

Newark & Sherwood Local Development Framework Plan Review
Statement of Common Ground between Newark & Sherwood District Council & the
Environment Agency
Entered into in January 2024

1.0 Introduction

The District Council has been engaged in a Plan Review process with the first stage of this having been completed through the replacement of the original Core Strategy (adopted 2011) with the Amended Core Strategy (adopted 2019). Subsequently attention has turned to the review of the current Allocations & Development Management DPD (adopted 2013). This second part of the Review has now reached an advanced stage of preparation – with the Amended DPD ready to be submitted to the Secretary of State.

Initial stages of public consultation on the Amended Allocations & Development Management DPD (AADM DPD) were carried out between July – August 2019 and July – September 2021. This was followed with the first Regulation 19 stage Publication Amended Allocations & Development Management DPD being made available for representations to be submitted over its ‘soundness’ and legal compliance in the Winter of 2022. An additional Regulation 19 stage has since been carried out, with the Second Publication Amended Allocations & Development between 25th September 2023 until 6th November 2023.

The purpose of the SoCG is to inform the Inspector of the Newark and Sherwood Local Plan, and other interested parties, about the areas of agreement or otherwise between Newark and Sherwood District Council (N&SDC) and the Environment Agency (EA) with regards to Strategic Planning Matters.

Newark and Sherwood District Council is the Local Planning Authority (LPA) for Newark and Sherwood District. The Environment Agency is a non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (DEFRA) established in 1996 with responsibilities relating to protect and improve the environment. The EA is a specific consultee under the Town and Country Planning (Local Development) (England) Regulations 2012.

Throughout both parts of the plan review there has been extensive cooperation between the two bodies, which remains ongoing. This has encompassed technical and non-technical meetings, engagement between senior levels of the two organisations, the technical assessment of the flood risk evidence base and the provision of formal representations as part of the plan-making process. The status of the District Council as a strategic policy making authority, and the Environment Agency as a proscribed body under the Town and Country Planning (Local Planning) (England) Regulations 2012 has also meant that there are requirements flowing from the ‘Duty to Cooperate’. These requirements have been fulfilled through the above.

2.0 Background – Work undertaken to support the DPD

The evidence base includes the following:

- Strategic Flood Risk Assessment Review (2017) – reviewing the original Level 1 (part 1 and 2) and Level 2 assessments which had underpinned the first Core Strategy and current Allocations & Development Management DPD;
- Strategic Flood Risk Assessment Level 1 and 2 Refreshes (2022) - updating the baseline understanding of flood risk in the District and informing development of the Amended

Allocations & Development Management DPD. This includes considering the flood risk implications from retained existing site allocations and the options for new sites to meet Gypsy and Traveller accommodation requirements.

- Updates to the 2022 refreshes of the Strategic Flood Risk Assessment Level 1 and 2 (2023) – allowing for the assessment of two newly proposed Gypsy and Traveller sites allocations not considered through the 2022 refresh.
- Water Cycle Study Review (2017) – reviewing the original Water Cycle Study (2010) which underpinned the first Core Strategy and current Allocations & Development Management DPD;
- Tolney Lane Flood Alleviation Options (2019) – identifying and assessing the different theoretical options for mitigating or resolving flood risk at Tolney Lane; and
- Tolney Lane Flood Alleviation Scheme (2022)- development of a more detailed design and testing of the preferred option from the 2019 Tolney Lane work.
- Further updates to the 2022 refreshes of the Strategic Flood Risk Assessment Level 1 and 2 (2023) – EA climate change uplifts have been incorporated into the SFRA which supersede the climate change uplifts by N&SDC. The N&SDC climate change modelling is currently in the process of being reviewed by the EA.

Documents referred to above can be viewed online at <https://www.newark-sherwooddc.gov.uk/planreview-evidence/>

3.0 Proposals in the DPD

The review of the adopted Allocations & Development Management DPD has primarily focussed on;

1. Ensuring that the existing housing, employment, retail allocations continue to be deliverable and that any settlement specific planning policy issues are being appropriately addressed;
2. Ensuring that the Development Management policies are in line with the Amended Core Strategy and the latest national planning policy;
3. Updating housing policies contained in the Amended Core Strategy to reflect the latest Housing Needs Assessment and national planning policy; and
4. The development of a strategy to deliver enough sites and pitches to meet the future needs of the District's Gypsy, Roma, Traveller (GRT) communities.

