

POSITION STATEMENT

BETWEEN: The Environment Agency and the South Downs National Park Authority

DATE: February 2018

1. Introduction

- 1.1 The Environment Agency (EA) made representations on the South Downs Local Plan (SDLP) Pre-submission consultation in November 2017. This Statement sets out the position of the EA and the South Downs National Park Authority (SDNPA) with regards to these comments to: aid the Inspector's understanding of the issues raised by the EA; and to identify where there is agreement between both parties.

2. Context

- 2.1 Section 62 of the Environment Act 1995 requires all relevant authorities, including statutory agencies such as the EA, to have regard to the purposes of National Parks. These are:
- To conserve and enhance the natural beauty, wildlife and cultural heritage of the area;
 - To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.
- 2.2 The South Downs Partnership is the key mechanism through which partnership working with stakeholders takes place to deliver National Park purposes. It is made up of representatives from different sectors, all with an important stake in the future of the South Downs National Park. This includes representatives from Natural England, the Environment Agency, the National Trust, Land Owners Association, farmers' representative, heritage groups, Association of Parish Council and water authorities. The Partnership has led to the development and implementation of the South Downs Partnership Management Plan (2013) which has informed and shaped the South Downs Local Plan (SDLP).
- 2.3 The SDLP is a landscape-led plan, with ecosystem services (the provision of goods and services arising from natural capital) at its heart. In addition, reducing the National Park's vulnerability to the impacts of climate change, and making it more resilient to flooding, is a key objective of the Local Plan. The SDLP provides a comprehensive development plan document to cover the whole of the National Park, and includes policies to address all types of development.
- 2.4 As a formal consultee the EA also advised on the Sustainability Appraisal. It has also supported the preparation of key evidence base documents - the Strategic Flood Risk Assessments. Its main interests and responsibilities in relation to these documents are; protection of the water environment and its resources, managing flood risk from main rivers, mitigating against the effects of climate change and enhancing biodiversity and ecology.

2.5 As set out in its comments on the Pre-submission Local Plan, the EA is generally supportive of the Local Plan policies that relate to their areas of interest and responsibility, subject to some wording changes to adopt best practice and to improve the clarity and consistency of the policies. The EA is also generally supportive with regards to the Local Plan policy approach to managing flood risk across the National Park. The main area of focus of its comments relates to the inclusion of additional criteria in the site allocations policies, as set out in the South Downs Local Plan Level 1 Update and Level 2 Strategic Flood Risk Assessment 2017, so as to more effectively manage flood risk.

3. Managing Flood Risk for Site Allocations

3.1 To support the policies associated with flooding in the Local Plan and to identify potential site specific flood issues associated with proposed allocations, the SDNPA commissioned Amec Foster Wheeler to undertake a Level 1 SFRA alongside a Water Cycle Study in April 2015. An update to this and a more detailed Level 2 SFRA was commissioned from the same company in the Summer of 2017. These studies were used to apply the Sequential Test to site allocations in the Local Plan in order to identify options with the lowest risk of flooding while still meeting National Park purposes and duty. The 2017 study also provides a series of flood risk management policy recommendations to manage future flood risk at sites that are at risk from all forms of flooding, i.e. tidal and fluvial flooding, surface water flooding and groundwater flooding. These recommendations, where appropriate and necessary, have been included as supporting text and policy criteria in the Local Plan site allocation policies. How the issues relating to managing flood risk across the National Park are addressed in the Local Plan is set out in more detail in the Local Plan Background Paper – ‘Flood Risk and the Sequential Test for Site allocations’.

4. Position with regards to matters raised by the EA

4.1 The outstanding matters relating to the Environment Agency’s comments are set out in Table 1, which is attached as Appendix I to this statement. This table;

- Summarises the EA’s comments on the Pre-submission Local Plan;
- Provides SDNPA’s response to the comments made;
- Identifies the changes to the Local Plan which will be made to address the EA’s comments; and
- Confirms whether the SDNPA action or further explanation fully addresses EA’s objections.

