

**Nuneaton and Bedworth Borough  
Council  
Borough Plan Review (2021 -  
2039)**



Statement of Common Ground between  
Nuneaton and Bedworth Borough Council  
and the Environment Agency

January 2024

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## **Organisations**

- Nuneaton and Bedworth Borough Council (NBBC).
- Environment Agency (EA).

## **Introduction**

This Statement of Common Ground identifies areas of agreement between NBBC and the EA in relation to the Borough Plan Review (2021-2039) and supporting evidence base. This Statement has been prepared to assist the Examination of the Plan and covers the administrative area of NBBC.

The Borough is located between Coventry and Hinckley and benefits from good road links. Nuneaton and Bedworth are both easily accessible from the M6 which gives good access to the M1, M5, M42 and M69. The A5 runs along the northern boundary of the Borough and the A444, A4254 and the B4114 are the major routes within the Borough. The Borough is home to 134,200 people according to the Census 2021. A plan has been provided at Appendix A which outlines the administrative boundary of NBBC alongside the location of sub-regional and adjoining Local Planning Authorities.

NBBC has fully engaged with the EA on the development of the Council's Local Plan from the outset. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the EA has been formally consulted at every stage of consultation on the Borough Plan Review together with its accompanying Sustainability Appraisal and the Habitat Regulations Assessment. However, in line with the EA's representations to the Regulation 19 consultation, the EA believe they were not consulted at the Issues and Options and Preferred Options stages. NBBC did contact them regarding all three consultations but individual officers at the Environment Agency were contacted for comments, regarding the first two consultations, rather than the EA's generic email address. This was rectified with an extension of time agreed, at both stages of consultation, and their generic email address contacted. We believe this is why the EA's records may show they were not consulted. The EA has made representations to the Regulation 19 consultation on the Borough Plan Review (representation number 13). The Duty to Cooperate Compliance Statement outlines in detail the engagement activities and outcomes undertaken during the Plan's preparation.

As the Borough Plan Review has reached the Regulation 19 stage and is progressing towards submission, changes to the policy text cannot take place. Therefore, any of the suggested Modifications from the EA would have to be overseen and agreed with the Planning Inspectorate, during Examination of the Borough Plan Review. The Council have worked with the EA and where possible have discussed and recommended Minor Modifications. The EA have responded to advise:

"We've read the Officer's responses and suggestions to the EA's Reg 19 response and make no adverse comment. We would welcome the inclusion of these comments within the SoCG, perhaps within the matters agreed section. As a result, we don't consider there to be any outstanding matters of disagreement."

## Strategic matters

### Areas of Agreement

- **That NBBC has worked collaboratively with the Environment Agency to ensure that all strategic issues have been properly considered and where appropriate reflected in the Borough Plan Review and effective and on-going joint working has and will continue to be undertaken.**

*For clarity the Council comments are italicised below.*

#### Strategic Policy DS4 – Residential Allocations

The EA advise that we note there are fifteen non-strategic allocations included within the DPD Review. Notwithstanding those sites where planning permission has already been granted, or resolution to grant subject to legal agreement, we note 0.9% of the land included within allocation NSRA4 – Vicarage Street Development is in Flood Zone 2. The policy refers to this site as a key landmark within the Transforming Nuneaton masterplan, with reference and guidance included in the Level 2 SFRA to inform site design and making development safe, which are included in the supporting text to the Policy (bottom of page 34).

*The Council advise comments are noted.*

#### Strategic Policy SA1 – Development principles on strategic sites

To ensure all material planning considerations are addressed within planning applications and to ensure comprehensive future application submissions on the strategic allocated sites, we recommend the following wording is added to the list of requirements which all proposals on strategic sites must meet:

- A site-specific flood risk assessment should be provided in accordance with Section 6.2 of the Level 2 Strategic Flood Risk Assessment (2023) and for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

*The Council advise that the above is within the EA's standard requirements for development and within the NPPF. Local Policies should not repeat national requirements. Notwithstanding this, Policy NE4 states that a site-specific Flood Risk Assessment is required to support all major applications and for those in areas of risk of flooding and to ensure surrounding sites and downstream land is not affected.*

- The design fluvial flood level (1% fluvial flood level plus appropriate climate change allowance) should be used to inform the location of built development; consideration of flood risk impacts, mitigation/enhancement and ensure 'safe' development.

*The Council advise that the 1% is stated within Policy NE4.*

- Where land contamination is known or suspected, a desk study, investigation, remediation and other works will be required to enable safe development.

*The Council advise that contamination and a requirement for a desk study is contained within Policy BE1. There is also reference to the potential to affect groundwater and a requirement for an assessment under Groundwater quality in Policy NE4.*

- Suitable sewage connection to the existing mains foul drainage network and contributions to increase capacity to the treatment works to support growth where necessary.

*The Council advise, the section titled SuDs in Policy NE4 requires that developers are encouraged to contact STW regarding sewer capacity at an early stage of planning to ensure adequate time for any network improvements.*

- In accordance with the Water Framework Directive, development shall cause no overall deterioration in water quality or ecological status of any waterbody.

*The Council advise, that reference to the Directive is specifically referred to in Policy NE4 under Water Quality.*

- In line with the Level 2 SFRA (2023) recommendations, if there are any unmodelled watercourses on site, detailed flood modelling of such will be required to inform and mitigate the fluvial flood risk to development proposals.

