to be part of the emerging PfSH SFRA work and respond to changes in flood risk information as directed by the Environment Agency.

6.7 The Environment Agency will continue to support and work collaboratively with Fareham Borough Council to ensure satisfactory outcomes for both Fareham Borough Council and the Environment Agency are achieved.

## 7.0 Signatories

7.1 Both parties agree that this statement is an accurate representation of matters discussed and issues agreed upon.

7.2 It is agreed that these discussions will inform the Fareham Local Plan 2037 and both parties will continue to work collaboratively in order to meet the duty to cooperate.

7.3 For the Environment Agency the Statement of Common Ground is signed by Laura Lax, Planning Specialist. For Fareham Richard Jolley, Director of Planning and Regeneration.

Signed:



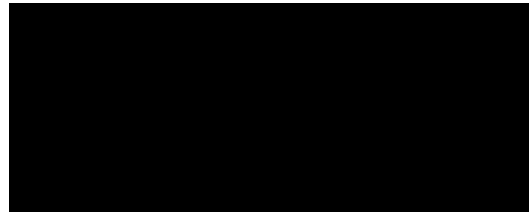
Name: Laura Lax

Position: Planning Specialist

***The Environment Agency***

Date: 17<sup>th</sup> September 2021

Signed:



Name: Richard Jolley

Position: Director of Planning and  
Regeneration

***Fareham Borough Council***

Date: 17<sup>th</sup> September 2021