

Borough Council of
**King's Lynn &
West Norfolk**



Borough Council of King's Lynn and West Norfolk

Local Plan Review 2016-2036

**Statement of Common Ground between the
Environment Agency and Borough Council of
King's Lynn and West Norfolk**

28 March 2022~~18 March 2022~~

Introduction to the Statement of Common Ground

The National Planning Policy Framework (NPPF) requires development plan documents to be prepared, on the basis of effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred (paragraph 35). The NPPF proposes the preparation of Statements of Common Ground (SoCGs) to highlight agreement on cross boundary strategic issues with neighbouring authorities and other relevant bodies. Further information is provided in the Planning Practice Guidance ([Chapter on Maintaining Effective Cooperation](#)).

SoCGs should be produced, published and kept up to date by the signatory authorities as an accessible and public record of where agreements have or have not been reached on cross boundary strategic issues. The purpose of the SoCG is to document the cross-boundary matters being addressed and progress in cooperating to address them. It is the means by which authorities can demonstrate that their plans are based on effective and ongoing cooperation and that they have sought to produce strategies that as far as possible are based on agreements with other authorities.

For the County of Norfolk, the Norfolk Strategic Planning Framework (NSPF) was prepared as a formal SoCG for Norfolk planning authorities. Most strategic planning matters were resolved during preparation of the Local Plan (2017-21) and are highlighted in both the NSPF and Duty to Cooperate (DtC) Statement (May 2021). Further details are set out in the main SoCG document, below.

Nevertheless, a small number of matters remained unresolved, by the time the Local Plan Review was approved by the Council for consultation and submission to the Secretary of State (8th July 2021). This was reflected in representations received during the Pre-Submission Draft (Regulation 19) consultation; August/ September 2021¹.

In order to ensure compliance with the DtC and effectiveness tests, bespoke SoCGs are being prepared, for agreement between statutory (DtC) bodies and the Borough Council, where representations containing objections had been received through the Regulation 19 consultation. The SoCG form below provides a comprehensive explanation for the outstanding objections; the Borough Council's response to each of these and a proposed resolution for the parties to sign/ agree; and highlight those areas where agreement has not been possible. It is emphasised that the statutory DtC is not necessarily a duty to achieve full agreement on all matters.

Individual SoCGs have been produced for each of the relevant bodies.

¹ https://www.west-norfolk.gov.uk/info/20079/planning_policy_and_local_plan/902/local_plan_review_2016_to_2036

Statement of Common Ground between the Environment Agency and BCKLWN

1. Background to Statement of Common Ground (SoCG)

Since the launch of the Local Plan Review (autumn 2016), the Borough Council of King's Lynn and West Norfolk ("Borough Council"/ BCKLWN) has actively engaged with statutory bodies under the requirements of the statutory Duty to Cooperate (DtC) (Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 4²). Strategic issues identified through this process, together with the outcomes of ongoing engagement with the relevant consultation bodies, are highlighted and summarised in the DtC Statement, May 2021.

For local planning authorities within the County of Norfolk, the Norfolk Strategic Planning Framework (NSPF) has been prepared as a formal SoCG for Norfolk planning authorities. The latest version of the NSPF (May 2021)³ identifies 31 separate Formal Agreements and was endorsed by all stakeholder authorities in 2021. These 31 Agreements (for which the Borough Council is a signatory) allow plan-making across Norfolk to be coordinated, to the benefit of all partners.

The NSPF provides a strategic level SoCG covering Norfolk authorities. However, it does not address cross-boundary issues that extend beyond Norfolk; i.e. to the west and south of the Borough. Three principal matters are identified as going beyond the scope of the NSPF (Norfolk County boundary):

- Green Infrastructure (GI) RAMS;
- Coastal Management; and
- Wisbech Fringe.