*The Council advise this is referred to within the individual site specific SFRA level 2 and in NE4 under managing flood risk that all sources should be considered.*

*Overall note from the Council – our concerns of adding the above points to Policy SA1 would be that this Policy just refers to the development of the strategic sites - by implication it could be assumed (incorrectly) that these points were not required for the non-strategic sites or windfall sites. As this is generic criteria applicable to all development it is considered that the points are better dealt within the specific Policies referring to flooding and contamination eg NE4 and BE1.*

- To link together with Policy BE3, the water usage requirement of 110 litres per person per day should be specified as a minimum.

*See Minor Modifications below.*

*The Council advise that the following Minor Modifications will be requested to be added to the Policy in answer to the above concerns.*

*Add word 'or less' or as appropriate to Policy SA1 and DS1 after it states 110 litres.*

### Strategic Policy SHA1 – Land at Top Farm, North of Nuneaton

We note the southern end of this proposed allocation is within Flood Zones 2 and 3 of a Main River. Whilst we appreciate much of the site has already been granted planning permission, with some construction underway, the suggested inclusions above within Strategic Policy SA1 will ensure that flood risk is appropriately considered and the development of the site accords with the evidence base documents, including the SFRA and the Sequential and Exceptions Tests report (2023) – Appendix 1.

However, you may wish to include specific reference within the policy wording which refers to flood risk, instead of relying upon the general requirements set out in SA1. Furthermore, reference should be made to the Level 2 SFRA and the site-specific guidance for design and making development safe.

*The Council advise that the supporting text paragraph 7.38 of the Publication Policy SHA1 refers specifically to flooding and precis of outcome from SFRA level 2 and that sequential and exception test is required.*

### Strategic Policy SHA3 – Land at Tuttle Hill (Judkins Quarry)

Whilst we note two outline planning applications are pending on this proposed site allocation, our records show that some areas of the site are included within the Environmental Permitted (EP) area associated with an active landfill known as Judkins Landfill Phase 3 (EP reference EPR/JP3033YQ). As part of the EP, we regulate emissions to the environment from the site.

As above, the suggested inclusions within Strategic Policy SA1 should ensure that land contamination matters are addressed during the planning application stage. However, you may wish to include specific reference within the policy wording which refers to land contamination, instead of relying upon the general requirements set out in SA1.

*The Council notes this and it can be recommended to be included in the supporting text.*

Furthermore, proposals near to or on landfill sites can be affected by odour and/or landfill gas and you may wish to include specific reference to this also. You might consider the Ground Conditions and Pollution section of the Framework, including paragraphs 185 and 187.

For clarity, we are not currently a 'statutory consultee' on development adjacent to a waste deposit site or similar regulated site which may be causing, or may give rise to, emission issues due to its proximity.

*The Council advise that Policy BE1 specifically refers to contamination and land stability and refers to the environmental quality and general amenity. Our Environmental Health Team will obviously be considering contamination, air quality including odour and amenity.*

The Council advise that the following Minor Modifications will be requested to be added to the supporting text of the Policy in answer to the above concerns.

Add as a new paragraph in supporting text:

*“The nature of the site and adjacent land use means that contamination, landfill gas, odour and noise will need to be considered as part of any formal planning application. For information part of the site is included within the Environmental Permit area associated with an active landfill known as Judkins Landfill Phase 3 (EP reference EPR/JP3033YQ). The Applicant is therefore advised to have discussions with the Environment Agency prior to the submission of any formal planning application.”*

#### Strategic Policy SEA2 – Wilsons Lane (employment area)

We note the southwest corner of the proposed allocation is partly in Flood Zones 2 and 3 of the River Sowe which is designated as a Main River.

We welcome Point 22 in the policy which refers to the protection of the watercourse and floodplain. This could be expanded on by including wording such as, ‘The design fluvial flood level (1% fluvial flood level plus appropriate climate change allowance) should be used to inform the location of built development; consideration of flood risk impacts, mitigation/enhancement and ensure ‘safe’ development.’

*The Council note the above.*

We also note Point 26 requires the site to provide a betterment for flood relief downstream by providing additional rainwater storage on site.

*The Council note the comments and advise the requirement for this is also made reference to within the Outline consent information.*

The suggested inclusions above within Strategic Policy SA1 will ensure that flood risk is appropriately considered and the development of the site accords with the evidence base documents, including the Level 2 SFRA and the Sequential and Exceptions Tests report (2023) – Appendix 1. Furthermore, reference should be made to the Level 2 SFRA and the specific guidance for site design and making development safe.

*Noted – This site now has Outline consent. Paragraph 7.106 of the supporting text to the Policy, gives a precis and refers to the outcome of the SFRA level 2 carried out for the site as part of the Local Plan evidence base and requirement for a sequential and exception test.*

#### Strategic Policy SEA4 – Coventry Road

Based on our records, parts of the site include a former quarry, historic landfill and floodplain along the southern site boundary.

As above, the suggested inclusions within Strategic Policy SA1 should ensure that land contamination and fluvial flood risk matters are addressed during the planning application stage. However, you may wish to include specific reference within the

policy wording which refers to such, instead of relying upon the general requirements set out in SA1.

