Alison Osborne-Newbold

From: Jones, Tessa <[redacted]
Sent: 16 October 2023 21:19
To: Planning Policy
Subject: FW: Consultation notification - Publication version of Borough Plan Review and Main Modifications to Gypsy and Traveller Site Allocations DPD
Attachments: 2023_WM Foul Drainage Assessment Form.doc; 2023_West Midlands_Climate Change Guidance.pdf; 2023_WM Guidance Note for Local Planning Authorities - Sites Affected by Land Contamination.pdf; 111916 - Borough Plan Review Development Plan Document (DPD) Publication version (Regulation 19.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: WIP

Dear Sir/Madam,

Please find attached the Environment Agency's formal comments to the Borough Plan Review Development Plan Document (DPD) – Publication version (Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012).

As set out in our letter, we would welcome further discussions with you on this.

Many thanks,
Tessa

Tessa Jones BSc (Hons), MSc, MRTPI
Planning Specialist – Sustainable Places
(Wednesday – non working day)

[redacted]
Mance House, Arthur Drive, Kidderminster, Worcestershire, DY11 7RA

Environment Agency
West Midlands Area

From: Planning Policy <planning.policy@nuneatonandbedworth.gov.uk>
Sent: 04 September 2023 08:58
To: Sarah Matile <[redacted]>; Jacqueline Padbury
[redacted]
Subject: Consultation notification - Publication version of Borough Plan Review and Main Modifications to Gypsy and Traveller Site Allocations DPD

Dear Sir / Madam,

Nuneaton and Bedworth Borough Council will commence consultation today on the following planning policy documents:

Borough Plan Review Development Plan Document (DPD) – Publication version (Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012)

The Borough Plan Review sets out the strategy for the Borough for the plan period up to 2039. This is the final opportunity to have your say before the Plan is submitted to a Government Planning Inspector for independent examination. This is different from previous stages as it no longer seeks views on alternative options. This Regulation 19 consultation will require submissions to specifically focus on the following issues:

- Legal Compliance – does the plan meet the legal requirements made under various statues?
- Duty to Cooperare – has the Council engaged and worked effectively with neighbouring authorities and statutory bodies?
- Soundness – has the plan been positively prepared, justified, effective, and consistent with national policy?

Gypsy and Traveller Site Allocations Development Plan Document (DPD) – Main Modifications

The Gypsy and Traveller DPD plans to provide sufficient sites to meet the Gyspy, Traveller and Travelling Showpeople needs up to 2037. As part of the Examination process, amendments to the DPD have been agreed with the Inspector. 'Main' modifications are those recommended by the Inspector to make the DPD sound and legally compliant, and 'additional' modifications are those which do not materially affect the Policies in the DPD, but which are generally minor factual updates; corrections of any errors or which are considered necessary for clarity.

Taking part

The documents above will be subject to a 6 week public consultation. The consultation documents, supporting documents and response forms can be found on the Council's website at www.nuneatonandbedworth.gov.uk/consult. Hard copies of the documents are also available for inspection at the following: Bedworth Library; Bulkington Community Library; Nuneaton Library and Nuneaton Town Hall, Coton Road, Nuneaton CV11 5AA.

To support the consultation, officers of the Council will be available to answer questions on the consultation at Nuneaton Town, Coton Road, Nuneaton, CV11 5AA on Monday to Friday between 10am and 2pm.

All responses should preferably be sent via email to planning.policy@nuneatonandbedworth.gov.uk or in writing to:

Planning Policy
Nuneaton and Bedworth Borough Council
Town Hall
Coton Road
Nuneaton
CV11 5AA

The consultation will run from the 4th September 2023 and all comments should be received by 11:59pm on **16th October 2023**.

If you require further information in relation to the consultation, please contact the Planning Policy team on 02476 37 6288.

Many thanks
Planning Policy Team

Flood Risk and Coastal Change

Climate Change allowances for planning (West Midlands area)

March 2023

The National Planning Practice Guidance refers to Environment Agency guidance on considering climate change in planning decisions which is available online: https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances

This has been updated and replaces the March 2016 guidance.

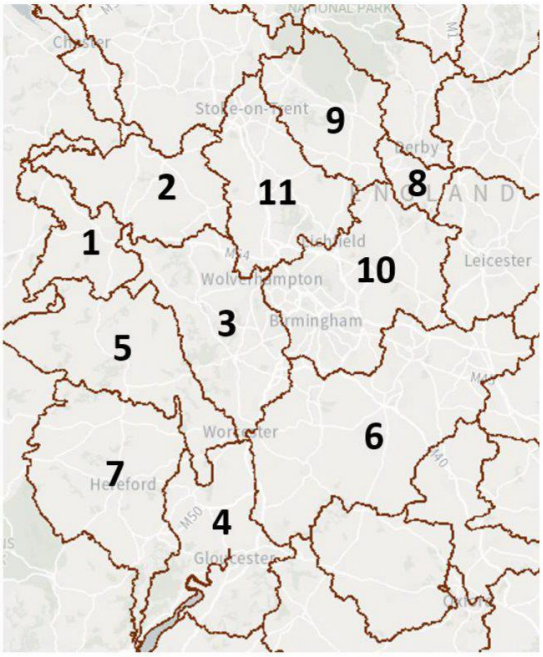
It should be used to help planners, developers and advisors implement the National Planning Policy Framework (NPPF)'s policies and practice guidance on flood risk. It will help inform Flood Risk Assessments (FRA's) for planning applications, local plans, neighbourhood plans and other projects.

Fluvial flooding – peak river flows

NPPG advises that an allowance should be added to 'peak river flows' to account for 'climate change' which should be specific to a 'management catchment' and development type (vulnerability). To work out which management catchment allowances to use, you need to: access the climate change allowances for peak river flow map

In West Midlands area, we would refer you to the map extract on page 2 below. This outlines the **'peak river flows'** within the specific 'Management catchments' for the area including Severn River Basin District and Humber River Basin District and specifies the range of percentage allowances to reflect individual development's vulnerability and lifetime. The following allowances should be used:

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



Extract: Management Catchments within the Severn River Basin District and Humber River Basin District - refer to interactive peak river flow map for more detail. The Environment Agency also provide these allowances in the peak river flow climate change allowances by management catchment **table** – you have to know your management catchment to get the information you need. (Allowances reflect the latest projections in UKCP18 and subsequent research that models how the latest rainfall projections are likely to affect peak river flows).