2. Complying with the DtC, beyond May 2021

The Borough Council's DtC Statement and current NSPF were both agreed in May 2021; shortly prior to approval by the Full Council (8th July 2021) of the Local Plan Review for Pre-Submission Draft (Regulation 19) consultation and submission to the Secretary of State. However, a number of statutory consultees (DtC bodies) submitted representations through the Regulation 19 consultation. The following organisations submitted representations, each containing unresolved objections:

1. Environment Agency
2. Historic England
3. Homes England
4. Natural England
5. Norfolk County Council – Highway Authority/ Lead Local Flood Authority (LLFA)

² <https://www.legislation.gov.uk/uksi/2012/767/regulation/4>

³ <https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/partnerships/norfolk-strategic-planning-member-forum>

The Marine Management Organisation (MMO) and National Highways (formerly Highways England) submitted supporting representations, raising no material objections to the published (Pre-Submission Draft) Local Plan Review. No Regulation 19 representations were received from any neighbouring local planning authorities:

- *County Councils – Cambridgeshire, Lincolnshire, Suffolk;*
- *District/ Borough Councils – Breckland, East Cambridgeshire, Fenland, North Norfolk, South Holland, West Suffolk.*

*On the basis that no Regulation 19 representations were received from adjacent local authorities, it is assumed that these bodies are satisfied that the NSPF and/ or May 2021 DtC statement represent the current position for each organisation. That is, that there are **no** unresolved strategic issues arising from the published Local Plan Review that affect any of these bodies.*

3. Function and role of the SoCG

Five SoCGs are being prepared; one for each of the statutory bodies that submitted representations containing objections. The SoCG summarises the outstanding objections and proposes a resolution to each that both parties can sign up to, in order to ensure the overall soundness of the Local Plan Review and allow it to proceed to submission.

The Environment Agency's representation was submitted on 27th September 2021. Representation, including the original (redacted) document, are published on the Borough Council's consultation portal⁴.

⁴ <https://west-norfolk-consult.objective.co.uk/kse/event/36371/peoplesubmissions/section/s1625822757755?consultation=s1625822757757>

4. Summary representation and Borough Council response/ resolution	
Summary representation	Borough Council response/ resolution
<i>Allocation policy E1.15 is unsound because it is not justified, and therefore is not compliant with national policy</i>	<i>This represents a significant unresolved objection. The Borough Council's detailed response and potential resolution are set out at section 5 (below).</i>
<i>No concerns regarding the soundness of other policies of the Local Plan, however wish to make advisory comments</i>	<p><i>The Borough Council will review all the detailed comments from the Environment Agency. Where appropriate, amendments to Local Plan policy and/ or supporting text will be made. These will take the form of:</i></p> <ul style="list-style-type: none"> <i>• Additional Modifications (AMs) – minor amendments (e.g. grammatical and/ or factual corrections) of no material consequence for the direction or soundness of the Plan; or</i> <i>• Main Modifications (MMs) – proposed changes (e.g. to policy wordings) that represent a material amendment to the direction of the Plan and which will therefore need to be subject to MM consultation in the aftermath of the examination hearings (autumn 2022).</i>
5. Details re allocation policy E1.15 – West Lynn – Land at Bankside (former Del Monte factory site) and Borough Council response/ resolution	
<p><i>The Environment Agency's objection identifies a number of concerns regarding the proposed allocation of the Bankside (former Del Monte factory site) for residential development. These are summarised as follows:</i></p> <ul style="list-style-type: none"> <i>• Located directly adjacent to the flood defences therefore the failure and overtopping of the defences will have immediate impacts to the development</i> <i>• No justification re flood risk sequential test and exception test; cf policy E1.14</i> <i>• Potential to impact the operation and maintenance of the flood defences</i> <i>• Given that the housing allocations within the Local Plan exceed what is required, expect the LPA to present strong evidence that there is a need for this allocation</i> <p><i>The objections relate to both the location of the site and the lack of current evidence or justification for its continued allocation in the Local Plan.</i></p>	
Borough Council response	

Site E1.15 was allocated in the 2016 Site Allocations and Development Management Policies (SADMP) Plan⁵, so remains an extant commitment. This point is accepted by the Environment Agency, although the Agency highlights significant changes to national policy since 2016 and the development of the Future Fens Study. In particular, the Environment Agency emphasises that continued reliance upon flood defences alone to protect built up areas is unsustainable, both in planning and financial terms.

Nevertheless, the Borough Council remains keen to see successful redevelopment of site E1.15 as part of the broader regeneration of the King's Lynn waterfront. The Environment Agency accepts that urban regeneration is an appropriate matter to consider when assessing the acceptability of proposed development sites at higher risk of flooding.