*The Council advise that contamination needs to be considered as part of Policy BE1. The site is currently being considered for Outline under ref 039979 and a Site Investigation report has been submitted as part of this. However, notwithstanding this see recommended Minor Modification below.*

*In terms of fluvial flood see Minor Modification below. However, in addition to this, paragraph 7.121 of the supporting text included under the Policy also refers to fluvial consideration in terms of flooding.*

*The Council advise that the following Minor Modifications will be requested to be added to the supporting text of the Policy in answer to the above concerns.*

*Add as a new paragraph in supporting text:*

*“The Environment Agency have advised that their records show parts of the site include a former quarry, historic landfill and floodplain along the southern site boundary. Therefore contamination, landfill gas and fluvial run off will need to be considered as part of any formal planning application. The Applicant is therefore advised to have discussions with the Environment Agency prior to the submission of any formal planning application.”*

#### Strategic Policy CEM1 – Land north of Marston Lane, Bedworth

We note CEM1 seeks to safeguard land for use as a cemetery burial ground.

We would usually recommend as a minimum that a tier 1 hydrogeological risk assessment is undertaken, including a water features survey. Where the tier 1 risk assessment shows that there is a need for more detailed assessment (i.e. the best practice controls cannot be met) a tier 2 risk assessment may be required.

We recommend wording is included within the policy which refers to the information requirements for tier 1 and tier 2 assessments as set out within the Environment Agency’s guidance ‘Cemeteries and burials: prevent groundwater pollution’.

<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

To ensure the site is an appropriate use of the land, all burials shall be:

- A minimum of 250m from a potable groundwater supply source
- A minimum of 30m from a watercourse or spring
- A minimum of 10m from any field drain
- A minimum of 1m above the highest annual groundwater level.

This is to protect the quality of controlled waters in the local area, specifically the secondary aquifer and adjacent waterbodies. See position statement L3 in the linked document: The Environment Agency’s approach to groundwater protection ([publishing.service.gov.uk](http://publishing.service.gov.uk))

Environmental Permit - Our approach to protecting groundwater from cemetery developments is published in “Protecting groundwater from human burials” on the .GOV.UK website. This explains the basics of why cemeteries have the potential to

cause groundwater pollution and introduces the regulatory framework that cemeteries sit within.

Burials of human remains (other than the burial of human ashes from crematoria) within cemeteries are “groundwater activities” as defined in paragraph 3 of Schedule 22 to the Environmental Permit Regulations (EPR).

From 2 October 2023, EPR was amended to introduce new tools for the Environment Agency to use in its regulation of groundwater activities. The level of regulatory control that we apply to new cemetery developments is proportionate to the level of risk the cemetery poses to the environment. As a result of the EPR amendments, there are now 3 tiers of regulatory control:

- Exemptions (low risk)
- Standard Rules Permit (medium risk)
- Bespoke Permit (high risk)

A new cemetery development is defined as:

A cemetery development requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023.

- An extension to a cemetery requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023.

New cemetery developments that can meet 14 exemption conditions will be exempt from the requirement of an environmental permit. Further details on the exemption conditions can be found at: Low environmental risk cemeteries: exemption conditions - GOV.UK ([www.gov.uk](http://www.gov.uk))

*The Council note all the above and advise that the following Minor Modifications will be requested to add to the Policy and supporting text in answer to the above concerns.*

*Add as criteria to the Policy:*

*“Due to the nature of the previous development on the site, advice will need to be sought from the Environment Agency before a formal planning application is submitted.”*

*Add as new supporting text paragraph:*

*Environmental Protection*

*The Environment Agency advise:*

*For any formal planning application submission, a minimum tier 1 hydrogeological risk assessment will need to be undertaken, including a water features survey. Where the tier 1 risk assessment shows that there is a need for more detailed assessment (i.e. the best practice controls cannot be met) a tier 2 risk assessment may be required.*

*For information refer to the Environment Agency’s guidance: ‘Cemeteries and burials: prevent groundwater pollution’.*

*<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>*

*To ensure the site is an appropriate use of the land, all burials shall be:*

- *A minimum of 250m from a potable groundwater supply source*
- *A minimum of 30m from a watercourse or spring*
- *A minimum of 10m from any field drain*
- *A minimum of 1m above the highest annual groundwater level.*

*This will ensure the protection of the quality of controlled waters in the local area, specifically the secondary aquifer and adjacent waterbodies. Refer to position statement L3 of The Environment Agency's approach to groundwater protection ([publishing.service.gov.uk](https://publishing.service.gov.uk)).*

*For information on Environment Permits and approach to protecting groundwater from cemetery developments is published in "Protecting groundwater from human burials" on the .GOV.UK website. This explains the basics of why cemeteries have the potential to cause groundwater pollution and introduces the regulatory framework that cemeteries sit within. Burials of human remains (other than the burial of human ashes from crematoria) within cemeteries are "groundwater activities" as defined in paragraph 3 of Schedule 22 to the Environmental Permit Regulations (EPR).*

*The EPR provides a tool for the Environment Agency to use in its regulation of groundwater activities. The level of regulatory control that we apply to new cemetery developments is proportionate to the level of risk the cemetery poses to the environment. As a result of the EPR amendments, there are now 3 tiers of regulatory control:*

- *Exemptions (low risk)*
- *Standard Rules Permit (medium risk)*
- *Bespoke Permit (high risk)*

*A new cemetery development is defined as:*

- *A cemetery development requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023.*
- *An extension to a cemetery requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023.*

*New cemetery developments that can meet 14 exemption conditions will be exempt from the requirement of an environmental permit. Further details on the exemption conditions can be found at: [Low environmental risk cemeteries: exemption conditions - GOV.UK \(www.gov.uk\)](https://www.gov.uk)*

### Policy H3 – Gypsies, Travellers and Showpersons

We note the policy wording refers to the separate Gypsy and Traveller Site Allocations DPD. We have submitted separate formal representations on this DPD, most recently during the concurrent Main Modifications consultation.