APPENDIX I

Table I – Outstanding matters relating to the Environment Agency’s comments on the Pre-submission Local Plan

EA issues raised in relation to consultation on Pre-submission SDLP	SDNPA Comments	Proposed Actions All text to be added is <u>underlined</u> , all deleted text is struck through .	EA agree objection addressed
<p><u>SD 48: Sustainable Use of Resources</u></p> <p>The EA is supportive of this policy and in particular the water efficiency standard of 110 litres per person per day for residential use. However, it considers that similar standards should be used for non-residential development and therefore the BREEAM ‘Excellent’ rating should be used as opposed to the ‘Very Good’ rating that is currently set out in the policy.</p>	<p>A number of other respondents have made similar comments regarding the BREEAM standard for non-residential use. The SDNPA has given this careful consideration and is aware that other local planning authorities ask for ‘BREEAM Excellent’ Alongside this, the Vision and Circular for English National Parks states that National Parks should be leading the way in adapting to and mitigating climate change. We have looked into the implications of this change on the financial viability of developments and have found evidence that this higher standard will result in relatively small additional costs, with costs recouped over a number of years through savings in water and energy use. In addition, if viability is an issue in some cases, criterion 2 of the policy has an exemption clause that states that ‘unless it can be demonstrated that doing so is not technically feasible or would make the scheme unviable.’</p>	<p>It is proposed to make this change and amend the policy as follows:</p> <p><u>Non-Residential and Multi-residential</u> :</p> <p>i. Major: BREEAM Very Good <u>Excellent</u></p> <p><u>Additional text in footnotes</u></p> <p>95. <u>Multi-Residential as defined by the Building Research Establishment (BRE). These developments can include: student halls of residence; key worker accommodation; care homes; sheltered housing; and other multi-residential buildings that have communal areas making up more than 10% of the total net internal floor area.</u></p> <p>96. Major non-residential development is defined as Development over 1,000 sq/m; or development on a site of 0.5ha or more. <u>Major residential is defined as Development of 10 houses or more; or</u></p>	<p>Agree.</p>

		<p><u>development on a site of 0.5ha or more.</u></p>	
<p><u>SD49: Flood Risk Management</u></p> <p>The EA supports the inclusion of this policy but considers that the current wording is unsound because it is not as effective as it could be in terms of directing development to Flood Zone 1 and does not incorporate some of the recommendation from the Level 1 Update and Level 2 SFRA final report. In addition para 7.286 requires rewording to be in line with the NPPF.</p>	<p>We are in agreement with the suggested changes made by the EA to the text of criteria 1a) of this policy to include the wording ‘directing development to Flood Zone 1, wherever possible.’ We agree that this will improve the clarity and effectiveness of the policy.</p> <p>We are also in agreement with regards to the suggested changes to wording to para 7.286 so that it complies with the NPPF and that it is clear which organization should be contacted in relation to advice on the different forms of flood risk .</p> <p>We do not agree that it is appropriate or necessary to include in Policy SD 49 the long list of recommendations for a Site Specific FRA set out in Box 5.1 of the Level 1 Update and Level 2 SFRA. Instead we are of the view that a new paragraph is included in the supporting text to direct applicants to where this information is contained in the SFRA report.</p>	<p>It is proposed to make the following changes to the policy and supporting text:</p> <p>Criteria 1a) to say:</p> <p>Steering development away from areas of flood risk as identified by the Environment Agency and the Strategic Flood Risk Assessment <u>and directing development to Flood Zone 1, wherever possible.</u></p> <p>Development in areas of flood risk will, where relevant, be required to meet the national Sequential and Exception tests;’</p> <p>Third sentence of para 7.286 onwards to be deleted and instead to say:</p> <p><u>A site-specific flood risk assessment is required for proposals of one hectare or greater in Flood Zone 1; all proposals for new development in Flood Zones 2 and 3, or in an area within Flood Zone 1 which has critical drainage problems (as notified to the local planning authority by the Environment Agency); and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. If there is any potential for</u></p>	<p>Agree.</p>

		<p><u>tidal or fluvial flood risk issues, advice from the Environment Agency should be sought before submitting an application. Advice from the Lead Local Flood Authority, Local Authority and relevant water company should be sought on local sources of flooding.</u></p> <p>New paragraph: <u>Recommendations for a site specific FRA are set out in Box 5.1 page 43 of the South Downs National Park Authority's Level 1 Update and Level 2 SFRA report.</u></p>	
<p><u>SD50: Sustainable Drainage Systems</u></p> <p>The EA supports this policy but explains that para 7.296 is incorrect as it should refer to the Lead Local Flood Authorities(LLFA's) rather than the EA.</p>	<p>We agree that this wording is incorrect and should be amended.</p>	<p>It is proposed to make this change and amend the policy as follows:</p> <p>Para 7.296 lasts sentence: 'In determining the suitability of SuDS for individual development sites, developers should seek advice from the Environment Agency and the relevant LLFA.'</p>	<p>Agree.</p>
<p><u>SD55: Contaminated Land</u></p> <p>The Environment Agency is supportive of this policy but considers that the policy as currently worded should make specific reference to removing or avoiding unacceptable risk to the environment as well as to health and environmental health. It is also</p>	<p>We agree that the clarity of this policy could be improved to make it clear that it refers to human health and also to the health of the environment. We also agree that the last sentence of para 7.329 should refer to the environment in terms of potential impacts from any decontamination process.</p>	<p>It is proposed to make the following changes to the policy and supporting text:</p> <p>Criteria 1. Development proposals for sites with either known or suspected contamination or the potential to contaminate land either on site or in the vicinity, will</p>	<p>Agree.</p>