The Del Monte factory, which previously occupied the site, was closed in February 2008 and demolition was complete by 2009. It was known that the future of the Del Monte factory at West Lynn was in doubt some time before closure. The Borough Council's Urban Development Strategy (UDS)⁶ is a living document which may be added to or changed over time and forms part of the Borough Council's Urban Renaissance Strategy. The UDS was first published in 2006 and proposes focal points for residential development across King's Lynn, including West Lynn. It emphasises key views to be made clearer and more attractive across the Great Ouse, from both the east and west banks (Layer 1 – Built Form/ Urban Structure).

The UDS highlights providing opportunities for a lively waterfront as an overarching principle, and identifying the riverside (east and west banks) as key locations:

“The Del Monte factory buildings currently dominate the West Lynn bank of the River Great Ouse. These buildings and adjacent brownfield sites represent an opportunity to create a new residential (and mixed use) quarter. Development could visually complement the historic core of King's Lynn on the eastern bank and be physically linked to the town by improved ferry connections.” (Layer 3, Residential Development).

The Borough Council's UDS underpins the current Local Plan and remains relevant to the replacement Local Plan Review. It specifies redevelopment of the Del Monte site as an important aspect of the broader strategy for King's Lynn regeneration. This was the basis on which this significant (2.6ha) brownfield site was allocated for residential development in the 2016 SADMP and why the Borough Council remains committed to successful delivery of redevelopment of the site.

Resolution

It is accepted that the supporting text to site specific policy E1.15 does not provide sufficient justification for the continuation of this as an allocation in the Local Plan Review. Main Modifications to the Local Plan Review are necessary to overcome the

⁵ https://www.west-norfolk.gov.uk/info/20220/site_allocations_and_development_management_policies_plan/514/adopted_plan

⁶ https://www.west-norfolk.gov.uk/info/20010/regeneration/509/urban_development_strategy

Environment Agency's concerns. The EA's representation suggests a way forward, with specific reference to the sequential and exceptions test supporting text for E1.14 (Land West of St Peter's Road).

Sequential test

In terms of the sequential test, the Bankside site (as E1.14) lies within Flood Zone 2 (Medium probability of flooding) identified by the Strategic Flood Risk Assessment and in the flood defence breach Hazard Zone. None of the available sites in the settlement (West Lynn) is at a lower risk of flooding. Therefore, the sequential test set by the National Planning Policy Framework is met for E1.14.

The national Planning Practice Guidance (PPG)⁷ was updated in August 2021 in respect of the sequential test. This broadens the scope of the sequential test from exclusively Flood Zones 2 and 3 (i.e. fluvial flood risk) to all forms of flooding, in mapping (assessing) probability and assessing vulnerability across all flood zones.

~~This change means that it is no longer appropriate to apply a single sequential test for all potential development sites in and around West Lynn, as each site needs to be considered on its merits. Prior to publication of the updated (July 2021) NPPF and accompanying PPG update the sequential test was straightforward to apply in the case of the West Lynn search area, as all potential sites around the settlement were situated within the same Flood Zone. Instead, the recent national policy changes require that individual assessments must now consider all sources of flooding, requiring a more detailed analysis of data/ information for each site.~~

The sequential test for sites in and around West Lynn will need to take account of the following:

- Strategic Flood Risk Assessment (Levels 1 and 2)⁸
- Housing and Economic Land Availability Assessment (HELAA)
- Site specific representations for West Lynn put forward through Regulation 19 consultation (August/ September 2021)

In order to address the Environment Agency's concerns about retention of E1.15 as a housing land allocation, it will be necessary to demonstrate, to the satisfaction of the Agency that the sequential test is sufficiently robust and has been acceptably met before the Local Plan Examination hearings, for all sites in/ around West Lynn. The following sites have been considered for the West Lynn sequential test:

- 2016 Site Allocations and Development Management Policies (SADMP) Plan – site allocations E1.14 and E1.15;
- West Lynn MF Transmitting Station, Clenchwarton Road;
- The Oaks, Clenchwarton Road;
- Land adjacent Pullover Roundabout; and
- Land between Clenchwarton Road and Orchard Grove.

⁷ <https://www.gov.uk/guidance/flood-risk-and-coastal-change>

⁸ https://www.west-norfolk.gov.uk/info/20173/information_for_planning_agents/391/flood_risk_assessment_-_level_1

Commented [CB1]: Even before the changes it was not appropriate to carry out a single assessment for a community – the ST should be carried out for each individual site, the search area defines what sites they should be compared against. The changes are that the individual assessments now must consider more sources of flooding.