*The Council note the above and advise that the DPD has now been adopted.*

## Policy HS1

The EA are supportive of the inclusion of this policy, within the Borough Plan Review, including reference to early consultation with Severn Trent Water to ensure appropriate infrastructure is available to meet the needs of strategic and non-strategic allocations, contained within the Plan, such as adequate capacity (both physical and environmental) at receiving sewerage treatment works. Reference should be made to your Water Cycle Study (evidence base) and Infrastructure Delivery Plan (IDP).

*The Council advise that the IDP is referred to in the supporting text of this Policy (paragraph 11.5). The current Water Cycle study is mentioned in the supporting text for Policy BE3.*

*The Council advise that the following Minor Modifications will be requested to add to the evidence base in this Policy in answer to the above concerns.*

*Add Existing WCS and reference to emerging WCS in evidence base of HS1.*

However, for windfall sites and perhaps some non-strategic allocations, the water quality impacts of installing non-mains foul drainage should be assessed during the planning process, along with other considerations as outlined on our non mains foul drainage assessment form (copy attached) for your consideration. The order of preference for foul waste water, including non mains drainage, should be included. The following wording is offered as an example:

“Development should follow the hierarchy (order of preference for foul drainage connection), as set out in the National Planning Practice Guidance. The Council requires non mains drainage proposals to assess the potential impacts upon water quality to ensure no detrimental impact on the water environment”. (Wyre Forest adopted local plan).

*The Council advise that the thrust of this except the example is already included in NE4.*

## Policy NE1

We welcome the inclusion of blue infrastructure within this policy. We also note the requirement for an 8 metre easement from all watercourses, (we would normally require 8m for main rivers, under our Flood Risk Activity Permit consenting regime, the LLFA may have a different approach for ordinary watercourses) but are supportive of this enhanced requirement.

*The 8m is referred to for main rivers in Policy NE3 but is also referred to in NE1 for all watercourses this is for ecological reasons. This is supported by the Ecology and Geodiversity Assessment evidence base carried out for the Local Plan Review*

## Policy NE3 – Biodiversity and Geodiversity

The EA welcomes the requirement for biodiversity net gain within the policy wording as it offers considerable scope to help create resilient places, through maximising opportunities to improve the water environment, manage flood risk and tackle climate

change. This is the agreed approach to managing the environment that leaves it in a measurably better state.

*The Council note the above.*

BNG offers considerable scope to help create resilient places, through maximising opportunities to improve the water environment, manage flood risk and tackle the climate emergency. This is the agreed approach to managing the environment that leaves it in a measurably better state.

*The Council note the above.*

We note the policy refers to Warwickshire County Council's biodiversity offsetting metric (until such a time this is superseded by the mandatory use of the national metrics). Our focus would be on blue infrastructure elements such as watercourses, riverside ecology, water-based habitat/relevant protected species.

*The Council note the above.*

We encourage the use of a natural capital approach to prioritise the use of nature-based solutions within all planning applications. A natural capital approach underpins the delivery of both biodiversity and environmental net gain. By creating bigger, better and more connected natural assets, we improve the resilience and flow of ecosystem services and the benefits society receives from them. Ecosystem services are functions and products that flow from natural assets and provide benefits to people. For example, ponds, reed beds and woodlands absorb carbon and help mitigate the effects of climate change by slowing floodwater and cooling the air.

*The Council note the above and advise that Climate change is a golden thread throughout the document.*

We welcome the reference of integrating green and blue infrastructure, including SuDS, to address climate impacts. Benefits from this infrastructure include reducing the need for both cooling and heating of buildings, and in turn associated GHG emissions. Tree planting, green walls and roofs should be encouraged. These provide multi-functional benefits including carbon sequestration, reducing exposure to poor air quality, wellbeing and biodiversity gains, flood resilience, and shading and cooling of buildings.

*The Council note the above.*

The policy or text could reference the Local Nature Recovery Strategy as a key part of the evidence base, which can be used to inform opportunities, multiple benefits and to tackle climate change e.g., through reduced flood risk, or carbon sequestration.