1. Severn Uplands Peak River Flows	2020's	2050's	2080's
Higher Central	17%	24%	43%
Central	13%	18%	33%

2. Severn Middle Shrops Peak River Flows	2020's	2050's	2080's
Higher Central	20%	25%	44%
Central	15%	18%	33%

3. Severn Middle Worcs River Flows	2020's	2050's	2080's
Higher Central	16%	21%	40%
Central	12%	15%	30%

4. Severn Vale Peak River Flows	2020's	2050's	2080's
Higher Central	20%	28%	53%
Central	14%	19%	37%

5. Teme Peak River Flows	2020's	2050's	2080's
Higher Central	21%	33%	60%
Central	16%	24%	45%

6. Avon Peak River Flows	2020's	2050's	2080's
Higher Central	12%	14%	32%
Central	7%	8%	21%

7. Wye Peak River Flows	2020's	2050's	2080's
Higher Central	19%	27%	49%
Central	14%	20%	37%

8. Dove Peak River Flows	2020's	2050's	2080's
Higher Central	17%	24%	40%
Central	13%	18%	31%

9. Lower Trent and Erewash	2020's	2050's	2080's
Higher Central	18%	23%	39%
Central	13%	17%	29%

10. Tame, Anker and Mease Peak River Flows	2020's	2050's	2080's
Higher Central	15%	17%	30%
Central	10%	11%	22%

11. Trent Valley Staffs Peak River Flows	2020's	2050's	2080's
Higher Central	19%	23%	39%
Central	15%	17%	29%

Sea Level rise allowances

Table 3 of the guidance (extract below) indicates that net sea level risk is as follows (updated from the 2013 version).

Area of England	Allowance	2000 to 2035 (mm)	2036 to 2065 (mm)	2066 to 2095 (mm)	2096 to 2125 (mm)	Cumulative rise 2000 to 2125 (metres)
South West	Higher central	5.8 (203)	8.8 (264)	11.7 (351)	13.1 (393)	1.21
South West	Upper end	7 (245)	11.4 (342)	16 (480)	18.4 (552)	1.62

Note - For sites utilising the Severn tidal model the above allowances should be considered and applied. As of August 2020, specific updated flood level data is now available for the 2096 to 2125 epoch based upon the Environment Agency's Tidal Severn model within the West Midlands area and will be provided where relevant as part of our Request For Information service; contact Enquiries_Westmids@environment-agency.gov.uk

Flood Risk Assessment considerations:

The design flood (1% flood level fluvial, or 0.5% tidal, plus climate change allowance) should be used to inform the sequential test, including appropriate location of built development; consideration of flood risk impacts, mitigation/enhancement and ensure 'safe' development.

Vulnerability classification

- Development classed as 'Essential Infrastructure' (as defined within Table 2 - Flood Risk Vulnerability Classification, Paragraph: 066 Reference ID: 7-066-20140306 of the NPPG) should be designed to the 'higher central' climate change allowance (2080).
- For highly vulnerable or more vulnerable development e.g. housing, and some less vulnerable e.g. commercial, the FRA should use the 'central' climate change allowance (2080), as a minimum, to inform impact and built in resilience.
- For water compatible e.g. sand and gravel workings, or some temporary (shorter lifetime) uses, the FRA should use the 'central' climate change allowance (2050), as a minimum, to inform impact and built in resilience.

Assessing off-site impacts and calculating floodplain storage compensation

The appropriate allowance to assess off-site impacts and calculate floodplain storage compensation depends on land uses in affected areas. Use the central 2080 allowance for most cases (including where more vulnerable or highly vulnerable is affected) but apply the higher central allowance when the affected area contains essential infrastructure.

Modelling approach

- **Major Development**:

For ‘major' development (as defined within The Town and Country Planning Development Management Procedure (England) Order 2015)*, see definition note below, we would expect a detailed FRA to provide an appropriate assessment (hydraulic model) of the 1% with relevant climate change ranges.

There are two options:

Scenario 1 - Produce a model and incorporate relevant climate change allowances within your Management catchment area location.

Scenario 2 - Re-run an existing model and incorporate relevant climate change allowances as specified in the Management catchment area data.

- **Non Major Development**:

For 'non major' development, we would advise that a model is produced or existing model is re-run, similar to the above approach (Scenario 1 and 2). This would give a greater degree of certainty on the design flood extent to inform a safe development.

However, for 'non major' development only, in the absence of modelled climate change information it may be reasonable to utilise an alternative approach. To assist applicants and Local Planning Authorities we have provided some ‘nominal’ climate change allowances within the 'Table of nominal allowances' below. These should be considered as appropriate within any FRA. There are three additional options:

Scenario 3 - Where previous modelled data (for a variety of return periods) is available, you could interpolate your own climate change figure (see notes below).

Scenario 4 - Where the 1% level is available from an existing model add on the relevant 'nominal climate change allowance' provided in the 'Table of nominal allowances' below.

Scenario 5 - Establish the 1% level, for example using topographical levels (including LiDAR) and assessment of watercourse flow and nature and then add on the relevant 'nominal climate change allowances' provided in the 'Table of nominal allowances' below.

– *Note: For definitions of 'major' development see 'Interpretation 2.—(1)', on page 5, at: www.legislation.gov.uk/uksi/2015/595/pdfs/uksi_20150595_en.pdf

Table of Nominal Allowances

Watercourse	Central allowance (2050s)	Central allowance (2080s)
Upper Severn (1)	600mm	850mm
River Wye		
River Teme		
Lower Severn (1)	400mm	600mm
Urban areas of Stafford (2) Sandyford & Kingston Brooks		
River Churnet		
Upstream River Stour (Worcestershire) and tributaries (3)		
River Arrow & River Alne	200mm	400mm
River Avon (4)		
River Trent		
River Tame		
River Rea and tributaries		
River Cole		
Tributaries and 'ordinary watercourses' (5)	200mm	300mm

Notes to above:-

1. The Upper Severn / Lower Severn boundary is taken as Bevere Weir, North of Worcester (National Grid Reference: SO8376859428). These do not directly relate to management catchments.

