



Publication Draft Colchester Local Plan: Section Two

Statement of Common Ground with the Environment Agency

March 2021

Statement of Common Ground between Colchester Borough Council and the Environment Agency to the Publication Draft Colchester Local Plan: Section Two

Colchester Borough Council Local Plan

Statement of Common Ground

between

Environment Agency and Colchester Borough Council

This Statement of Common Ground has been prepared to identify the areas of agreement between the Environment Agency (EA) and Colchester Borough Council as the Local Planning Authority (LPA) on matters relating to Section 2 of the Colchester Local Plan and the representations submitted by Environment Agency concerning that document.

A Statement of Common Ground was submitted to the Section 1 Local Plan examination between Colchester Borough Council, Braintree District Council, Tendring District Council, the Environment Agency and Anglian Water Services on matters in relation to Section 1 of the Local Plan and the representations submitted by the Environment Agency and Anglian Water Services to that document.

This Statement includes a table that sets out the LPA's agreed response with the Environment Agency to Section 2 of the Local Plan. There are no unresolved issues between the parties.

General Matters

The LPA has worked with Environment Agency on the development of the Local Plan and Sustainability Appraisal (SA) from the outset. The EA also provided advice during the preparation of the Strategic Flood Risk Assessment (SFRA), the Flood Risk Sequential Test methodology and the Langham Position Statement along with Anglian Water Services. In accordance with the Town and Country Planning (Local Development) (England) Regulation the Environment Agency has been formally consulted at every stage of consultation.

The Environment Agency submitted representations to both Section 1 and Section 2 of the Colchester Local Plan during the Publication Draft Local Plan consultation period (letter dated 11 August 2017).

The Environment Agency support the Local Plan in the following areas:

- (a) EA support the Vision and Objective in Local Plan (Rep 6894).
- (b) EA support supporting text in paragraph 12.1 to policy SG1 (Rep 6895).
- (c) EA support inclusion of policy SG7 (Rep 6896).
- (d) EA support the thrust of policy ENV1 (Rep 6897).
- (e) EA support the thrust of policy ENV2 (Rep 6898).
- (f) EA support the thrust of policy ENV3 and the supporting text (Rep 6899).
- (g) EA support the thrust of policy ENV5 and the supporting text (Rep 6900).
- (h) EA support the thrust of policy CC1 and the supporting text (Rep 6901).
- (i) EA support the thrust of policy PP1 and the supporting text (Rep 6902).
- (j) EA support the thrust of policy DM23 and the supporting text Rep 6904).
- (k) EA support the thrust of policy DM24 and the supporting text (Rep 6905).
- (l) EA support the thrust of policy DM25 and the supporting text (Rep 6906).
- (m) EA have agreed the Sequential Test methodology (Rep 6904).
- (n) EA specifically support the findings of the Water Cycle Study that development at sites shown to have potentially limited sewer network capacity should be subject to predevelopment enquiry with Anglian Water. In the absence of any enquiry, development should not be granted whether on a full or outline basis.

In preparing this Statement of Common Ground, the Environment Agency and LPA have discussed and agree that reference to the Joint advice to Local Planning Authorities: Optional Higher Water efficiency standard for new housing (January 2019 updated February 2020) prepared by Anglian Water, Environment Agency and Natural England should be referred to in the supporting text to policy DM25.

The Environment Agency agree with the modified climate change policy (CC1).

Since 2017, there has been significant movement towards placing a greater emphasis on biodiversity net gain within the planning system. The Environment Agency and LPA agree that modifications to policy ENV1 and supporting text are necessary to refer to biodiversity net gain and future proof the plan in terms of what is expected from the Environment Bill. The following modification to policy ENV1 criteria (v) and the following new paragraph to the supporting text are agreed by both parties:

v) Incorporates beneficial biodiversity conservation features, **measurable biodiversity net gain of at least 10% in line with the principles outlined in the Natural England Biodiversity Metric** and habitat creation where appropriate.