*The Council note the above and will recommend this is added as supporting text but there is not yet a LNRS in place.*

*The Council advise that the following Minor Modifications will be requested to be added to the supporting text in answer to the above concerns.*

The whole of Policy NE3 has been reviewed subsequent to this by WCC Ecology Team.. A requested amendment has already been carried out to the Policy and 'Warwickshire Local' has now been added to that particular paragraph reads:

*"Any proposal that directly or indirectly impacts on a highly distinctive ecological site must show that less distinctive ecological sites have been considered first and explain why those sites were not suitable. The assessment must demonstrate that the benefits of the development proposal will outweigh the immediate loss of biodiversity and/or geodiversity before development is permitted. The assessment must also demonstrate that the combination of proposed habitat retention, enhancement and any biodiversity offsetting, results in a minimum of a 10% net gain in biodiversity and where appropriate enhance 'at risk habitats' identified in the Biodiversity Action Plan, Green Infrastructure Strategy and any emerging Warwickshire Local Nature Recovery Plan. The assessment should include retention, enhancement and creation of ecological habitats and nature recovery. Developments that create new habitat should seek to accommodate a mix of predominantly native trees, including fruit trees as well as suitable species of street trees."*

Supporting text paragraph 12.27 now reads:

*12.27 The NPPF provides opportunities to help redress biodiversity losses from new development, as it promotes the concept of biodiversity net gains. The Environment Act 2021 takes this further and sets a legal requirement for planning permission to exceed the pre-development biodiversity value of the onsite habitat by at least 10%. The Council may wish to adopt a higher percentage after consultations within the preparation of the Warwickshire Local Nature Recovery Strategy. If this is the case, then due process prior to the adoption will be carried out.*

#### Policy NE4 – Managing flood risk and water quality

With regard to Climate Change and the consideration of flood risk over the lifetime of developments, we have produced a local area climate change guide (copy attached) which sets out how we would expect climate change to be considered in applications. As such, it would be helpful to include reference to this within the policy wording. Other LPAs have found it useful to include the following table which summarises the climate change allowances for certain types of development:

Development Vulnerability	Allowance (lifetime)
Essential Infrastructure	Higher Central - 2080's
Highly Vulnerable and More Vulnerable (residential), and some Less Vulnerable (commercial, and non-residential development where a period of at least 75 years is likely to form a starting point for assessment (see NPPG)	Central - 2080's
Water Compatible and temporary (shorter lifetime)	Central - 2050's

We welcome the reference to safe access and setting of appropriate finished floor levels, as well as the sections regarding water quality and groundwater quality. Our Area advice note details safe access requirements as follows:

“For ‘more vulnerable’ development, where overnight accommodation is proposed, the FRA should demonstrate that the development has safe, pedestrian access above the 1% river flood level plus climate change. Pedestrian access should preferably remain flood free in a 1% river flood event plus climate change. However, in cases where this may not be achievable, the FRA may demonstrate that pedestrian access is acceptable based on an appropriate assessment of ‘hazard risk’ including water depth, velocity and distance to higher ground (above the 1% river flood level plus climate change). Reference should be made to DEFRA Hazard risk (FD2320) – ‘Danger to People for Combinations of Depth & Velocity’ (see Table 13.1 – DEFRA/EA Flood Risk Assessment Guidance for New Development FD2320, page 118)”.

The inclusion of the above might make the policy wording clearer.

In the Managing Flood Risk section of the policy, we also recommend reference is made to ‘opportunities for flood risk reduction should be considered wherever possible, including the provision of additional flood storage capacity’. The sixth paragraph down in this section would be appropriate.

Furthermore, you might wish to add wording to the policy – ‘Contact the Environment Agency where a Flood Risk Assessment (FRA) is required, alongside consideration of their West Midlands area Flood Risk Assessment guidance.’

Furthermore, we recommend that reference is made to The Environment Agency’s Approach to Groundwater Protection (2018) – Position Statement G13 - Sustainable drainage systems:

The Government’s expectation is that sustainable drainage systems (SuDS) will be

provided in new developments wherever this is appropriate. The Environment Agency supports this expectation. Where infiltration SuDS are to be used for surface run-off from roads, car parking and public or amenity areas, they should:

- be suitably designed to meet Governments non-statutory technical standards for sustainable drainage systems – these standards should be used in conjunction with the National Planning Policy Framework (the Framework) and National Planning Practice Guidance (NPPG)
- use a SuDS management treatment train – that is, use drainage components in series to achieve a robust surface water management system that does not pose an unacceptable risk of pollution to groundwater

Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply. The design of infiltration SuDS schemes and of their treatment stages needs to be appropriate to the sensitivity of the location and subject to a relevant risk assessment, considering the types of pollutants likely to be discharged, design volumes and the dilution and attenuation properties of the aquifer. Unless the supporting risk assessments show that SuDS schemes in SPZ1 will not pose an unacceptable risk to the drinking water abstraction, the Environment Agency will object to the use of infiltration SuDS.

In line with the Level 2 SFRA, we also recommend some wording is included regarding ordinary/unmodelled watercourses, such as – ‘there are a number of small ordinary watercourses or rivers within the Borough which are not currently modelled but have the potential to cause fluvial flood risk. Modelling of these watercourses will be essential to inform the risk to any development proposals within the vicinity of unmodelled watercourses.’

In the ‘Flood risk management schemes (flood defences)’ section, we recommend additional policy wording is included: ‘in addition contributions should be sought to bring forwards new flood defence infrastructure, in line with the IDP and the Environment Agency’s Programme of pipeline works where appropriate’.