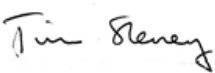
<p>recommended that the last sentence of para 7.329 is amended to also include reference to the environment.</p>		<p>require the submission of robust evidence regarding investigations and remedial measures sufficient to ensure that any unacceptable risk to <u>human</u> health or environmental health <u>the health of the environment</u> is removed prior to development proceeding.</p> <p>Last sentence of para 7.329 to say: ‘Consideration must be given to the potential impact on neighbouring developments, residents, <u>the environment</u> and the road network of any decontamination process.’</p>	
<p><u>SD56: Shoreham Cement Works</u></p> <p>The EA considers this policy to be unsound as it is not as effective at protecting the environment and mitigating flood risk as it could be. The EA is aware that an Area Action Plan (AAP) is to be produced, but note that planning applications may come forward in advance of this. It recommends that the policy includes criteria that make reference to: the potential for there to be contaminated land on the site and for the potential risk from this to the water environment. The EA also wishes for the Policy Recommendations for Flood Risk Management, as set out in the Level 1 Update and Level 2 SFRA Final</p>	<p>Shoreham Cement Works is a complex site that has many challenges but with the right treatment has the potential to deliver an innovative, exemplar sustainable mixed use development. The supporting text states that to enable this to happen, the SDNPA will prepare an AAP. Policy SD56 is a strategic policy that sets out a series of aims that an AAP would seek to deliver rather than detailed policy criteria that would inform a planning application. It would be at the AAP stage that the detailed policy requirements to inform a planning application, including those suggested by the EA, are provided.</p> <p>We recognise that planning applications may come forward separately prior to</p>	<p>We do not propose to make any changes to this policy as the issues raised by the EA are referenced in the supporting text and will be addressed in more detail in the AAP.</p>	<p>Agree/understand SDNPA reasoning.</p>

<p>Report, to be included as policy criteria.</p>	<p>the adoption of the AAP. However, we consider that the issues raised by the EA are already sufficiently covered by the current policy and supporting text. In this regard, para 8.23 identifies a series of constraints on the site. These include: potential for fluvial flooding and surface water flooding at the lowermost part of the site and access tracks and; that parts of the site are likely to be contaminated and ground remediation work to protect water quality are required. In addition the policy contains criteria 2.g) which 'Ensures that any adverse impacts (either alone or in combination) are avoided, or, if unavoidable, minimized through mitigation with any residual impacts being compensated for.'</p>		
<p><u>SD57: North Street Quarter and Adjacent Eastgate Area, Lewes</u></p> <p>The EA is supportive that the policy identifies the need for early provision of flood defences, however to improve the flexibility of the policy they suggest that the Policy Recommendations for Flood Risk Management, as set out in the Level 1 Update and Level 2 SFRA final report, are included as policy criteria.</p>	<p>While planning permission has been granted for the North Street Quarter part of the site, including the design of flood defences, we appreciate that this did not include the Eastgate area, which will be subject to a separate planning application. We therefore agree that reference to the Policy Recommendations for Flood Risk Management set out in the Level 1 Update and Level 2 SFRA final report should be included in the policy criteria.</p>	<p>It is proposed to include the following additional policy criterion:</p> <p>3o). <u>'Appropriate flood mitigation measures and recommendations are incorporated as set out in the Level 1 Update and Level 2 SFRA final report 2017.'</u></p>	<p>Agree.</p>
<p><u>SD58: Former Allotments</u></p> <p>EA considers that the policy is not as effective as it could be in managing</p>	<p>We agree that this is an omission as access to the site may need to be obtained through land in Flood Zone 3.</p>	<p>It is proposed to include the following additional policy criterion:</p>	<p>Agree.</p>

