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**Your ref:**  
**Date:** 25 August 2016

Dear Ms Albrighton

## **Coventry Local Plan Examination 2016**

### **Hearing Session 9: The Historic and Natural Environment**

#### **The Natural Environment**

Please find the Environment Agency's response to your questions in relation to Matter 12

#### **Should the Plan objectives include specific reference to the conservation and enhancement of the natural environment?**

The Environment Agency has not made specific reference in relation to this section, however we note that the plan proposes to deliver sustainable development through the enhancement of the natural environment, and it is an overarching principle supported by planning policies within the draft plan.

#### **Should Policy DS3 'Sustainable Development Policy' refer explicitly to the natural environment or biodiversity?**

The Environment Agency supports the existing wording of this policy and we note that it includes several environmental measures that we provide bespoke comments in response to planning application consultations.

#### **Should an additional policy be included in the Plan to address any potential risk to groundwater through the redevelopment of previously developed land as put forward by the Environment Agency?**

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In our response to the Local Plan Submission in February 2016 we recommended the specifically relating to the protection of Water Resources. The Environment Agency would still like to request that our recommended policy be included within the final plan to ensure that new development contributes to meeting 'good status' classification as defined by the Water Framework Directive (WFD). At present a number of waterbodies are failing to achieve good ecological status, with the majority described as poor. The leading reasons for failure include, phosphate and ammonia levels, the levels of phytoplankton (phytoplankton are good indicators of nutrient enrichment and other pressures, and can be used to assess river water quality, and the levels of invertebrates and fish, exacerbated by the geomorphology of the waterbodies.

We suggest that without the inclusion of the following policy as recommended by us new development could exacerbate the pre-existing issues, preventing the waterbodies recovery to good status, and that the current approach of not considering a development management policy necessary has failed to see any improvement to the waterbodies in Coventry, including the River Sherborne, River Sowe, the Breach Brook, The Withy Brook, the Smite Brook, the Canley Brook and the Finham Brook. Coventry City Council lies within two different Water Framework Directive Operational catchments, the Avon Rural operational catchment the Avon Urban Operational Catchment. Both catchment are characterised by abstraction for drinking water supplies, with a concentration of potable groundwater abstractions.

Both catchments have seen a decrease in quality between 2009 and 2014, and a number of significant contributing factors for this decline includes, pollution from waste waters, pollution from towns, cities and transport and physical modifications. Coventry also has an industrial legacy and as brownfield sites are made available for regeneration it is essential that they will be identified and remediated to a standard the protects the underlying aquifers that form a significant water resource in the area.

The Environment Agency seeks to safeguard controlled waters, understanding that there may be locations where certain proposed development would cause us to object in principal, for example a petrol station (with underground tanks) or a non mains drainage proposal that could pollute water that is abstracted for human consumption.

Our previously recommended policy has been discussed with Coventry City Council, and the Lead Local Flood Authority, and we have agreed (by statement of common ground) that the policy should be included as a minor modification to the Local Plan. This was agreed by all parties because of the recently published data in support of the Severn River Basin Management Plan.

**Suggested Policy EM9: Redevelopment of Previously Developed Land.**

*'Development will be permitted where proposals do not have a negative impact on water quality, either directly through pollution of surface or ground water or indirectly through the treatment of waste water by whatever means.*

*Prior to any potential development, consultation must be held with Severn Trent Water to ensure that the required wastewater infrastructure is in place in sufficient time. In line with the objectives of the Water Framework Directive, development must not affect the water bodies' ability to reach good status or potential as set in the Humber and Severn River Basin Management Plans and should support, where possible, to improving the status class.*

*Developers and operators must provide adequate information when submitting their proposals so that the potential impact on groundwater resources and quality can be*

*adequately assessed'*

*No development will be permitted within a groundwater Source Protection Zone 1 which would physically disturb an aquifer, and no permission will be granted without a risk assessment demonstrating there would be no adverse effect on water resources.*

*Development shall not be permitted where the proposed waste water infrastructure could pose an unacceptable risk of pollution of the underlying aquifer or receiving watercourse.*

*Where there is an unacceptable risk to controlled waters there is a presumption against granting planning permission'*

The Environment Agency expects any developer and/or consultant to follow the risk management framework provided in CLR11 - Model Procedures for the Management of Land Contamination (2004) when dealing with land affected by contamination. Furthermore, it is advised to refer to the Environment Agency's Guidance on Requirements for Land Contamination Reports (2005) for the specific type of information that we require to assess the risks to Controlled Waters.

We require the risk to groundwater of any significant contamination to be considered by the usual means of a desk study, site investigation and subsequent conceptual model and risk assessment, where necessary leading to suitable remedial action and related method statement. This is in accordance with NPPF (notably paragraphs 109 -112), which indicates that where development is proposed on land that is known or suspected to be affected by contamination then the risks to human health and the wider environment should be assessed by the applicant for consideration by the LPA prior to determination.

