

Calderdale Local Plan

Pre-hearing Note 3 from Inspector to the Council

11 December 2019

Q7. The letter from the Environment Agency, dated 1st October 2018, contains a number of comments on flood risk evidence related to the site allocations process and the selected allocations. The Council is requested to provide a Position Note which responds to the Agency's points and clarifies the extent/nature of the flood risk assessment work.

For completeness, all points raised in the letter from the Environment Agency, dated 1st October 2018, are addressed below:

1. Introduction

Environment Agency support is noted. The Council proposes no modification to the Local Plan in relation to this point.

2. Spatial Portrait

Environment Agency support for the inclusion of flood risk and 'slowing the flow' in this section is noted. However, the issues of water quality and biodiversity protection are dealt with in detail in the Water Resource Management, Catchment Management, Natural Environment and Pollution Control sections of the Local Plan. The Council proposes no modification to the Local Plan in relation to this point.

Paragraph 2.1

Increasing tree cover is used as an example of an action - the list however is not intended to be exhaustive. The Council proposes no modification to the Local Plan in relation to this point.

Paragraph 2.71

The correct title of the strategy referred to in para 2.71 is "Local Flood Risk Management Strategy". The title could be amended as a minor editorial correction to read: "2.71 Since the recent flooding in December 2015, the Council adopted a Local Flood Risk Management Strategy in June 2016..." The Council proposes a minor modification to the Local Plan in relation to this point.

Paragraph 2.72

Paragraph 2.72 refers to the £35m of special grant allocated to Calderdale in the wake of an increased frequency of repeat flood events across the Borough. It is not considered necessary to provide lower level details about the administration of the Grant Funds or the locations where the Grant will be spent.

The Council proposes no modification to the Local Plan in relation to this point.

3. Vision

'Managed problem' refers to flood risk management. The Council proposes no modification to the Local Plan in relation to this point.

4. Objectives

Paragraph 4.4 – 4.17

It is not possible to include references to all flood management plans relevant to the Calder Catchment within the Local Plan itself. The Flood Risk and Drainage Supplementary Planning Guidance document (EV21) should be referred to for additional background information on flooding matters to include relevant flood management plans.

The Council proposes no modification to the Local Plan in relation to this point.

Paragraph 4.18 – 4.20

It is not possible to include references to all flood management plans relevant to the Calder Catchment within the Local Plan itself. The Flood Risk and Drainage Supplementary Planning Guidance document (EV21) should be referred to for additional background information on flooding matters to include relevant flood management plans.

The Council proposes no modification to the Local Plan in relation to this point.

5. Presumption in Favour of Sustainable Development

Paragraph 5.7

While Paragraph 5.7 (and Policy SD2 to which Paragraph 5.7 provides a background narrative) makes no specific reference to water quality for people and wildlife, the policy requires that all new development protects and enhances local, national and internationally important biodiversity and geo-diversity sites. More specific detail, including reference to water quality is contained in chapter 10 (Addressing Climate Change).

The Council proposes no modification to the Local Plan in relation to this point.

Policy SD2

Environment Agency support is noted. The Council proposes no modification to the Local Plan in relation to this point.

6. Planning for growth

Comment refers to previous iteration of plan and consultation exercise in 2017.

No modification required.

7. Sites for Employment

The Council acknowledges the support given by the Environment Agency to the stipulation of criteria for proposed development within Policies SD5 and SD6. The Council proposes no modification to the Local Plan in relation to this point.

8. Sites for Mixed Use

The Council acknowledges the support given by the Environment Agency to the stipulation of criteria for proposed development within Policies SD5 and SD6. The Council proposes no modification to the Local Plan in relation to this point.

9. Sites for Housing

The Council acknowledges that there must be certainty any mitigation measures required to address flood risk issues identified in the site assessment reports are achievable prior to allocation of the sites concerned. The Council believes it has addressed this issue in preparation of the Publication version of the Local Plan by following the advice of both its Flooding and Drainage Section and its consultants JBA Consulting.

10. Addressing Climate Change

Policy CC2 – Flood Risk Management (Managing Flood Risk in New Development)

Local Plan Policy CC2 requires new development to follow a sequential risk based approach and be directed away from flood zones 2 and 3 in accordance with the principles of the National Planning Policy Framework. Policy CC2 also requires development to have full regard to and compliance with the advice of the Environment Agency, the objectives and priorities for flood risk management set out in the Local Flood Risk Management Strategy and the published evidence of local flood risk and its significance as included in Strategic Flood Risk Assessments, Surface Water Management Plans and other recognised sources of flood risk data. The Council proposes no modification to the Local Plan in relation to this point.

Environment Agency support for previous changes noted.

Water Resource Management

Paragraph 10.18 – 10.19

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Paragraph 10.21

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Policy CC3 - Water Resource Management

The requirements listed in Policy CC3 are intended to strike a balance between ensuring the policy objective is achieved without placing an unreasonable burden on developers. The Council proposes no modification to the Local Plan in relation to this point.