2. 'Urban Stafford' refers to the tributaries of the River Sow through the urban areas of Stafford. These watercourses are the Sandyford Brook and Kingston Brook.

3. 'River Stour (Worcestershire) and tributaries' refers to all watercourses in the River Stour catchment upstream of the confluence between the Smestow Brook and River Stour (National Grid Reference: SO8626685396). Downstream of this location, the 'tributaries and ordinary watercourses' nominals should be used.

4. Use of the 'River Avon' nominal is only valid upstream of the M5 crossing (National Grid Reference: SO9146836959) and downstream of this point, the 'Lower Severn' nominals should be used.

5. An 'Ordinary Watercourse' is a watercourse that does not form part of a main river. Main Rivers are indicated on our Flood Map. You can also check the classification of the watercourse with the LLFA, some of which have produced Drainage and Flooding Interactive Maps.

The 'Tributaries and ordinary watercourses' nominals should be used for all other watercourses that are not clearly defined within the table. Please note that we may hold more accurate data for some watercourses and recommend you request all relevant information via a data request to Enquiries_Westmids@environment-agency.gov.uk Where we do hold up to date information, this should be used over the values given in this table.

6. IMPORTANT NOTES
Where a site is near the confluence of two, or more, watercourses, the FRA should use the larger river climate change allowances.

We recommend that you contact us for our modelled '20%' allowances and associated flow data. This is available for some rivers. This data may help inform a more detailed climate change analysis (where necessary), including any interpolation of levels or flow to create a 'stage discharge rating' to estimate the required percentage; or be of assistance to inform some temporary or 'water compatible' development proposals.

Please note the nominal climate change allowances are provided as a pragmatic approach, for consideration, in the absence of a modelled flood level and the applicant undertaking a detailed model of the watercourse. The confidence of nominals may be lower for some smaller urban rivers and heavily culverted watercourses, but they are an indicative suggested allowance. In these situations, the applicant may choose to remodel and verify such. Use of nominal climate change allowances are not provided/ recommended as a preference to detailed modelling and historical data.

The Local Planning Authority may hold data within their Strategic Flood Risk Assessment (SFRA), or any future updates, which may help inform the above.

FREEBOARD NOTE
It is advised that Finished Floor Levels should be set no lower than '600mm' above the 1% river flood level plus climate change. Flood proofing techniques might be considered where floor levels cannot be raised (where appropriate). This 600mm freeboard takes into account any uncertainties in modelling/flood levels and wave action (or storm surge effects).

Surface Water

The guidance also indicates the relevant surface water allowances that the FRA should consider, for an increase in peak rainfall intensity. The peak rainfall allowances map shows anticipated changes in peak rainfall intensity. Use '2050s' for development with a lifetime up 2060 and use the 2070s epoch for development with a lifetime between 2061 and 2125.

Use these for site-scale applications (for example, drainage design), and for surface water flood mapping in small catchments (less than 5 square kilometres) and urbanised drainage catchments. A drainage catchment is urban if the land use is a town or city. If you are unsure if your catchment is urban or rural, please contact the lead local flood authority.

For Development with a lifetime beyond 2100 e.g. residential, use 'upper end' allowances. For development up to 2060, and between 2060 and 2100, use the 'central' allowances. You should ensure development has no impact on surface water and is safe in the design event.

Note - For modelling large areas (larger than 5 square kilometres) with rural land use, direct rainfall modelling is unlikely to be appropriate and fluvial flood risk should be assessed using the peak river flow allowances. Do not use the peak river flow allowances to adjust rainfall totals as they are not compatible.

Produced by: WestMidsPlanning@environment-agency.gov.uk

West Midlands Area - Sustainable Places Team.

Foul Drainage Assessment Form
Planning Guide for use only in EA West Midlands Area

The Environment Agency is a statutory consultee for major developments which do not use the services of a sewerage undertaker for the disposal of sewage proposals as defined in Schedule 4, Paragraph zd, of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

This Planning Guide and **Foul Drainage Assessment form** is Standing Advice for your use. It applies to the following types of development:

- Major Residential development, which do not use the services of a sewerage undertaker for the disposal of sewage (i.e. non-mains foul drainage proposals), including those of less than 80 dwellings proposing non-mains foul drainage, unless located within Source Protection Zone 1 (SPZ1);
- All non-residential development proposing non-mains foul drainage, unless located within Source Protection Zone 1 (SPZ1) and/or it is for the disposal of trade effluent where the building is +1000m^2 / site area is +1ha.

This is provided in accordance with our provision of 'standing advice' as in the meaning of making a 'substantive response' described in Part 4 – Consultation, Paragraph 22 (5) (c) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

For Non-Major Development we would advise you utilise the foul drainage assessment form to assist you and developers in the determination of relevant planning applications.

This guidance may also be used when providing pre-application advice to proposers.
Please do not hesitate to contact us if there are any queries: WestMidsPlanning@Environment-Agency.gov.uk

Key Principles:

Any planning application that proposes non-mains foul drainage should be accompanied by sufficient information to understand the potential implications for the water environment.

Domestic Drainage
The utilisation of non-mains drainage as part of your planning proposal will only be allowed in exceptional circumstances and you must provide evidence that a connection to the sewer is not practicable.

Government guidance contained within paragraph 20 of subsection 2 of the Water Supply Wastewater and Water Quality section of the Planning Practice Guidance (PPG), gives a hierarchy of drainage options that should be considered and discounted in the following order:

1. **Connection to the public sewer**;
2. **Package sewage treatment plant** (PTP) (This could either be adopted in due course by the sewerage company or owned and operated under a new appointment or variation);
3. **Septic tank** (discharging to soakaway);

Requirement H1 of the Building Regulations (Approved Document H - Drainage and Waste Disposal - 2002 Edition incorporating 2010 and 2015 amendments) has a similar hierarchy. The document is available at: https://www.gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h This is also a requirement of the general binding rules for small sewage discharges and is reiterated in our approach to Groundwater Protection (2018).

