

Statement of Common Ground – Between St Albans District Council and the Environment Agency

Date: 10 March 2025

1. Introduction:

- 1.1 This Statement of Common Ground has been prepared jointly between St Albans District Council (SADC) and the Environment Agency (EA). The EA are responsible for tidal and fluvial flooding across the district. The EA's role in the planning system is as a statutory consultee as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015 and in Government Planning Practice Guidance.
- 1.2 In relation to strategic planning matters, section 33A (1) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) indicates that Local Planning Authorities have a duty to cooperate with bodies (or other persons) within subsection (9) and paragraphs (a), (b) and (c) of subsection (1), in section 33A(1) of the PCPA 2004.
- 1.3 This approach is also a requirement of national planning policy. Paragraph 36 of the National Planning Policy Framework seeks to ensure that the Local Plan is deliverable over the plan period and based on effective joint working on strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.
- 1.4 The Duty to Cooperate was established in the Localism Act 2011. The Duty to Cooperate requires all Local Planning Authorities (LPAs) to engage constructively, actively and on an ongoing basis in relation to cross-boundary issues.
- 1.5 Both parties are prescribed bodies for the purposes of the Duty to Cooperate.
- 1.6 The purpose of this Statement of Common Ground is to set out the confirmed agreements and disagreements with regard to strategic and cross - boundary issues surrounding the St Albans Local Plan. This is the result of early, meaningful and continuous engagement between the Local Planning Authority and statutory consultees and key stakeholders in the Local Plan process.
- 1.7 This Statement of Common Ground reflects the current position between SADC and the EA. It will be updated as and when required.
- 1.8 SADC and the EA will continue to engage on strategic planning matters as the St Albans Local Plan progresses to submission and examination.

- 1.9 Appendix A provides a full breakdown of EA's response to the St Albans Local Plan Regulation 19 consultation.
- 1.10 Appendix B provides an Updated EA response based on the review of flood risk sequential test document entitled 'Local Plan 2041, Flood Risk Sequential Test & Exception Test, St Albans City & District Council' (dated: December 2024) from 27 January 2025.

2. Matters

- 2.1 This SoCG sets out the confirmed points of agreement and disagreement between the parties with regard to strategic planning matters arising from planning policy proposals in the emerging St Albans Local Plan, specifically in relation to:
- The sequential and exception test for site allocations.
 - Strategic Flood Risk Assessment (SFRA) Level 1
 - Strategic Flood Risk Assessment (SFRA) Level 2
 - Proposed policy NEB 5: Blue Infrastructure
- 2.2 As part of the Regulation 18 consultation, the EA shared soundness concerns on the outdated Flood Risk Assessments. SADC updated their Level 1 SFRA by means of an addendum and produced a new Level 2 SFRA.
- 2.3 As part of the Regulation 19 consultation, the EA reviewed the updated SFRAs and noted that all models used in the SFRA were current and hence the best data available for this exercise. This overcame the EAs concerns around outdated SFRAs. However, the EA noted that the SFRAs will need to be updated when new modelling is available. This is crucial to ensure that the SFRAs are fit for purpose.
- 2.4 The EA had raised concerns at Regulation 19 stage regarding the absence of sequential and exception tests for site allocations in line with the national policy. The EA shared that as submitted, the site allocations did not appear to be in line with national policy or justified in line with the test of soundness outlined in the National Planning Policy Framework.
- 2.5 This has been overcome by the Sequential and Exception Test from December 2024. The EA's updated response is attached as Appendix B.

3. Outstanding matters

3.1 The EA had also raised concerns around the absence of policy wording (NEB 5: Blue Infrastructure) around the establishment of a minimum 8-metre buffer between all new development and the top of main riverbank / flood defence / culvert. This was initially communicated in the EA's representation on the Regulation 18 draft of the said local plan. The EA note that significant improvements to this policy have taken place since the Regulation 18 draft around river restoration, WFD impact assessment and overshadowing.

3.2 SADC will propose as part of the Local Plan Examination a Main Modification to policy NEB5:

NEB5 (new item e) - *Ensure a minimum 8-metre buffer between all new development and the top of riverbank / flood defence / culvert.*

4. Conclusion

4.1 Both parties agree that significant improvements have been made to the draft local plan since the Regulation 18 draft was put forward for consultation.