*The Council advise that none of the above was requested in the EA’s Officer response on the 6<sup>th</sup> July 2023 when a request was made for the EA to specifically review this Policy. However, it is considered that as this supports the Policy then an additional sub heading will be provided within the supporting text.*

*The Council advise that the following Minor Modifications will be requested to be added within the supporting text of the Policy in answer to the above concerns.*

*Add as a separate heading within supporting text the heading titled “Advice from the Environment Agency”. Then add the following under this heading Including table:*

Development Vulnerability	Allowance (lifetime)
Essential Infrastructure	Higher Central - 2080's
Highly Vulnerable and More Vulnerable (residential), and some Less Vulnerable (commercial, and non-residential development where a period of at least 75 years is likely to form a starting point for assessment (see <u>NPPG</u> )	Central - 2080's
Water Compatible and temporary (shorter lifetime)	Central - 2050's

*“In reference to safe access requirements the following criteria should be noted:*

*“For ‘more vulnerable’ development, where overnight accommodation is proposed, the FRA should demonstrate that the development has safe, pedestrian access above the 1% river flood level plus climate change. Pedestrian access should preferably remain flood free in a 1% river flood event plus climate change. However, in cases where this may not be achievable, the FRA may demonstrate that pedestrian access is acceptable based on an appropriate assessment of ‘hazard risk’ including water depth, velocity and distance to higher ground (above the 1% river flood level plus climate change). Refer to DEFRA Hazard risk (FD2320) – ‘Danger to People for Combinations of Depth & Velocity’ (see Table 13.1 – DEFRA/EA Flood Risk Assessment Guidance for New Development FD2320, page 118)”.*

*Opportunities for flood risk reduction should be considered wherever possible, including the provision of additional flood storage capacity’.*

*Applicants are encouraged to contact the Environment Agency where a Flood Risk Assessment (FRA) is required and consider the Agency’s West Midlands area Flood Risk Assessment guidance and Approach to Groundwater Protection (2018) – Position Statement G13 - Sustainable drainage systems:*

*The Environment Agency advise that, the Government’s expectation is that sustainable drainage systems (SuDS) will be provided in new developments wherever this is appropriate. The Environment Agency supports this expectation. Where infiltration SuDS are to be used for surface run-off from roads, car parking and public or amenity areas, they should:*

- be suitably designed*
- meet Governments non-statutory technical standards for sustainable drainage systems – these standards should be used in conjunction with the National*

*Planning Policy Framework (the Framework) and National Planning Practice Guidance (NPPG)*

- *use a SuDS management treatment train – that is, use drainage components in series to achieve a robust surface water management system that does not pose an unacceptable risk of pollution to groundwater*

*Where infiltration SuDS are proposed for anything other than clean roof drainage in a*

*Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply. The design of infiltration SuDS schemes and of their treatment stages needs to be appropriate to the sensitivity of the location and subject to a relevant risk assessment, considering the types of pollutants likely to be discharged, design volumes and the dilution and attenuation properties of the aquifer. Unless the supporting risk assessments show that SuDS schemes in SPZ1 will not pose an unacceptable risk to the drinking water abstraction, the Environment Agency will object to the use of infiltration SuDS.*

*In line with the Level 2 SFRA, all Flood Risk Assessment should consider ordinary/unmodelled watercourses, which have the potential to cause fluvial flood risk. Modelling of these watercourses will be essential to inform the risk to any development proposals within the vicinity of unmodelled watercourses.'*

*The Environment Agency advises that contributions for flood defences' may be sought by them to enable new flood defence infrastructure, in line with the IDP and the Environment Agency's Programme of pipeline works where considered appropriate".*

#### Policy BE1 – Contamination and land instability

You may wish to include the following wording within the policy:

When promoting land affected or potentially affected by contamination developers and site promoters are actively encouraged to engage with the Environment Agency as early as possible in the planning process to follow the risk management framework provided in Land Contamination Risk Management (LCRM) 2020, available on gov.uk.

Furthermore, we recommend developers of land affected by contamination should:

- Follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land
- contamination risks are appropriately managed
- Refer to the contaminated land pages on gov.uk for more information
- We would also refer to our Area Contaminated Land Guidance note for LPAs (see attached)

*The Council advise as this is repeating EA guidance this would sit better within supporting text. See below. However, the last bullet point has not been included as it will be the Council's Environmental Health Team referring to this when they assess planning applications.*

*The Council advise that the following Minor Modifications will be requested to be added to the supporting text of the Policy in answer to the above concerns.*

*Add as a separate heading within supporting text the heading titled "Advice from the Environment Agency". Then add the following under this heading:*

*When promoting land affected or potentially affected by contamination developers and site promoters are actively encouraged to engage with the Environment Agency as early as possible in the planning process to follow the risk management framework provided in Land Contamination Risk Management (LCRM) 2020, available on gov.uk.*

*Furthermore, the Environment Agency recommend developers of land affected by contamination should:*

- Follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination*
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health*
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land*
- contamination risks are appropriately managed*
- Refer to the contaminated land pages on gov.uk for more information*

#### Policy BE2 – Renewable and Low Carbon Energy

We encourage that all policies in the DPD review align with national net zero targets and mitigation policies.

The UK has set out in law the target of achieving net zero by 2050. The Climate Change Act (2008) states that 'it is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.' To achieve this, the annual rate of GHG emissions will need to be cut by over 260 million tonnes (Mt) CO<sub>2</sub>e (carbon dioxide equivalent) from 2019 levels to less than 90 Mt CO<sub>2</sub>e in 2050 (CCC, 2019a).

There is a statutory duty on LPAs to include policies in their Local Plans designed to tackle climate change and its impacts. Section 19 of the Planning and Compulsory Purchase Act 2004 states that 'Local development plans must include policies designed to secure that the development of and use of land contribute to mitigation of and adaptation to climate change'.