All development proposals must comply with current requirements and best practice for measurable biodiversity net gain and Nature Recovery Strategies and Networks. As a minimum, 10% biodiversity net gain is required or as otherwise indicated in policy and legislation. This is in addition to the requirement to follow the mitigation hierarchy. Biodiversity net gain requirements must not undermine the existing range of protections, in planning policy and legislation, for irreplaceable habitats and protected sites. **As part of the planning process a calculation in line with the latest Natural England Biodiversity Metric should be submitted and strict adherence to the mitigation hierarchy should be used to ensure harm is avoided in the first instance, that provision for a minimum 10% measurable net gain in biodiversity is made onsite wherever possible and that offsite compensation with a long term management plan is used as a last resort. All projects should have regard to reducing the impacts of climate change and delivering multiple benefits in terms of but not exclusive to habitats, carbon storage and Natural Flood Management.**

The table, below, sets out agreed modifications to the Section 2 Local Plan, which will resolve all Environment Agency representations. All modifications in this Statement are included in the LPAs Modifications Schedule. There are no areas of disagreement between the parties.

COLCHESTER BOROUGH COUNCIL / ENVIRONMENT AGENCY AGREED MODIFICATIONS TO THE PUBLICATION DRAFT COLCHESTER LOCAL PLAN: SECTION TWO

Rep number	Local Plan Policy/ Paragraph	Environment Agency Representation	LPA's agreed response with Environment Agency
6897	ENV1	<p>We consider the policy as currently worded is inadequate in terms of biosecurity. We would highlight that 'harm' to biodiversity can also arise as a result of development causing invasive species to be introduced. 6% of the water bodies within the Anglian River Basin Management Plan are classified as failing due to invasive species.</p> <p>We recommend that a biosecurity protocol method statement is required for all development proposals to ensure that an adequate means of preventing the introduction of non-native species is considered and implemented. This should help to prevent the spread of invasive non-native species which have a negative impact on biodiversity and ecosystem functioning. We recommend that this aspect be addressed within the Local Plan by adding the wording below to the existing policy.</p> <p><i>'A biosecurity protocol method statement is required for all development proposals to ensure the introduction of invasive non-native species is prevented.'</i></p>	<p>Add the following to paragraph 13.7: "Where ecological assessments are required, a biosecurity protocol method statement should be included to ensure the introduction of invasive non-native species is prevented."</p> <p>Add the following to the end of the first paragraph of ENV1: "The Local Planning Authority will require development to be in compliance with and contribute positively towards delivering the aims and objectives of the Anglian River Basin Management Plan."</p> <p>Add the following as a new paragraph to follow paragraph 13.9: "The European Water Framework Directive imposes legal requirements to improve the water environment. All waterbodies must achieve 'good ecological status' by 2027, prevent deterioration of surface water and groundwater and seek enhancements where rivers, lakes and estuaries</p>