<p>flood risk as is does not include reference to flood storage compensation being provided for any ground raising or built development in fluvial Flood Zone 3 as set out in the Policy Recommendations for Flood Risk Management in the Level 1 Update and Level 2 SFRA final report.</p>		<p>1h). <u>'Flood compensation storage to be provided for any ground raising or built development in Flood Zone 3 (including allowance for future climate change).'</u></p>	
<p><u>SD79:Land at Old Mallig Farm, Lewes</u> EA considers that the policy is not as effective as it could be in managing flood risk. They recommend that criteria 5.f) is reworded and that additional flood risk criteria relating to flood compensation storage and only allowing essential infrastructure in Flood Zone 3 are included in the policy as set out in the Policy Recommendations for Flood Risk Management in the Level 1 Update and Level 2 SFRA final report.</p>	<p>We agree with the suggested rewording to make the policy more effective and also to include the additional flood risk criteria relating to compensatory storage and location of essential infrastructure as access to the site may need to be obtained through land in Flood Zone 3.</p>	<p>It is proposed to replace policy criterion 5f) with revised wording and include two additional policy criteria as follows:</p> <p>5f). Residential development to be located sequentially only within those parts of the site outside Fluvial Flood Zones 2 and 3 as defined by the Environment Agency;</p> <p><u>All housing development to be located within Flood Zone 1 only;</u></p> <p>h). <u>Flood compensation storage to be provided for any ground raising or built development in Flood Zone 3(including allowance for future climate change)</u></p> <p>i). <u>No development other than Essential Infrastructure or Water Compatible development in FZ3b.'</u></p>	<p>Agree.</p>

<p><u>SD80: Malling Brooks, Lewes</u></p> <p>The EA is concerned that the policy as currently drafted makes reference to the 2009 update to the Flood Risk Assessment (FRA) that was agreed for the current planning permission at this site, and therefore if a new scheme was submitted this FRA may not be fit for purpose. They suggest some revised wording for inclusion in the policy.</p>	<p>We agree with the suggested change to the policy, requiring more up to date information should any new proposals come forward in the future for this site.</p>	<p>It is proposed to replace criterion 1e) with the following:</p> <p>1e). Development to be undertaken in accordance with the recommendations of the Flood Risk Assessment dated 8th November 2006 (Revision F Feb 2009) accompanying Planning Application LW/07/1608;</p> <p><u>A comprehensive approach to flood risk will be adopted and development will be undertaken in accordance with the recommendations of an agreed Site Specific Flood Risk Assessment.</u></p>	<p>Agree.</p>
<p><u>SD82: Holmbush Caravan Park, Midhurst</u></p> <p>EA considers that the policy is not as effective as it could be in managing flood risk. They recommend that criteria 1c) is reworded and that an additional flood risk criterion relating to flood storage compensation is included in the policy as set out in the Policy Recommendations for Flood Risk Management in the Level 1 Update and Level 2 SFRA final report.</p>	<p>We agree that criteria 1c) should be reworded to make the policy more effective in managing flood risk.</p> <p>However, unlike some of the other allocations mentioned above there are no proposals for any development such as access roads or paths in Flood Zone 3 so there is no risk of any changes to ground levels in this area. Therefore a criterion relating to compensatory storage is unnecessary.</p>	<p>It is proposed to replace policy criterion 1c) as follows:</p> <p>1c). Built development to be located sequentially only within those parts of the site outside Fluvial Flood Zones 2 and 3 as defined by the Environment Agency;</p> <p><u>All housing development to be located within Flood Zone 1 only;</u></p> <p>We do not intend to include a criterion relating to flood compensations storage as the allocation does not require any change in ground levels or new built development in Flood Zone 3.</p>	<p>Agree with 1c). Noted and agree/understand reasoning for compensatory storage.</p>

<p><u>SD89:Land at Pulens Lane, Sheet</u></p> <p>EA considers that the policy is not as effective as it could be in managing flood risk as criterion 2h) should specify a buffer strip of approximately 20m and an additional criterion should be included that requires flood storage compensation as set out in the Policy Recommendation for Flood Risk Management in the Level 1 Update and Level 2 SFRA final report.</p>	<p>We do not agree that is necessary to specify a width of the buffer strip in the policy criteria as an approximate depth of 20metres is already mentioned in the supporting text para 9.199.</p> <p>There are no proposals for any development such as access roads or paths to be sited in Flood Zone 3 so there is no risk of any changes to ground levels in this area. Therefore a criterion relating to compensatory storage is unnecessary.</p>	<p>We do not propose to make any changes to this policy as the issues raised by the EA are referenced in the supporting text and the allocation does not require any change in ground levels or new built development in Flood Zone 3.</p>	<p>Understand/agree SDNPA reasoning regarding buffer strip and compensatory storage.</p>
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<p>Signed on behalf of the Environment Agency</p>  <p>Marguerite Oxley</p>
<p>Date 20th March 2018</p>
<p>Position Sustainable Places Technical Specialist</p>
<p>Signed on behalf of the South Downs National Park Authority</p>  <p>Tim Slaney</p>
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