Policy CC4 - Catchment Management

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

13. Infrastructure and Master Planning

Policy IM7 – Master Planning of Strategic and Larger Sites

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

16. Housing

Policy HS1 - Non Allocated Sites

Policies within the Addressing Climate Change and Environmental Protection chapters of the Local Plan, set out a clear and positive strategy to ensure the Council effectively manages flood risk and water resource management. Policy CC3 Water Resource Management states that the Council will work with key stakeholders to protect the quality and quantity of water resources; encourage their efficient use and ensure that they are provided where necessary. Policy CC3 goes on to state that proposals for development within a Groundwater Source Protection Zone should be supported by a hydrological (groundwater) risk assessment that identifies potential risks to groundwater from the development and identifies mitigation measures that will be implemented to reduce unacceptable risks. The Local Plan should be read as a whole. The Council proposes no modification to the Local Plan in relation to this point.

Policy HS8 – Meeting the Need of Gypsies and Travellers and Travelling Showpeople

The advice of the Environment Agency is noted and criterion xi amended accordingly. The redrafted criterion xi reads:

“The site is not located in Flood Zone 3 and if located in Flood Zone 2 the requirements of the Flood Risk Sequential and Exception Tests are met”.

The Council proposes a minor modification to the Local Plan in relation to this point.

20. Green Infrastructure and Natural Environment

Policy GN1 – Securing Green Infrastructure Provision

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Policy GN2 – A Joined up Green Infrastructure Network

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Paragraph 20.8

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Policy GN3 – Natural Environment

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

21. Environmental Protection

Paragraph 21.4

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Policy EN3 – Environmental Protection

Environment Agency support noted. The Council proposes no modification to the Local Plan in relation to this point.

Site Allocations Methodology

Environment Agency support for the inclusion of flooding and ecology as 'show-stoppers' is noted.

It is acknowledged that the Flood Risk Assessment Level 1 (Screening Study) carried out by JBA Consulting undertook as part of the Site Assessment Methodology was not available to view on the Council's web site when the Environment Agency provided comments in its letter dated 1st October 2018. This, along with further site screening flood risk assessments, are now available to view on the Council's web site and in the Calderdale Local Plan Examination Library. The relevant documents are:

- EV 19.1 Level 1 Local Plan Potential Site Assessment Summary Report;
- EV 19.2 Site Scoping Analysis April 2016;
- EV 19.3 Site Scoping Analysis September 2016;
- EV 19.4 Site Scoping Analysis November 2016; and
- EV 19.5 Site Scoping Analysis May 2018.

These documents, together with the Level 1 SFRA (EV16.1 & 16.2), the Level 2 SFRA (EV 20), the Site Assessment Methodology and relevant site assessment reports demonstrate that the Sequential Approach to the site allocations has been undertaken.

In order to inform the Sequential Approach to the allocation of development through the Local Plan, the Local Plan Potential Site Assessment Summary Report (EV19.1) details a high level GIS screening exercise overlaying the potential development site allocations against Flood Zones 1, 2, 3a, 3ai and 3b and calculates the area of each site at risk. Surface water risk to potential sites is assessed by way of the Environment Agency's updated Flood Map for Surface Water (uFMfSW). The accompanying Development Site Assessment Excel spreadsheets (EV19.2 – 19.5) provide a breakdown of each site and the area (in hectares) and percentage coverage of each fluvial flood zone and each surface water flood zone. Fluvial Flood Zones 3b, 3ai, 3a, 2 and 1 are considered in isolation. Any area of a site within the higher risk Flood Zone 3b / 3ai that is also within Flood Zone 3a is excluded from Flood Zone 3a and any area within Flood Zone 3a is excluded from Flood Zone 2. This allows for the sequential assessment of risk at each site by addressing those sites at higher risk first. One of the following recommendations was made for each site assessed:

- Strategic Recommendation A – Consider withdrawal of site;
- Strategic Recommendation B – Exception Test;
- Strategic Recommendation C – Consider site layout and design;
- Strategic Recommendation D – Subject to FRA; and
- Strategic Recommendation E - Permitted subject to consultation with the LPA / LLFA

When applying the above recommendations to the site selection process, the Council further considered a number of local circumstances which had the potential to affect the outcome of the recommendation for each individual site. Examples of such local circumstances include the following:

- Existing planning permissions may be in place on some sites where the Environment Agency have already passed comment and / or agreed to appropriate remedial works concerning flood risk. Previous flood risk investigations or FRAs may already have been carried out at some sites.
- Some sites may be able to develop around the flood risk. Planners are best placed to make this judgement i.e. will the site still be deliverable if part of it needs to be retained to make space for flood water?
- Surrounding infrastructure may influence scope for layout redesign or removal of site footprints from risk.
- Current land use. A number of sites may be brownfield thus the existing development could be taken into account as further development may not lead to increased flood risk.
- Cumulative effects. New development may result in increased risk to other potential or existing sites.

Following the above stated site selection processes, 12 potential development sites were identified where further more detailed site specific assessment was required to confirm their potential suitability with respect to flood risk. The Level 2 SFRA report (EV20) provides a summary table for each Level 2 site and incorporates the following:

- Screening FRA;
- Outline drainage strategy; and
- Level 2 site screening assessment.