Trade Effluent
The utilisation of non-mains disposal of part of your planning proposal will only be allowed in exceptional circumstances and you must provide evidence that a connection to the sewer is not practicable.

Key Points to Consider:

- **This foul drainage assessment (form as follows) should be submitted with the planning application, detailing how foul drainage will be safely disposed of from the proposed development, through consideration of a number of factors. A map showing the location of the proposed disposal mechanisms (incl. treatment plants with point of discharge/soakaway, septic tanks and soakaways) and where relevant porosity test results must be provided. The application may be considered invalid or recommended for refusal without this information.**

- Paragraph 20 in subsection 2 of the Water Supply Wastewater and Water Quality section of the PPG states "When drawing up wastewater treatment proposals for any development, **the first presumption is to provide a system of foul drainage discharging into a public sewer** to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This should be done in consultation with the sewerage company of the area."

- It also states that "Where a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered."

- The relevant sewerage utility company should be contacted to confirm that connection to the foul drainage sewerage system is available. If there are capacity issues a bilateral or unilateral S106 obligation may include contributions to upgrade the system to accommodate the development.

- If a mains foul sewer connection is not feasible, a PTP is considered the next most sustainable option. Some development types warrant the use of a septic tank rather than a PTP, an example of this would be a holiday let/s where effluent volumes would be more intermittent than a residential use or where there is an isolated single dwelling, preventing effective operation of the PTP. Additionally, isolated single dwellings may be best served by septic tank and soakaway, subject to appropriate justification. Where connection to the public sewer is considered unfeasible, it is recommended you provide a minimum of two quotes from independent contractors to ascertain the cost of connection to the sewer, with comparable costings for the installation of a non-mains drainage system. This will not be required where developments are located an excessive distance from the sewer or where there are overriding physical constraints preventing connection. When considering the relative costs of connection to the mains or a non-mains system, it is recommended that a 'correction figure' of between £4000-£8000 per property be added to the cost of non-mains systems, in order to account for the maintenance and environmental impacts of providing a non-mains system. This figure will vary depending on the scale and nature of development. The total costs of each system will then be compared and the non-mains system permitted only if it is considered to be financially unfeasible to connect to the foul sewer.

- If it is proposed to utilise alternative or a combination of foul sewage treatment and disposal techniques including reed beds, these may be acceptable only where a mains sewer connection is not available. Full details of these should be provided with the planning application.

Foul Drainage Assessment Form

A. MAINS SEWER

Are you proposing a connection to the mains foul sewer? **Y/N**

If YES, a map showing the nearest mains connection point (check with your local sewerage undertaker) should be submitted, with confirmation of capacity. If mains connection is available and has confirmed capacity no further question need be answered. ☐

If NO because of capacity issues you should discuss a S106 obligation with utility company/LPA.
If NO because of physical constraints and you have provided quotations for connection to the mains sewer and non-mains system or have valid overriding reasons for not connecting to the sewer (as outlined in the 'key points to consider' on page one), go to part B.

If you are yet to obtain the necessary quotations, there is insufficient information to assess the drainage proposals. You should seek this information prior to the submission of a planning application.

Connection to the public foul sewer should be considered to be potentially feasible where the distance from the development site to the sewer is less than the number of properties multiplied by 30m, as explained in the guidance on the General Binding Rules.

B. NON-MAINS

Are you proposing a development which is intended to be permanently occupied, for example residential dwellings (not including a single isolated dwelling) or commercial/industrial building?
If YES, please complete part B1 with the consideration of a package sewage treatment plant (PTP) with discharge to watercourse or soakaway. ☐
If NO, please complete part B2 with consideration of a septic tank discharging to soakaway.

B1. Private means of sewage disposal from development with permanent/ non seasonal occupation

Discharge to watercourse

1. Are you proposing to discharge to a watercourse / stream from the proposed development?
If YES, go to point 2. ☐
If NO, go to point 7 regarding a ground soakaway.

2. Is the watercourse / receiving waters a SSSI designated by Natural England, or important for water quality reasons? e.g. a salmonid or cyprinid fisheries designation*
If YES, it is unacceptable to discharge foul effluent to the watercourse and a soakaway should be considered. Go to point 7. ☐
If NO, go to point 3.

3. Will the treatment plant be sited at least 7 metres from the habitable part of any new or existing building?
If YES, go to point 4. ☐
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered.

4. Will the treatment plant be sited at least 10 metres from any watercourse, permeable drain or land drain?
If YES, go to point 5. ☐
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered.

5. Will the treatment plant be sited at least 50 metres from any point of abstraction from the ground for a drinking supply (including your own or your neighbour's supplies), lake, pond or other water feature?
If YES, go to point 6. ☐
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered.

6. <u>Based upon your answers, and submission of scaled details of the drainage system, and constraints/water features at this stage, a package treatment plant discharging to the watercourse would be acceptable in principle, subject to the following important note:</u>

Under the Environmental Permitting Regulations (2010) an Environmental Permit may be required from the Environment Agency for the discharge of treated effluent to a watercourse. This permit may be withheld. Please note that if the discharge is of **5m³/day or more,** or the General Binding Rules cannot be met (General binding rules: small sewage discharge to a surface water - GOV.UK (www.gov.uk), then a permit has to be applied for. The applicant should liaise with the Environment Agency, in order to obtain a permit to discharge and provide sufficient detail to enable the Council to inform decision making and subsequently discharge relevant foul drainage conditions imposed on the planning permission.

Discharge to soakaway (see Notes on 'porosity and drainage fields' below)

7. Will the treatment plant and ground soakaway be sited at least 10 metres from any watercourse, permeable drain or land drain and at least 1.0 metres above the maximum water table level?

If YES, go to point 8.
If NO the proposal is NOT ACCEPTABLE, and should be reconsidered. ☐

8. Will the treatment plant and ground soakaway be sited at least 50 metres from any point of abstraction from the ground for a drinking supply (including your own or your neighbour's supplies), lake, pond or other water feature, and outside any Inner Groundwater Protection Zone (Source Protection Zone 1)? ☐

If YES, go to point 9.
If NO, the proposal is NOT ACCEPTABLE, and should be reconsidered.
NOTE: *Where discharge would be within 250metres of such an abstraction, a risk assessment may be required by the Environment Agency as part of an Environmental Permit application. (Pre-Permitting application discussion is advised at this stage*).