Commented [MB2R1]: Text redrafted, to reflect Ben's comments above

Commented [CB3]: This needs to be done before examination – have you got a ST document or similar that shows how this site sits in the context of all the other sites within the search area?

Commented [MB4R3]: Text updated, to clarify cross references to sequential test and range of sites considered.

I have specified Examination hearings, as the examination technically commences at the point of submission.

[A map showing the context of the six potential development sites in/ around West Lynn has been included as part of the detailed sequential test, which is to be submitted alongside the Local Plan Review.](#)

[The sequential test will be submitted to the Environment Agency, whose role is to advise whether this is sufficiently robust. The Planning Inspector, through the Local Plan examination, will determine whether the sequential test has been satisfactorily undertaken and applied for West Lynn.](#)

Exception test

In addition to the sequential test, ~~Agency, site E1.15 will then need to be subject to the flood risk exceptions test.~~ The challenge for the Borough Council is to demonstrate, to the satisfaction of the Planning Inspector, that the former Del Monte factory site (E1.15) fulfils the exception test. This is especially so, given that there is an excess of required housing. The response above provides additional background information as to why the Borough Council remains committed to successful redevelopment of this challenging brownfield site. Overall, the site is allocated first and foremost due to its prominence as a key waterfront regeneration site. The role of the site in delivering the Borough's overall housing requirement is only a secondary consideration.

The site has also been assessed through the Sustainability Appraisal. This concludes:

Site E1.15 is a key brownfield, regeneration site capable of bringing benefits to both sides of the riverfront. Based upon a balance of factors; the results of the Sustainability Appraisal, site specific factors and consultation responses received to date, it is considered appropriate to continue to allocate sites E1.14 and E1.15 for residential development in West Lynn.

The allocation of site E1.15 is supported by evidence; the main evidence base consisting of the UDS and Sustainability Appraisal. [On the basis of this evidence, the Borough Council considers that the exceptions test has been satisfactorily carried out and met, to allow for the continued allocation of this site in the Local Plan Review.](#) Notwithstanding, it is accepted that the supporting text to E1.15 does not provide sufficient explanation or justification for the site allocation (paragraphs 9.2.2.1-9.2.2).

Proposed Main Modifications (MMs) – detailed wording to be agreed by parties, post submission [but in advance of the examination hearings:](#)

- [Addition of explanation/ justification for why the Bankside site \(E1.15\) fulfils the flood risk sequential test, with reference to all potential sources of flooding, supported by an updated sequential test for West Lynn as a supporting evidence base document for the site](#)
- **Addition of explanation/ justification for why the Bankside site (E1.15) fulfils the flood risk exception test (the content of this Statement, above, goes a long way to fulfilling this requirement)**
- **Replacement of paragraphs 9.2.2.1 and 9.2.2.2 with additional background information to the Borough Council's regeneration strategy and**

Commented [CB5]: Our role is to ensure that the Sequential Test has been carried out – the inspector will determine whether its been carried out satisfactorily.

Commented [MB6R5]: See new paragraph above 'Exception test' heading

Commented [CB7]: The LPA will need to have demonstrated that the exception test has been carried out i.e. I hope that this has been carried out and you just need to show your workings

Commented [MB8R7]: Additional text at sentence above "Proposed Main Modifications"

Commented [CB9]: This needs to be presented before hand – we can agree the wording but the work needs to have been done before hand.

Commented [MB10R9]: Additional text at "Proposed Main Modifications"

aspirations for the Great Ouse waterfront (east and west banks), as necessary to provide sufficiently robust justification to fulfil the [sequential](#) and exception tests

- *Addition of references to potential future strategic options for enhancements to, and maintenance of, flood defences within Policy E.1.15 and/ or the supporting text; e.g. adaption or construction techniques*
- *Additional/ strengthened criteria within Policy E1.15 regarding the need for EA/ public access to flood defences for repairs and maintenance throughout; i.e. no loss of current levels of access to defences*

6. Signatories

*Environment Agency, Sustainable Places Advisor
planning.brampton@environment-agency.gov.uk*

*[\[Signed by Principal Planner on behalf of\]](#)
Geoff Hall
Executive Director, Environment and Planning
Borough Council of King's Lynn and West Norfolk*