4.2 Both parties agree that this is a result of continuous engagement under the duty to cooperate.

4.3 Both parties agree to continue engaging with each other during the preparation of this local plan and beyond.

AGREEMENT

Signed on behalf of St Albans City and District Council

Name: Chris Briggs

Position: Spatial Planning Manager

Date: 29.1.25

A handwritten signature in black ink, appearing to read 'Chris Briggs', with a stylized flourish at the end.

Signed on behalf of the Environment Agency

Name: Mohammad Ahmed

Position: Sustainable Places Planning Specialist

Date: 10 March 2025

A handwritten signature in black ink, appearing to be a stylized 'M' followed by 'A', with a flourish at the end.

Appendix A – Environment Agency’s response to the St. Albans Draft Local Plan 2041 Regulation 19 Consultation

Dated: 8 November 2024

Spatial Planning Team,
St Albans Council Offices,
St Peters Street,
St Albans,
AL1 3JE.

Date: 8 November 2024

Email: planning.policy@stalbens.gov.uk

St. Albans Draft Local Plan 2041 Regulation 19 Consultation

Thank you for consulting us on the above local plan regulation 19 consultation.

As you are aware, we are unable to locate the Sequential (ST) and Exception (ET) tests' results used to inform your proposed site allocations. **Based on the information currently available, we find your draft local plan, particularly the site allocations, to be unsound.** Further information regarding this is provided under evidence base section below.

From our Duty to Cooperate meeting on 5 November, we are aware that St Albans City and District Council are working to resolve this soundness concern. We look forward to reviewing the ST/ET results and should be able to provide an updated response once we are able to review this information.

Having reviewed the updated and new local plan documents, we have the following comments to make on environmental considerations within our statutory remit. These comments are divided into:

- Evidence base
- Local plan policies
- Site allocations

Evidence base

Sequential and Exception test for site allocations

It appears the ST and ET has not been undertaken in support of the site allocations that have been put forward as part of the Local Plan. This is an essential requirement as it demonstrates there are no areas at a lower risk of flooding where sites could be allocated. As a result, the evidence base is **not justified**, and the site allocations are **not consistent with national policy**, in particular, Paragraphs 167-171 of the National Planning Policy Framework Paragraph (NPPF) and Paragraph 7 and 23-30 of the Flood Risk and Coastal Change section of the Planning Practice Guidance (PPG).

We therefore request that further documentation is submitted by that clearly demonstrates the tests have been completed, in line with Paragraphs 167-171 of the NPPF and Paragraph 7 of the PPG. Guidance on these tests can be found in the flood risk and coastal change section of the PPG which is available here: <https://www.gov.uk/guidance/flood-risk-and-coastal-change#diag2>.

Cont/d..



INVESTOR IN PEOPLE



We note that your site selection methodology, Level 2 SFRA and site summary tables outline the requirement for these tests to be conducted in line with national policy.

Please note that these tests should take into account all sources of flood risk and the current and future impacts of climate change in line with Paragraph 167 of the NPPF.

Strategic Flood Risk Assessments (SFRA)

We are pleased to see the updates made to the Level 1 SFRA (by an addendum) and the formulation of the Level 2 SFRA. We note that all models used in the SFRA are current and hence the best data available for this exercise.

As discussed in our Regulation 18 response and the Duty to Cooperate meeting, please note that the SFRAs will need to be updated when new modelling is available. We urge Local Planning Authorities (LPA) to keep SFRAs up to date with updating modelling and changes in policy to ensure they are robust and fit for purpose.

Furthermore, we note that floodplain compensation has only been mentioned in relation to surface water flooding and modifying ground levels - not in relation to fluvial flooding. We recommend that fluvial flooding should also be considered in terms of floodplain compensation.

Local Plan Policies

Chapter 2: Climate change

Policy SP2: Responding to the climate emergency

We are pleased to see the inclusion of considerations for flood risk mitigation, biodiversity net gain and SuDs in this policy.

Policy CE1: Promoting Sustainable Design, Construction and Building Efficiency

We welcome the inclusion of water efficiency in clause (c) related to retrofitting of existing buildings.