9. Will the treatment plant ground soakaway be at least 15 metres from any building?

If YES, go to point 10.
If NO, the proposal is NOT ACCEPTABLE, and should be reconsidered. ☐

10. Will the treatment plant be at least 7 metres from the habitable part of any new or existing building?

If YES, go to point 11.
If NO, the proposal is NOT ACCEPTABLE, and should be reconsidered. ☐

11. Are porosity test results submitted, which fall within the acceptable range of between 15 and 100 seconds Vp (percolation value) (see Porosity Test Advice Note on page 5)?

If YES, go to point 12.
If NO, reconsider location of soakaway, go to part B1 "Discharge to watercourse" or otherwise go to part B3. ☐

12. Based upon your answers, and submission of scaled details of the drainage system, constraints/water features and porosity tests at this stage, a package treatment plant discharging to a soakaway would be acceptable in principle, subject to the following important note:

Under the Environmental Permitting Regulations (2010) an Environmental Permit may be required from the Environment Agency for the discharge of treated effluent to ground. This permit may be withheld. Please note that if the discharge is of **2m³/day or more**, or the General Binding Rules cannot be met (General binding rules: small sewage discharge to the ground - GOV.UK (www.gov.uk), then a permit has to be applied for. The applicant should liaise with the Environment Agency in order to obtain a permit, to inform decision making and subsequently enable the Council to discharge relevant foul drainage conditions imposed on the planning permission.

B2. Private means of sewage disposal from development utilising septic tank
(NB. septic tanks cannot discharge into the watercourse and must receive additional treatment from a drainage field)

1. Will the septic tank and ground soakaway be at least 10 metres from any watercourse, permeable drain or land drain and at least 1.0 metres above the maximum water table level?

If YES, go to point 2.
If NO, the proposal is NOT ACCEPTABLE, and should be reconsidered. ☐

2. Will the septic tank and ground soakaway be sited at least 50 metres from any point of abstraction from the ground for a drinking supply (including your own or your neighbour's supplies), lake, pond or other water feature, and outside any Inner Groundwater Protection Zone (Source Protection Zone 1)?

If YES, go to point 3. ☐
If NO, the proposal is NOT ACCEPTABLE, and should be reconsidered.
NOTE: *Where discharge would be within 250metres of such an abstraction, a risk assessment may be required by the Environment Agency as part of an Environmental Permit application. (Pre-Permit application discussion is advised at this stage*).

3. Will the septic tank ground soakaway be at least 15 metres from any building?

If YES, go to point 4. ☐
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered.

4. Will the septic tank be at least 7 metres from the habitable part of any new or existing building?

If YES, go to point 5. ☐
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered.

5. Are porosity test results submitted, which fall within the acceptable range of between 12 and 100 seconds Vp (percolation value) (see Porosity Test Advice Note on page 5)?

If YES, go to point 6. ☐
If NO, reconsider location of soakaway, or otherwise go to point B3.

6. **Based upon your answers, and submission of scaled details of the drainage system, constraints/water features and porosity tests at this stage a septic tank discharging to a soakaway would be acceptable in principle, subject to the following important note**:

Under the Environmental Permitting Regulations (EPR, 2010) an Environmental Permit may be required from the Environment Agency for the discharge of treated effluent to ground – Groundwater Activity. This permit may be withheld. Please *note that* if the discharge is of **2m^3/day or more**, or the General Binding Rules cannot be met (General binding rules: small sewage discharge to the ground - GOV.UK (www.gov.uk), then a permit has to be applied for. The applicant should liaise with the Environment Agency in order to obtain a permit, to inform decision making and subsequently discharge relevant foul drainage conditions imposed on the planning permission.

B3. Discharge to ground where soakaway porosity test results not within acceptable range.

Reference should also be made to 'Approved document H 2002 Edition incorporating 2010 and 2015 amendments', Section H2, to consider alternative systems of soakaway design, which upon consideration may mean that, whilst the porosity test result is not within the required range, an enhanced system would be acceptable. Details should be submitted to demonstrate this is a 'Groundwater Activity' (under EPR - sewage discharges) and is acceptable.

Can an enhanced system be implemented?
If YES, go to point B1. 12; or B2. 6 (above).
If NO, the proposal is NOT ACCEPTABLE and should be reconsidered, go to B4. ☐

B4. Private means of sewage disposal incorporating a combination of treatments including reed beds
A bespoke assessment may need to be undertaken for proposals incorporating a combination of alternative foul sewage disposal methods such as reed beds. Within this assessment the locational constraints outlined in part B1 and B2 should be considered in order to determine whether the disposal method is suitable. This should be submitted with details of the systems to be utilised, to the Council with your planning application. Under the Environmental Permitting Regulations (2010) an Environmental Permit may be required from the Environment Agency for such proposals. This permit may be withheld.

ADVICE NOTES

PLANNING ADVICE FOR NON-MAINS SEWAGE

1. **Contravention of recognised practices** – the assessment must consider any evidence that the proposal may cause, in respect of environmental damage, in the light of: any statute, regulation, directive (e.g. Groundwater), bye law, water quality objective, or authoritative standard (e.g. British Standard, Environment Agency's 'Policy and Practice for the Protection of Groundwater').
2. **Adverse effect on water sources/resources** – the assessment must consider information in the area, such as geological formations which may allow pollution of: rivers / streams ditches/ surface waters including riparian owners downstream, groundwater, public, private (boreholes and abstractions) and agricultural water supply, water features (wells, lakes, ponds).
3. **Health hazard or nuisance –** the assessment must consider any risk to public health or nuisance.
4. **Damage to controlled waters –** the assessment must consider any risk of pollution to controlled waters.
5. **Damage to environment and amenity –** the assessment must consider any risk of pollution (from effluent) to: any land with environmental or amenity value, Site of Special Scientific Interest (SSSI), Area of Outstanding Natural Beauty (AONB) or candidate Special Area of Conservation (cSAC), public open space.
6. **Overloading existing capacity of the area** – the assessment must provide evidence regarding the consideration of on any risk of ponding, sewage flooding, or pollution or nuisance from the scale of the proposal or any existing capacity problems**.**
7. **Absence of suitable outlets** – the assessment must provide evidence to show that there is a suitable watercourse or adequate land for soakage to accommodate the disposal of effluent. The location of the treatment plant, or septic tank, as well as the route of discharge (soakaway location and design, or route of pipe to watercourse).
8. **Unsuitable soakage characteristics** – the assessment must include the full results of percolation (porosity) tests carried out in accordance with BS 6297. *See porosity note below.*
9. **High Water table** – the assessment must provide details of any 'rest water levels' in trial holes, which may indicate that the water table is high.
10. **Rising groundwater levels** – the assessment must detail any ground water levels that have been rising consistently and which may interfere with the effluent dispersal and may cause damage to other land or property.
11. **Flooding** – the assessment must consider flood risk. If the system is located with Flood Zone 3 (1% annual probability flooding), a known flood risk area (historic flooding) or surface water problem area, then there may be a risk of environmental or amenity damage.