The assessment should provide such information as is necessary to determine whether the proposed development can proceed. Where such assessment shows that remediation is required then the standard of remediation that should be achieved through the grant of planning permission for new development is the removal of unacceptable risk and making the site suitable for its new use, including the removal of existing pollutant linkages.

All receptors relevant to the site should be protected to an appropriate standard. As a minimum, after carrying out the development and commencement of its use, the land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

Development proposals will need to comply with the Environment Agency publication 'Groundwater Protection: Policy and Practice' (GP3) which may require development may be restricted at certain locations and there will need to be careful consideration given to the potential water quality risks and impact on flooding and surface water drainage.

(<http://www.environmentagency.gov.uk/research/library/publications/144346.aspx>).

### **Should an additional policy be included in the Plan to specifically protect water resources as put forward by the Environment Agency?**

We would recommend that the suggested policy EM9 be included within the plan, as there is a lack of guidance on how to deliver the [protection of controlled waters within the NPPF, and there are valuable and substantial water resource assets within

Coventry City Council that are deteriorating.

### **3. Renewable Energy Generation**

**b) Should Policy EM3 'Renewable Energy Generation' include a requirement for it to be demonstrated that development will not increase flood risk or have a detrimental impact on the watercourse?**

The Environment Agency is able to withdraw its request to include the above additional paragraph to the policy. We are satisfied that subject to the inclusion amendments to policy EM4 being incorporated into the Local Plan, it would be sufficient to ensure that any development proposals would be robustly assessed to ensure that they would not contribute towards the deterioration of waterbody status within Coventry. Therefore subject to the inclusion of amended wording to EM4 we would not require this additional wording to be included within policy EM3.

### **4. Flood Risk Management**

**a) Do the Council's proposed Minor Modifications to Policy EM4 'Flood Risk Management' overcome the Environment Agency's objections to the policy?**

The Environment Agency have reviewed the proposed modified policy, and although we broadly agree with the proposed modifications, there are a couple of further minor amendments that we would like to make:

The published modified policy is:

#### **Policy EM4 Flood Risk Management**

1. All major developments must be assessed in respect of the level of flood risk from all sources. If development in areas at risk of flooding is the only option following the application of the sequential test, it will only be permitted where all of the following criteria are met:

a) the type of development is appropriate to the level of flood risk associated with its location with reference to Coventry's Strategic Flood Risk Assessment (SFRA) flood zone maps and advice on appropriate uses within these zones from the Environment Agency and/or Lead Local Flood Authority;

~~b) it can be demonstrated that no suitable alternative sites are available in an area of lower risk;~~

c) it is provided with the appropriate minimum standard of flood defence and resilience to aid recovery (including suitable warning and evacuation procedures) which can be maintained for the lifetime of the development;

d) it does not impede flood flows, does not increase the flood risk on site or elsewhere or result in a loss of floodplain storage capacity;

e) it would not be subject to regular flooding;

~~f) in the case of dwellings, it is evident that as a minimum, safe, dry pedestrian access would be available to land not at high risk,~~  
and;

g) in the case of essential infrastructure, access must be guaranteed and must be capable of remaining operational during all flooding events

all opportunities to reduce flood risk in the surrounding area must be taken, including creating additional flood storage. [Section 15 of the SFRA Level outlines possible future flood risk management schemes].

the functional floodplain (Flood Zone 3b) should be protected from development and reinstated in brownfield areas wherever possible.

single storey buildings, basements and buildings on stilts are not acceptable in Flood Zone 3.

all opportunities to undertake river restoration and enhancement including deculverting, removing unnecessary structures and reinstating a natural, sinuous watercourse.

where a development benefits from an existing or proposed flood defence scheme, the development should contribute towards the capital and/or maintenance of these defences over its lifetime.

for sites in Flood Zone 3a, all types of new development behind flood defences is avoided, where possible, due to the residual risks of breach and overtopping.

2. A sequential, risk-based approach to the location of suitable development will be undertaken by the Council based on the Environment Agency's latest flood maps, SFRA flood zones and Vulnerability Classification to steer new development to areas with the lowest probability of flooding avoiding, where possible, flood risk to people and property and managing any residual risk.

3. The Exception Test (for use when there are large areas in Flood Zones 2 and 3, where the Sequential Test alone cannot deliver acceptable sites, but where some continuing development is necessary) will apply where development will provide wider sustainability benefits that outweigh flood risk, fully informed by an appropriately scaled Flood Risk Assessment (FRA) which indicates that development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible reducing flood risk overall.

4. Land that is required for current and future flood management will be safeguarded from development. Where development is supported as an exception to this policy within high risk areas, applicants will need to demonstrate that they strictly comply with all of the above criteria.