The Level 2 SFRA report (EV20) includes updated recommendations for the Local Planning Authority (LPA) as to the likely suitability of each potential development site in terms of flood risk.

The Sequential Approach has been integrated into all stages of the development planning process and provides the opportunity to reduce flood risk to people, their property and the environment to acceptable levels. The flood risk management hierarchy has been used as a basis for site allocations for development in the Local plan, where decisions have been based on avoiding, substituting, controlling and mitigating flood risk. Steps 1-5 have been carried out either directly by the Local Authority in terms of carrying out SFRAs at level 1 and level 2 and incorporating this, combined with local knowledge, into site assessments and site allocation recommendations. Additionally, site specific requirements will be placed on land owners and developers at allocated sites to provide site specific flood risk assessments, SuDS, flood resilient design and construction and, where relevant, further flood defences.

It should be noted that further site screening exercises have been carried out as the plan has progressed and new sites have been added to the list of potential site allocations.

Notwithstanding the above, Local Plan Policy CC2 requires new development to follow a sequential risk based approach and be directed away from flood zones 2 and 3 in accordance with the principles of the National Planning Policy Framework. Policy CC2 also requires development to have full regard to and compliance with the advice of the Environment Agency, the objectives and priorities for flood risk management set out in the Local Flood Risk Management Strategy and the published evidence of local flood risk and its significance as included in Strategic Flood Risk Assessments, Surface Water Management Plans and other recognised sources of flood risk data.

Whilst the points raised by the Environment Agency regarding the 2018 NPPF are noted, the revised NPPF (July 2018) establishes that the policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. The Council has prepared the Plan in accordance with NPPF 2012 because the revised NPPF with its transitional arrangements was not published until July 2018, after the Council took the formal decision in June 2018 to publish the Plan in August. The Council has carefully considered the merits of submitting before or after 24 January, and concluded that delaying submission presents more policy tensions on account of the fact that the greater part of the Plan has been predicated on the NPPF 2012.

Flood Risk Supplementary Planning Guidance

A revised edition of the Flood Risk Supplementary Planning Guidance has been issued Paragraph 1.4.7 has been deleted and superseded by Paragraph 1.5.7 which addresses the points raised by the Environment Agency.

Site Allocations

Environment Agency support is noted regarding the importance Calderdale has placed on flood risk in the site allocations process.

Where flooding constraints have been highlighted on parts of a site through the site analysis process and the SFRA screening exercise, these areas have been removed from the developable area of allocations. Full reasons have been given in the site assessment summary where the developable area of a site has been reduced due to flood risk. Notwithstanding this, it is agreed that in such circumstances flood risk should still be identified as a site constraint. The Council proposes a minor modification to the Local Plan in relation to this point for sites LP1088 and LP1224.

We note the expectation of the Environment Agency that all sites have been tested through the Site Assessment Methodology and confirm that this is the case.

LP1534

Whilst flood risk is fully considered in the site schedule for LP1534, the site's location within a groundwater source protection zone 1 (SPZ1) for a groundwater abstraction that is used for drinking water has not been acknowledged. The Council acknowledges the requirement that developments within SPZ1 should be supported by a hydrogeological (groundwater) risk assessment that identifies potential risks to groundwater from the development and

identifies mitigation measures that will be implemented to reduce unacceptable risks. This should be added to the site schedule for LP1534 to include the requirement for a hydrogeological (groundwater) risk assessment. The Council proposes a minor modification to the Local Plan in relation to this point.

LP0435

Whilst the Council's Environmental Health section has not raised the issue of permitted waste sites in their consultation responses on this site, the Council agrees that the site schedule for LP0435 should make reference to the nearby permitted waste site EAWML 65545 (Calder Valley Skip Hire Ltd). The Council proposes a minor modification to the Local Plan in relation to this point.

LP1412 & LP1398

The Council's Environmental Health section has raised issue with the nearby waste site and has suggested a number of reports that need to be submitted and mitigation measures taken for development to be acceptable at the sites. Whilst these requirements have been included in the site schedules, the Council agrees that the site schedules for LP1398 & LP1412 should also make specific reference to the nearby permitted waste site EAWML 65545 (Calder Valley Skip Hire Ltd). The Council proposes a minor modification to the Local Plan in relation to this point.

LP1415

The Council's Environmental Health section has raised issue with the nearby waste site and has suggested a number of reports that need to be submitted and mitigation measures taken for development to be acceptable at the sites. Whilst these requirements have been included in the site schedules, the Council agrees that the site schedules for LP1415 should also make specific reference to the nearby permitted waste site EAWML 60793 (Calder Valley Skip Hire Ltd). The Council proposes a minor modification to the Local Plan in relation to this point.

LP1229 & LP1215

The Council's Environmental Health section has raised issue with the nearby waste site and has suggested a number of reports that need to be submitted and mitigation measures taken for development to be acceptable at the sites. The site schedules make full mention of this. The Council proposes no modification to the Local Plan in relation to this point.