	<p>The European Water Framework Directive (WFD) imposes legal requirements to protect and improve the water environment. Local Planning Authorities should have regard to the legal requirements and here we consider that reference to the WFD be integrated into the Plan. With this in mind we would therefore recommend the following wording be added to the existing policy.</p> <p>‘The Council will require development to be in compliance with and contribute positively towards delivering the aims and objectives of the Anglian River Basin Management Plan.’</p> <p>Environmental objectives have been set for each of the protected areas and water bodies in the river basin district. These were identified through a process involving technical and economic appraisals and formal public consultation. Achieving the objectives will optimise the benefits to society from using the water environment. These are legally binding. All public bodies must have regard to these objectives when making decisions that could affect the quality of the water environment and the proposed increase in housing and jobs must also not reduce the quality of the water environment. Along with the recommended addition of the above wording on WFD compliance to the policy, we also recommend the following supporting text is added.</p> <p>‘The European Water Framework Directive imposes legal requirements to improve the water environment.</p>	<p>are not achieving good ecological status or potential. The local planning authority supports the directive and proposals which seek to further these aims where it is possible to do so. In pursuit of this aim, proposals should seek to minimise disturbance to riverbeds. Proposals are encouraged to be in compliance with the Anglian River Basin Management Plan (2015) or its successor, which addresses pressures on the water environment and whose environmental objectives are legally binding on all public bodies whose decisions affect the quality of the water environment.”</p>
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6898	ENV2	<p>Our letter dated 8 September 2016 put forward the case for applying a coastal change management area (CCMA) at Mersea Island. It does not appear that defining a CCMA for Mersea Island has been addressed by the Council. We consider that defining a CCMA will enable, as based on paragraph 106 in the NPPF, a more structured approach to the consideration of development proposals based on physical constraints and the policy position in section 4.6 in the Essex and South Suffolk Shoreline Management Plan. In the light of paragraph 106 of the NPPF and the thrust of Management Unit E in the Essex and South Suffolk Shoreline Management Plan, we consider that, as matters stand, the Local Plan is not fully consistent with national policy. Given</p>	<p>Consideration has been given to applying a coastal change management area at Mersea Island. However, the LPA and Environment Agency agree that the Coastal Protection Belt and policy ENV2 will protect the borough's undeveloped coast and policy SS12b (Coast Road, West Mersea), which sets out criteria for proposals in Coast Road, will protect the traditional maritime character of Coast Road. Consequently, both parties agree that a coastal change management area is not necessary for the plan to be sound.</p>

		<p>this situation, the Local Plan is unsound in relation to the absence of a CMMA for Mersea Island. This situation can be overcome through the identification of Mersea Island as a CCMA.</p>	
6899	ENV3	<p>We consider there is an opportunity to highlight the environmental benefits of green infrastructure by adding the following text to Policy ENV3: ‘Green infrastructure that contributes to the protection and enhancement of water bodies will be supported, including de-culverting, creation and management of ecological buffer strips and new wetland areas to help manage flood risk and reduce diffuse pollution.’</p>	<p>Add the following to the end of policy ENV3: “Green infrastructure that contributes to the protection and enhancement of water bodies will be supported, including de-culverting, creation and management of ecological buffer strips and new wetland areas to help manage flood risk and reduce diffuse pollution.”</p>
6903	DM11	<p>The currently worded policy does not, in our view, go far enough in terms of those environmental aspects that might influence site selection, notably flood risk and foul water disposal. As matters stand we consider the existing policy is not consistent with national policy and would not ensure the delivery of sustainable development. In the light of this, the existing policy is unsound. To overcome this issue, we recommend that the following text be added to the policy. <i>‘Site selection should ensure they are not located within areas at risk of flooding and are capable of being provided with appropriate drainage, water supply and other necessary utility services. For sewerage, a connection to the main sewer system will be preferable except when it is impractical to achieve’.</i></p>	<p>Add the following to the end of policy DM11: “Site selection should ensure that pitches are not located within areas at risk of flooding and are capable of being provided with appropriate drainage, water supply and other necessary utility services. For sewerage, a connection to the main sewer system will be preferable except when it is impractical to achieve.”</p>

6904	15.125	<p>The reference to the National Planning Policy Guidance Table 3 as a 'compatibility' table for specific land uses in the different flood zones (including in Flood Zones 3a and 3b) fails to give a reference to the footnote text to that table. This highlights the primary principle of applying the Sequential Test first to guide development to Flood Zone 1, then Zone 2, and then Zone 3 before checking land use flood vulnerability compatibility with the zone. This paragraph could also usefully confirm the need to avoid flood risk from sources other than rivers and the sea.</p>	<p>Add the following text to the end of the last sentence of paragraph 15.125:</p> <p>“The notes accompanying Table 3 set out the principles to be followed in relation to the application of the Sequential Test and Exception Test, including the need to consider risk from all sources of flooding and not just from rivers and sea”.</p>
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SCG2

Signed

Karen Syrett
Lead Officer: Planning, Housing & Economic Growth
Colchester Borough Council

Stephen Taylor
Sustainable Places Team Leader
Environment Agency