ENVIRONMENTAL PERMIT - for discharge to surface waters (watercourse) or groundwater:

You may require an Environmental Permit from the Environment Agency. The Applicant should apply on line at: https://www.gov.uk/topic/environmental-management/environmental-permits or contact the Environment Agency for an Environmental Permit application form and further details on 03708 506506. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. There are 2 permit types that can be applied for or an Exemption that can be registered: https://www.gov.uk/permits-you-need-for-septic-tanks

1. **General Binding Rules** – Formerly Exemptions - for discharges of sewage less than 2 cubic metres a day to ground or 5 cubic metres a day discharging to a watercourse. If the General Binding Rules are not met, then a permit should be applied for. Please see General Binding Rules for more detail.

2. **Standard Rules Permit** – normally applies for discharges of treated sewage greater than 5 cubic metres a day (discharging to a watercourse) but less than 20 cubic metres a day. There are exceptions – e.g. within 1km of a European Habitats site.

3. **Bespoke Permit** – for discharges of treated sewage greater than 2 cubic metres ($m^{3)}$ a day to ground and greater than 20 cubic metres a day to watercourse.

Please see the 'general binding rules' for small sewage discharges (including criteria for sites where discharges will require an environmental permit, to ground or surface waters);

Trade Effluent - the discharge of trade effluent will normally require an Environmental Permit under the Environmental Permitting Regulations 2010 (EPR 2010) from the Environment Agency. All trade effluent discharges to ground will require a bespoke permit. You should be aware that the permit may not be granted. A permit will only be granted where the risk to the environment is acceptable.

A permit is required for any discharge to ground in an SPZ1 and this may not be granted.

POROSITY TESTS

You should refer to **Building Regulations Section H2** (Approved Document H Edition incorporating 2010 and 2015 amendments) with regard to the general requirements for construction of non-mains sewerage systems. **Sections 1.33 to 1.38** deal with the test requirements for trial holes and percolation tests.

Porosity tests must detail a satisfactory Vp (percolation value) result (12 - 100 seconds Vp). However, if the results are not within the suggested range, either due to the ground conditions being too fast (meaning that effluent would be reaching underlying groundwater) or too slow (leading to effluent ponding on the surface), the following should be noted:

Porosity test values may be reconsidered for treated effluent under BS6297.

Reference should be made to The Building Regulations Approved document H, Section H2 (2002 Edition incorporating 2010 and 2015 amendments), to consider alternative systems of soakaway design, which upon consideration may mean that, whilst the porosity test result is not satisfactory, the enhanced system would be acceptable.

DRAINAGE FIELDS AND DISCHARGE TO GROUND

Drainage fields are an important component of a non-mains wastewater treatment system, as they use the biologically active soil beneath the system to provide additional treatment of the effluent in the ground before it enters groundwater. Designs used for surface water soakaways (including the use of soakaway crates) are not appropriate for foul effluent drainage.

Deep infiltration systems (boreholes, wells, concrete ring structures) for discharges to ground pose a higher risk of groundwater pollution by concentrating the discharge in one small area and bypassing the soil layers and are not in line with BS6297:2007. These systems are not appropriate as an alternative to a shallow infiltration system where the only reason for their use is to maximise the proportion of available land that can be built on. All such discharges require an environmental permit and will not be permitted unless the full requirements of our approach to Groundwater Protection (2018) position statement G9 - "Use of deep infiltration systems for surface water and effluent disposal", can be met. In cases where a deep infiltration system is necessary/proposed we strongly recommend pre-permit discussions.

For these and other more complex proposals, 'twin tracking' of the permit and planning application may be advisable. See our Guidance for developments requiring planning permission and environmental permits.

FURTHER ADVICE AND CONTACTS

The views of your Local Authority, Environmental Health Officer and Building Control Officer should also be sought to ensure that any proposal submitted is feasible.

The relevant Environment Agency Land and Water or Biodiversity team may also be contacted (03708 506506), to provide assistance with the provision of the above information e.g. salmonid and cyprinid fishery designations. In relation to point B1. 2*, you are advised to contact Natural England and the local planning authority to ascertain whether there are any significant nature conservation designations /SSSIs relevant to the proposal.

The GOV.UK website provides Environment Agency advice and guidance:
https://www.gov.uk/government/organisations/environment-agency
It also provides links to the 'Flood Zone Maps', as well as information on Groundwater and Source Protection Zones:
https://www.gov.uk/guidance/groundwater-source-protection-zones-spzs

Last updated: May 2022

Contact: Environment Agency, Sustainable Places Team, West Midlands Area. WestMidsPlanning@environment-agency.gov.uk

West Midlands Area – Guidance Note for Local Planning Authorities - Sites Affected by Land Contamination

- **This advice applies to sites where we are <u>not</u> making bespoke comments.**
- **This advice relates to the protection of ground and surface waters ('Controlled Waters', as defined under the Water Resources Act 1991). For Human Health matters Planning Authorities should consult with the Council's Public Protection / Environmental Health Department**

LAND CONTAMINATION

We would make no comment on land contamination matters associated with this planning application. However you are advised to seek the comments of your Public Protection / Environmental Health team and refer to the following advice:

The principles of dealing with land contamination at the planning application stage – NPPF and NPPG

The NPPF takes a precautionary approach to land contamination. Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of clean-up (remediation). For sites where land contamination may be present as a result of previous or current land use, the planning application should include appropriate information about this and demonstrate how the development will deal with any contamination present. This is so that the development does not cause or exacerbate contamination, and to ensure that it, future users and the environment are not at unacceptable risk from contamination.