5. A Flood Risk Assessment is required, appropriate to the scale and nature of the development proposed, where the development is:

- a) within a river floodplain, as defined by the Coventry SFRA indicative flood zone maps;
- b) within 20 metres of any watercourse;
- c) adjacent to, or including, any flood bank or other flood control structure;
- d) within an area where there may be surface water issues and drainage problems;

We would recommend the removal of the following bullet points within paragraph 1

~~c) it is provided with the appropriate minimum standard of flood defence and resilience to aid recovery (including suitable warning and evacuation procedures) which can be maintained for the lifetime of the development;~~

~~d) it does not impede flood flows, does not increase the flood risk on site or elsewhere or result in a loss of floodplain~~

~~d) it does not impede flood flows, does not increase the flood risk on site or elsewhere or result in a loss of floodplain storage capacity;~~

~~e) it would not be subject to regular flooding;~~

As previously highlighted in our response in February 2016 to the Publication Draft consultation paragraph 1 we have concerns about the inclusion of the following bullet points:

c, requesting the 'minimum' standard of flood defence does not provide a robust approach to reducing the frequency and consequences of flood risk.

d, we believe that this is a negative policy that does not promote a betterment on the current situation or proactively look to reduce flood risk.

e, does not provide a robust approach to reducing the frequency because the wording is unclear and does not attach a specific probability to flooding, making it difficult for a developer to identify if a site is suitable for development, and unlike the NPPF it makes to reference to the vulnerability of the proposed use.

The Environment Agency would like to highlight the positive response that Coventry City Council has made to our objection to the wording of Policy EM4.

They have worked constructively with us to understand the reasons for our objection to the wording and the newly published information (River Basin Management Plan – published February 2016 & Flood Risk Management Plan published) and our response to flood events experienced in Coventry in early 2016.

We have always taken a partnership approach with the Lead Local Flood Authority and Coventry City Council to effectively manage flood risk, taking a 'one voice' approach to ensure a consistent and holistic approach within the remit of strategic planning to ensure that new development contributes to sustainable development by making policy interventions to minimise the frequency and consequences of flooding.

The majority of the proposed minor modifications were agreed together to deliver a robust and deliverable planning policy that considered the latest information about flood risk within the city and supports the mitigation of flood risk.

The proposed minor modifications (including the ones highlighted above) addresses in detail any concerns that we have to the policy, and subject to their inclusion we will withdraw all of our objections to the policy if they are implemented.

**b) Do the Council's proposed Minor Modifications to Policy EM5 'Sustainable Drainage Systems (SuDS)' overcome the Environment Agency's objections to the policy?**

The modified policy is as set out below:

**Policy EM5 Sustainable Drainage Systems (SuDS)**

1. All development must apply SuDS ~~unless it can be clearly demonstrated there are practical reasons for not doing so~~ and should ensure that surface water runoff is managed as close to its source as possible.

2. SuDS are the preferred way of managing and conveying surface water. All developments will consider and demonstrate how the following hierarchy for the discharge of surface water from a site will be applied:

- a) Discharge by infiltration and water reuse technologies
- b) Discharge to a watercourse allied with water reuse technologies
- c) Discharge to surface water sewer allied with water reuse technologies.

3. All development should carry out infiltration tests and a ground water risk assessment, including seasonal groundwater monitoring, to demonstrate whether infiltration is possible and that ground water would not be polluted to Environment Agency and Lead Local Flood Authority requirements.

Where it is proven that infiltration is not possible, allied with water reuse technologies, surface water should be discharged into a watercourse (in agreement with the Environment Agency and Lead Local Flood Authority) at a rate no greater than Qbar greenfield runoff, or an appropriate minimum rate for small sites, agreed by the Lead Local Flood Authority.

If there is no watercourse available then, allied with water reuse technologies, surface water should be discharged to a surface water sewer at a rate no greater than Qbar greenfield runoff.

4. In exceptional circumstances, where a sustainable drainage system cannot be provided, it must be demonstrated that it is not possible to incorporate sustainable drainage systems, and an acceptable means of surface water disposal is provided at source which does not increase the risk of flooding or give rise to environmental problems and improves on the current situation with a reduction in peak and total discharge.

5. The long-term maintenance arrangements for all SuDS must be agreed with the relevant risk management authority. A separate SPD will be produced to detail how SuDS schemes will be designed in accordance with the technical standards set out by the Coventry Lead Local Flood Authority and by the Department for Environment, Food and Rural Affairs.

The Environment Agency supports the proposed modification to this policy and we therefore withdraw our objection to this policy.

In Conclusion:

We can confirm that Coventry City Council has sought to produce a strategic framework for development that balances the priorities of strategic partners and enables appropriate supporting infrastructure and impact mitigation to be put in place where required. We acknowledge that they have consulted us during the plan making process and considered our recommendations to improve the soundness of the local plan.

Subject to the proposed minor modifications recommended by us to the Local Plan, we would agree that it meets the tests of soundness in the four areas outlined below

Positively prepared – we agree that the plan has been prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

Justified – we agree that the plan is the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

Effective – we agree that the plan will be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

Consistent with national policy – we agree that the plan will enable the delivery of sustainable development in accordance with the policies in the Framework.

Finally we would like to highlight the positive and supportive relationship we have with Coventry City Council and Coventry LLFA.

Should you have any questions please do not hesitate to contact me on the number provided below.

Yours faithfully

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