The Environment Agency has noted that the amended Allocations & Development Management DPD has addressed previous comments provided. The primary risks within the N&SDC plan area are related to fluvial flood risk. However, the EA comments in relation to the protection of ground and surface water quality and Blue/Green Infrastructure have also been addressed. The EA are pleased to note that the requirement for a Biodiversity Net Gains of 10% or more have now been incorporated.

Gypsy and Traveller pitch provision

The remainder of this statement of common ground relates to point 4 of the above, the strategy for Gypsy, Roma, Traveller (GRT) communities. In terms of the GRT content within the proposed Plan, the Environment Agency does not have a position on the calculation of pitch requirements within Newark and Sherwood District or the application of the Sequential Test, as these are not within the Agency's remit. The Environment Agency have provided input on the basis of their role as a consultee with regards to flood risk.

N&SDC have identified a need to provide for 169 pitches for GRT accommodation within the District up to 2033. The initial five-year land supply target (for the period 2019-2024) would require 103 of these pitches to be provided.

There is a long-established area of GRT occupation at Newark to the west of the River Trent known as 'Tolney Lane', currently comprised of 18 individual sites. The longest established sites here pre-date the planning system, and a recent survey recorded 317 pitches across the 18 individual sites. However the site is very close to the undefended River Trent and lies within flood zones 2, 3a and 3b. The only access to the site, Tolney Lane, is in flood zone 3b, at very high flood risk.

N&SDC carried out a district-wide search for sites, and applied the Sequential Test. Other sites were identified but it was deemed that while some may be at lesser flood risk they did not pass the Sequential Test due to issues around their availability and suitability for the proposed use. N&SDC therefore did not find space for all the required pitches without including pitch allocations Tolney Lane, there is also not space at Tolney Lane within flood zone 2 for all the pitch allocations required, N&SDC have therefore proposed the allocation of 76 permanent pitches within flood zones 2 and 3a at Tolney Lane.

N&SDC have stated that are trying to regularise the situation at Tolney Lane. The longest established sites are largely in flood zone 2, with newer unauthorised sites and temporary sites in flood zone 3a and 3b, some of which are not occupied by the GRT community but other groups, which is causing other issues. N&SDC have said that they are concerned that any attempts to remove the unauthorised pitches would be quashed at appeal due to their lack of allocated GRT sites in the current Development Plan and the overall land supply position. This has been the recent pattern at Tolney Lane, with a cycle of the EA objecting at planning appeals, and the Inspector recognising the risk but allowing temporary permissions (between 2 and 5 years). N&SDC therefore want to address the situation through the local plan process and site allocations for permanent pitches, introducing a strategy and planned approach for the future management of the area.

At present many of the pitches with existing and temporary permissions are doubled-up (households sharing a pitch) and accommodating more occupants than originally intended, in addition to the unauthorised pitches. Therefore, N&SDC have stated that although the pitch allocation would be 76 new pitches, the strategy seeks the removal of 89 existing pitches (these are either unauthorised, have temporary consent or are in non-Traveller use). Were this to occur then the actual change to the number of pitches would be -13. The nature of the need for additional pitches from existing sites at Tolney Lane (doubled up households, demographic change, temporary consents and unauthorised sites), is such that it reflects the requirements of existing and potential future households already residing in the location.

In order to promote this strategy and to protect existing residents in the Tolney Lane area, N&SDC considers a flood alleviation scheme (FAS) to be necessary, to protect the site from flooding up to a 1%AEP flood event (1 in 100 year) and improve the safety of the access and egress route. It is not

possible to protect the site up to a 1%AEP+CC event due to the very widespread flooding in such an event. Options for the FAS are being hydraulically modelled and the EA and N&SDC will continue to work together on this matter.

In the spirit of co-operation the Environment Agency have been prepared to investigate with N&SDC the possibility of additional pitches as Tolney lane as part of protecting existing residents in this vicinity. However, this is subject to the implementation of the flood alleviation scheme (see areas of disagreement below).

The Environment Agency maintains an objection to the proposals to parts of N&SDC's approach towards Tolney Lane, for the following reasons:

- The site is at very high flood risk and the community are especially vulnerable to flooding
- In accordance with the NPPF, caravans occupied for permanent residential use are considered 'highly vulnerable' and not suitable for allocation in flood zone 3, or flood zone 2 without an 'exception test'
- The access road is in flood zone 3b/functional floodplain with no safe access and egress to the site during flood events
- Due to the flood risk as described above, the Environment Agency do not consider it appropriate for additional permanent pitches on sites at Tolney Lane proposed for allocation by N&SDC to be delivered ahead of the FAS being implemented due to the unsafe access and egress and high flood risk at the site
- The NPPF climate change guidance states that development should be safe from flooding during 1%AEP + climate change flood events, however at present:
 - The proposed FAS has a standard of protection of 1%AEP, it does not protect the site up to a 1%AEP +climate change flood event
 - There is no current firm proposal for an emergency safe refuge or dry access and egress route for residents who have not evacuated the site in a 1%AEP +climate change flood event.