This is a requirement of the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG). See paragraphs 120, 174, 183, and 188 of the NPPF, and the 'Land Affected by Contamination' section of the NPPG, available at: http://planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/

Sites that may be affected by land contamination

The applicant should identify whether the site has known or suspected contamination associated with it. Certain types of previous / current land uses are likely to have caused contamination. These include uses such as gasworks, landfills, industrial uses, petrol filling stations or land where fuel tanks have been sited, cemeteries, abattoirs, vehicle servicing garages, and land adjacent to major infrastructure routes such as railway cuttings and motorways. Intensive agricultural uses may also have caused contamination from chemicals and pesticides. See the tables at the end of this document. For further information you may wish to refer to:

- The Council's Public Protection / Environmental Health Department – for historic records of landfilling or waste activities, and to ascertain whether the site has been determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.
- Historic land use maps

- GIS layers showing closed/historic landfills and open /current landfills - your Council has previously been provided these GIS layers from the Environment Agency, but to ensure they are up to date, and for online access, they can be obtained via the DEFRA Data Services Platform at: https://environment.data.gov.uk/

Information that should be submitted with the planning application

Preliminary Risk Assessment: As a minimum the applicant must submit a Preliminary Risk Assessment. (This is also known as a Phase 1 Desk Study, and may include a site walkover.) The Preliminary Risk Assessment should include a *'conceptual site model'.* This model considers firstly all potential sources of contamination (i.e. information on all previous land uses that may have given rise to contamination), secondly any likely receptors (e.g. proposed future users of the site and ground or surface water on or off site) and thirdly any possible pathways between them (such as through the ground or along pipes as a result of development). Where all three exist this is defined as a pollutant linkage.

The conclusions of the report should contain recommendations on how the contamination, if present, will be dealt with through the development so that the site can be made safe for users and the environment and will not cause or exacerbate pollution.

In some cases this information may be sufficient to determine whether the principle of development is acceptable subject to planning conditions to secure the conclusions of the report, such as further detailed investigation, site remediation and validation (see conditions section below).

In other cases there may be insufficient information at this stage to make a decision on the application, and more information may be required prior to determination. This is more likely to be the case if the site is particularly contaminated, the site setting is more sensitive or the end use proposed is particularly sensitive to contamination. In these cases the applicant will need to submit more detailed information.

Site Investigation Report: The next stage of more detailed information is a Site Investigation Report. (This is also known as a Phase 2 Detailed Site Investigation.) The 'Detailed Investigation' phase is the on-site validation of the conceptual model. Through intrusive investigation, chemical testing and quantitative risk assessment, the Phase 2 study can confirm possible pollutant linkages. It should also provide appropriate remediation options, if these are required.

For more complex sites, it is more likely by this stage that the applicant will have submitted enough information to establish that the site can be developed for the proposed use in a safe manner that will not lead to pollution or harm. At this stage therefore it is likely that a determination can be made. (There may still be some cases where additional information on the remediation measures / remedial actions – see below – is needed before permission can be granted). Where approval is given the decision notice should contain relevant conditions to secure the recommendations of the Preliminary Risk Assessment and Site Investigation Reports, such as site remediation, validation and any necessary monitoring (see conditions section below).

Discharge of conditions after permission is granted

Once permission has been granted subject to conditions, the developer will need to deal with the contamination on site. This is the remediation phase. The remediation phase of the process is generally split into two parts – remediation and validation. The developer will need to submit relevant Reports for these parts of the process at the right time as part of a discharge of conditions application.

Remediation Strategy: This is a document detailing the objectives, methodology and procedures of the proposed remediation works. (It may also be called a Remediation Method Statement or

Remedial Actions Statement or Report.) Where necessary it should also include a **verification plan** that provides details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works to ensure development occurs in the right parts of the site in the correct sequence to ensure pollution is not caused. The developer should submit this information for approval before any works commence. Once this has been submitted and approved as part of the discharge of conditions application the development can proceed in the way the Remediation Strategy has set out.

Validation Report: Following completion of the works, the developer must submit a Validation Report as part of the discharge of conditions application. (It may also be called a Verification Report.) This document demonstrates that the works have been carried out satisfactorily in accordance with the Remediation Method Statement and that the remediation targets have been achieved. In most cases this will allow the planning conditions to be discharged in full.

Monitoring Programme: In some cases a programme of monitoring is required as part of the remediation phase, or as part of the validation to demonstrate the site has been satisfactorily remediated. Sometimes monitoring may be required for a longer time period after the development has been completed. The Remediation Method Statement (and possibly the earlier Preliminary Risk Assessment and Site Investigation Reports) should have made clear where this will be necessary and established in detail what will be involved.) Monitoring may be necessary for landfill gas, groundwater and surface water (such as taking samples from a watercourse on a regular basis over a set period of time). Where these measures are necessary the planning conditions should include this, and in some cases a Section 106 Planning Agreement may be a more appropriate mechanism for securing necessary monitoring, such as when monitoring from off-site locations is required or if it is required for a particularly long time period.

Re-use of materials and the Environmental Permitting Regulations 2016

The applicant should be made aware that remediation of contaminated land may also require an authorisation under the Environmental Permitting Regulations 2016. Further information can be found at the following links:

- https://www.gov.uk/government/collections/standard-rules-environmental-permitting#materials-recovery-and-recycling
- https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit
- https://www.gov.uk/government/publications/deployment-form-for-land-and-groundwater-remediation

Under the CL:AIRE Code of Practice there are ways developers can re-use materials on site in a sustainable way. The CL:AIRE website ('Contaminated Land: Applications in Real Environments') contains useful information about this: http://www.claire.co.uk/

If contaminated / waste material needs to be removed from the site it should be deposited at an appropriate Permitted waste management facility. The developer should keep records of any transfer and deposit of waste for inclusion in the Validation Report.