Revisions to the Framework in 2021 include a requirement to promote a sustainable pattern of development, by mitigating climate change and adapting to its effects (para 11a). The NPPF also states (para 134) that enhanced local policies and government guidance on design should be given 'significant weight'.

The Environmental Assessment of Plans and Programmes Regulations 2004 creates a legal duty and requirement that a plan's cumulative climate impacts are assessed and taken into account. This includes assessing the consistency of proposed policies with all relevant climate objectives and targets.

Overall, we welcome the inclusion of Policy BE2 to assist in achieving national net zero targets by 2050.

*The Council advise all the above is noted - the approach that NBBC has taken was that this would be a golden thread throughout rather than in isolated policies.*

#### Policy BE3 – Sustainable design and construction

We note the policy wording includes for new residential development to be designed to achieve a maximum usage of 110 litres per person per day. There is still scope to go beyond this recommended water efficiency standard. The tighter water efficiency standards can be justified with reference to the following guidance documents: (<https://www.gov.uk/guidance/housing-optional-technical-standards>) and the Environment Agency publication - Water Stressed Areas final classification 2021 '<https://www.gov.uk/government/publications/water-stressed-areas-2021-classification>.

This identifies areas of serious water stress where household demand for water is (or is likely to be) a high proportion of the current effective rainfall available to meet that demand.

*The Council note the comments, however, the NPPF refers to not going above the higher building regulations and only the requirements for 110 litres have been tested for viability. The wording is to be amended to be a minimum so developers can go beyond this. However, the above evidence will be included within the Local Plan see Officer requested Minor Modifications below.*

We encourage you to also include policy requirements for grey water recycling and rainwater harvesting for new developments (designed at an appropriate scale). This would help create places resilient to climate change, contribute toward achieving net zero emissions and reduce the demand for water. Further information is available from Waterwise - RWH and GWR Myth Busting – Waterwise

*The Council advise the above is included within BE3 criteria 18 and within the Council's Sustainable Design and Construction SPD (2020)*

*The Council advise that the following Minor Modifications will be requested to be added to the supporting text of the Policy in answer to the above concerns.*

*Add to paragraph 13.32 under water efficiency of Policy BE3 the following evidence base info also include within the evidence base section of this Policy.*

*"The Environment Agency publication - Water Stressed Areas final classification 2021*

*Add the web address for this as a footnote.*

<https://www.gov.uk/government/publications/water-stressed-areas-2021-classification> and <https://www.gov.uk/guidance/housing-optional-technical-standards>

### Evidence Base Documents

The Level 2 SFRA prepared by JBA (Final Report A1-C01, August 2023) indicated that despite most sites not being at significant risk from fluvial flooding, updated fluvial modelling showed sites GAL-7, SHA-1, SEA-2, SEA-4 and SHA3-4 have some fluvial flood risk. Where there is a risk of flooding from rivers, development can avoid those areas, as the proportion of land at risk of flooding from rivers is small. Where flood risk is identified for any proposal, the requirements of Borough Plan Policy NE4 – Managing Flood Risk and Water Quality – would need to be met.

We note the updated climate change allowances have been referenced in paragraph 10.20 of the SFRA.

We note the Sequential and Exception Test Report (2023) also forms part of the evidence base, the outcome of which is that the LPA are satisfied that the Sequential and Exceptions Tests can be passed for all of the allocated (strategic and non-strategic) sites in the Publication Draft of the Borough Plan Review.

*The Council note the above.*

### Borough Plan Review – Infrastructure Delivery Plan (2023)

We note Section 7.3 of the IDP states: 'From consultation with STW representatives there are some capacity issues within the Borough, although it is understood that with appropriate mitigation these can be overcome. In relation to wastewater treatment, at this stage no issues have been identified relating to capacity. This will be kept under review and further engagement with Severn Trent and the Environment Agency will take place as required.'

We also note a Joint Warwickshire Partnership Water Cycle Study (WCS) was prepared in 2017 by AECOM and we recommend that this is included within the evidence base for the DPD Review.

*The Council notes the above paragraphs.*

Table 3-10 in the 2017 report shows a Wastewater treatment works summary for all of the wastewater treatment works in the area. For those relevant to the proposed growth in the DPD, whilst there may be inadequate headroom current to meet future demand from all planning growth up to 2031, the table suggests there are permit tightening solutions which means a permit update is possible to ensure no deterioration in status. We recommend where the ability for future infrastructure to meet growth aspirations is included in Section 7.0 of the IDP, with reference to the 2017 WCS.

With reference to the Environment Agency's pipeline of potential plans and projects, there are two projects to note –

- Weddington, Nuneaton Flood Alleviation Scheme – this project in summary seeks to increase surface water sewer capacities and increase capacity of watercourse by regrading; and
- Queens Road, Nuneaton – this comprises of potential flood defence works.

Section 10 of the IDP could be updated to reflect these pipeline projects. As above, developments should provide financial contributions to the delivery of these schemes where appropriate.