Post-Submission Update

Following submission of the Amended Allocations & Development Management DPD in January 2024, and the submission of a planning application (24/00548/FUL) on the Old Stable Yard site (NUA/GRT/12) in March 2024, a difference between the climate change outputs in the Strategic Flood Risk Assessment Level 1 and 2 Refreshes (2023) and the Environment Agency's modelling became apparent. The site was included as a proposed Gypsy and Traveller allocation within the Submission plan but subsequently proposed for deletion through a suggested main modification (MM15).

This has been the subject of further cooperation between the two bodies to investigate the extent of the difference, and to establish whether it similarly effected other site allocations within the submitted Plan. Through this work the conclusions reached are that in most cases, there are only minor differences in the climate change outputs.

4.0 Areas of common ground

Climate Change Modelling:

- Some differences in the flood risk extents under the climate change scenarios modelled for the SFRA Level 1 and 2 Refreshes (2023) and the Environment Agency Climate Change modelling exist.
- For the proposed site allocations NUA/GRT/3, NUA/GRT4, NUA/GRT5 and NUA/GRT6 there is slightly greater risk under the Environment Agency model, however the outputs are broadly comparable and do not alter the conclusions reached over the suitability for the sites to move forward for allocation.
- Concerning the Old Stable Yard site allocation for Traveller accommodation (NUA/GRT/12), proposed for deletion through a suggested Main Modification (MM15), there is a greater level of difference between the SFRA modelling and that of the EA. It has been agreed that a more conservative approach towards the site is appropriate, in-line with the EA's modelling. The SFRA Refresh documents have been updated so that the content relating to the site reflects this.
- There is agreement that the SFRA Refresh documents continue to provide a robust and proportionate evidence base for the purpose of the Amended Allocations & Development Management DPD. Allowing for flood risk to be understood and taken account of as part of the review of existing site allocations and the making of new ones to meet the District's Gypsy and Traveller accommodation needs.

Tolney Lane:

- The Environment Agency are statutory consultees for flood risk and have advised on the flood risk at the Tolney Lane site, which is currently at substantial flood risk, with the site being located in flood zones 2,3a and 3b.
- The access road to the site, Tolney Lane, is in flood zone 3b and therefore at substantial flood risk; during flood events the site is cut off by floodwater. This has happened most recently during storm Henk (December 2023).
- Through the 2017 review of the Strategic Flood Risk Assessment, the relocation of established and lawful existing pitches away from Tolney Lane was agreed to not be feasible as part of this round of plan-making.
- With regards to the proposed flood alleviation scheme, the Agency welcome the proposal in principle. The existing community at Tolney Lane are at very high flood risk. Adding flood defences to protect the existing community would be a significant betterment in comparison to the current situation.
- The Agency will continue to work with N&SDC to advise on flood risk, national flood risk guidance and the assessment of further scheme designs and modelling.
- Both parties agree over the benefits of taking a plan-led approach to development in the Tolney Lane area

5.0 Areas of disagreement

Tolney Lane:

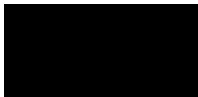
- The EA do not consider that it is appropriate for new pitches to be occupied until any flood alleviation scheme has been fully implemented.
- The EA consider that if it is not possible to protect the site to a 1%AEP + climate change flood event with the proposed flood alleviation scheme, there should be provision of a safe refuge or emergency dry access and egress for occupants of the site who have not evacuated.

6.0 Moving forward

Both parties will continue to work together to develop the flood alleviation scheme and options for mitigating the risk of a 1%AEP + climate change flood event.

The Environment Agency will provide technical flood risk advice to inform N&SDC making decisions regarding their Local Plan

Signed on behalf of Newark & Sherwood District Council:

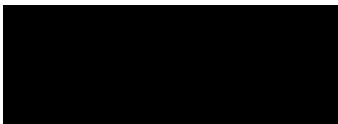


Matt Lamb

Position: Director of Planning and Growth

Date: 30 October 2024

Signed on behalf of the Environment Agency:



Paul Lockhart

Position: Area Flood and Coastal Risk Manager (Nottingham and Tidal Trent)

Environment Agency East Midlands Area

Date: 30 October 2024