APPENDIX:

Planning Conditions

As detailed above you may wish to impose appropriate conditions to secure any necessary further investigation, remediation, validation and monitoring. Other conditions may also be appropriate. The following list of conditions is provided to assist you, in consultation with your Public Protection / Environmental Health team. ***This is advisory for your consideration and we would not wish to be party to any future discharge of condition application.***

Investigation, remediation and Validation Condition (known as a 'standard' land contamination condition):

CONDITION: No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved, in writing, by the planning authority

1) A site investigation scheme, based on **['the preliminary risk assessment/desk study' (title)]**, **[author of report]**, reference **[ref. 'x']**, dated **['date of report']**, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2) The site investigation results and the detailed risk assessment (1) and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.

4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy (2 and 3). The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Planning Authority.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Unsuspected contamination condition:

CONDITION: If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

REASON: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Piling condition:

CONDITION: <*Piling or any other foundation designs / investigation boreholes / tunnel shafts / ground source heating and cooling systems*> using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Infiltration drainage condition:

CONDITION: No infiltration of surface water drainage into the ground <*insert location*> is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Condition for Oil interceptor use:

e.g. car park of more than 50 spaces, or Sensitive areas (SSSI) or SPZ or development type (***refer to Environment Agency Guidance "Groundwater Protection" (Previously known as 'GP3'), available at:*** https://www.gov.uk/government/collections/groundwater-protection ***)***

CONDITION: Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Condition for Bunding of tanks/compounds:

CONDITION: Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

Land contamination consultants

You should seek evidence to demonstrate that such investigations have been carried out to an acceptable professional standard. Advice on the assessment and development of land affected by contamination is contained in guidance published by the British Urban Regeneration Association (BURA), the National House Building Council (NHBC) and the Environment Agency. The BURA Guide includes checklists for the desk study, site investigation and remediation.

We do not recommend individual environmental consultants but the following website link is provided to search for environmental consultants that undertake contaminated land assessments http://www.endsdirectory.com/.

Sources of further information and guidance

Environment Agency technical guidance on land contamination:
https://www.gov.uk/government/collections/land-contamination-technical-guidance

Other information sources (the above webpage includes some of the following):

- Guiding Principles for Land Contamination
  https://www.gov.uk/government/publications/managing-and-reducing-land-contamination
- Land contamination: risk management (LCRM) (previously known as 'CLR11')
- Planning Practice Guidance on Land Affected by Contamination
  https://www.gov.uk/guidance/land-affected-by-contamination
- Pollution Prevention Guidelines (PPG27) – Installation, decommissioning and removal of underground storage tanks (withdrawn but available in the National Archives)
  http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/pmho0402bgsh-e-e.pdf
  Environment Agency Guidance "Groundwater Protection" (previously known as 'GP3')
  https://www.gov.uk/government/collections/groundwater-protection

DEFRA Guidance relating to Part 2 A of the Environmental Protection Act:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223705/pb13735cont-land-guidance.pdf and
http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18341

Last Updated: November 2021. Contact: Environment Agency, Sustainable Places Team, West Midlands Area. WestMidsPlanning@environment-agency.gov.uk

Nuneaton & Bedworth Borough Council
Town Hall
Coton Road
Nuneaton
Warwickshire
CV11 5AA

Our ref: SV/2023/111916/CS-01/SB1-L01

Date: 16 October 2023

Dear Sir/Madam

Borough Plan Review Development Plan Document (DPD) – Publication version (Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012)

Thank you for consulting the Environment Agency at the Regulation 19 stage of the Development Plan Document (DPD) Review.

Despite being included within Appendix 2 (Schedule 1) of the Statement of Consultation (September 2023), based on our records we do not appear to have received the Issues and Options or Preferred Options stages consultations. However, we have commented on the Strategic Flood Risk Assessment (SFRA) scoping request in our letter dated 10 February 2022 (reference UT/2007/101886/SF-02/PO1-L01).

In light of the above, we offer the following comments on the Publication draft version of the DPD at this Regulation 19 stage. We note from the consultation email that this consultation differs from previous stages as it no longer seeks views on alternative options, and instead requires specific focus on certain key issues. Whilst this is acknowledged, based on our previous involvement, we have included suggested policy wording amendments and brief commentary on the evidence base documents. We would be happy to engage further on such matters, perhaps through a statement of common ground.

Development Management Policies

Strategic Policy DS4 – Residential Allocations

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).

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 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.*
- *Where land contamination is known or suspected, a desk study, investigation, remediation and other works will be required to enable safe development.*
- *Suitable sewage connection to the existing mains foul drainage network and contributions to increase capacity to the treatment works to support growth where necessary.*
- *In accordance with the Water Framework Directive, development shall cause no overall deterioration in water quality or ecological status of any waterbody.*
- *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.*
- *To link together with Policy BE3, the water usage requirement of 110litres per person per day should be specified as a minimum*

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.

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.

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.

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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.

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.'*

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

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.

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.

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

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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)

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)

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.

Policy HS1 – Ensuring the delivery of infrastructure

We welcome the inclusion of this policy within the DPD, including reference to early consultation with Severn Trent Water to ensure appropriate infrastructure is available to meet the allocations within the DPD review, such as adequate capacity (both physical and environmental) at receiving sewage treatment works. Reference should be made to your Water Cycle Study (evidence base) and Infrastructure Delivery Plan (IDP).

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:

Cont/d..

"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).

Policy NE1 – Green and Blue Infrastructure

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).

Policy NE3 – Biodiversity and Geodiversity

We welcome the requirement for biodiversity net gain (BNG) within the policy wording.

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.

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.

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.

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 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.

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:

Cont/d..

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

Cont/d..

- 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'.*

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)

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.

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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) CO2e (carbon dioxide equivalent) from 2019 levels to less than 90 Mt CO2e 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.

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.

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

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.

Cont/d..

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.

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.

Table 3-10 in the 2017 report shows a Wastewater treatment works summary for all of the wastewater treatment works in the area. For the those relevant to the proposed growth in the DPD, whilst there maybe 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.

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.

We look forward to working with you going forwards.

Yours faithfully

Mrs. Tessa Jones
Planning Specialist

Direct e-mail [redacted]

End