*The Council notes comments in paragraphs 3, 4 and 5 above and will add to IDP as Minor Modifications.*

*The Council advise that the following Minor Modifications will be requested to be added to the IDP in answer to the above concerns.*

*Add to IDP section 7 the following:*

*“Requirements for the ability for future infrastructure to meet growth aspirations for affected Wastewater treatment works. Reference should be made to the Joint Warwickshire Partnership Water Cycle Study 2017 available at [Document downloads - Flooding and water cycle | Nuneaton & Bedworth \(nuneatonandbedworth.gov.uk\)](#) and the emerging Joint Water Cycle Study due for publication 2024.”*

*Add to IDP section 7.7 the following:*

*“Queens Road, Nuneaton – this comprises of potential flood defence works”*

### Conclusion

As outlined above, bearing in mind the Environment Agency’s involvement to date and the comments made within this letter, we would be happy to engage further on such matters, perhaps through a statement of common ground.

### **Further joint working**

This Statement of Common Ground will be kept up to date through continuous engagement and cooperation between NBBC and the EA.

### **Monitoring**

This Statement will be maintained by NBBC and updated as necessary with the EA.

NBBC will continue to work with the EA beyond the adoption of the Borough Plan Review for the monitoring and implementation of the Plan.

## Signatories

Signature: 	Signature: Mrs Tessa Jones
Maria Bailey, Assistant Director for Planning, NBBC	Tessa Jones, Environment Agency Planning Specialist
Date:06.02.24	Date: 06.02.24

# Appendix A

North  
Warwickshire  
Borough

Hinckley and  
Bosworth Borough

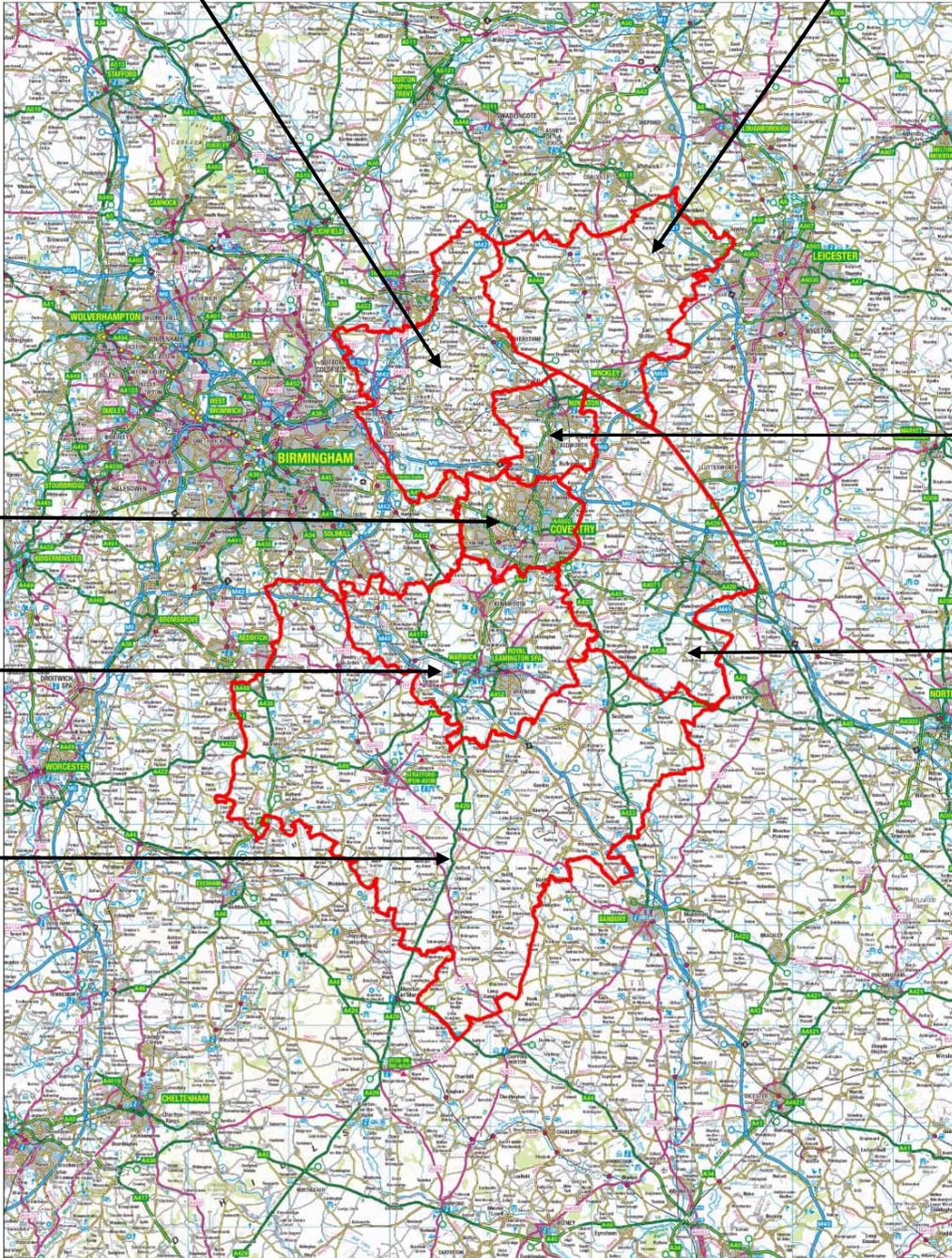
Coventry  
City

Nuneaton  
and  
Bedworth  
Borough

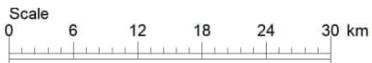
Warwick  
District

Rugby  
Borough

Stratford-  
on-Avon  
District



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