However, we note that sub-clauses i-ii (around BREEAM standards etc.) have been omitted since the Regulation 18 draft. We would recommend re-introducing them to make the policy more effective.

As recommended in our comments to the Regulation 18 draft, please provide clarity on the text 'degree proportionate to the proposal' of the above policy. We recommend that all developments within the St Albans Local Planning Authority's (LPA) area should be subject to this policy.

We are pleased to see the inclusion of clause (f) related to Sustainable Drainage Systems (SuDS).

As communicated in our Regulation 18 response, we would also recommend editing the CE1 policy to include the requirement for significant housing developments (i.e., those which require an Environmental Impact Assessment) to conduct a site-specific water cycle study. This more detailed analysis can take account of new evidence and consider the phasing of a development to support any necessary infrastructure upgrades. This could then be incorporated into the relevant Infrastructure Delivery Plan.

Water cycle studies

Given the scale of the water resources challenges, we also strongly recommend St.

Albans District Council to conduct a water cycle study as part of your new local plan. This would be an update to the Hertfordshire Water Study 2017, which identified immediate (2021), medium term (2031), and long term (2051) considerations. Our understanding of the challenges around water supply, climate change scenarios and environmental need have improved. Additionally, the specific requirements on water companies to meet their environmental obligations have changed, therefore, the above study requires an update and is not considered adequate. This should encompass a thorough assessment of drinking water supply, ideally considering specific network arrangements and where water is being obtained from to meet demand. Wastewater infrastructure and treatment constraints should also be included, as well as options to address emerging issues. Strong engagement with the relevant water companies will ensure this is comprehensive.

CE2 - Renewable and Low Carbon Energy

We are supportive of this policy. However, as recommended in our Regulation 18 response, it will be beneficial to add in point (C) that the council will support these low carbon solutions in the right location. For example, some low carbon options may not be appropriate in areas with high groundwater sensitivity such as in Source Protection Zones due to the impact on the aquifers which feed the districts chalk streams.

Chapter 3: Sustainable Use of Land and Green Belt

We welcome the inclusion of site-specific policies for the purpose of ensuring sustainable development. However, as communicated in our Regulation 18 response, we note that **policies LG1 and LG 4** could be strengthened by including requirements for flood risk assessments, biodiversity net-gain, protection of adjacent watercourses and groundwater protection.

Chapter 6: City, Town and Village Centres and Retail

Policies SP6 and TCR6

As communicated in our Regulation 18 response, we believe that there is a missed opportunity in terms of provisions for environmental considerations. The regeneration and uplifting of town centres provide a great opportunity for environmental protection and enhancement.

We therefore recommend the inclusion of clause(s) related to safeguarding and protecting the environment. This could include the safeguarding of associated watercourses and priority habitat. Furthermore, we recommend the inclusion of a clause to explore environmental improvements such as creation of new habitats that will provide multiple benefits for example as part of green infrastructure, SuDS, flood alleviation, working with natural processes and natural flood management, increasing recreational opportunities, improving the economic and social value of the environment. St Albans town centre is in close proximity to the River Ver so consideration of development impact to the river should be included.

Chapter 7: Community infrastructure

Strategic Policy SP7 – Community Infrastructure

We are pleased to see the inclusion of flood defences as relevant community infrastructure.

COM2 - Cemeteries and Burial Grounds

We welcome the inclusion of clause (d) around groundwater risk assessments.

However, we note that the policy can be strengthened by including further text on the lines of:

Developers/applicants should comply with the most up to date guidance provided by the Environment Agency (EA) to safeguard groundwater against pollution and seek the advice of the EA.

We note that this text can also be incorporated in the supporting text for this policy.

Chapter 10: Natural Environment and Biodiversity

Strategic Policy SP10 – Natural Environment, Biodiversity and Green and Blue Infrastructure

We welcome the inclusion of the council's commitment to the aims and objectives of the Local Nature Recovery Strategy.

We note that while the policy title has been updated, no additional text round blue infrastructure etc. has been included.

NEB 5: Blue Infrastructure

We are pleased to see that most of comments from the Regulation 18 response have been taken on-board, in relation to:

- The technical feasibility of river restoration.
- Inclusion of further text on wider issues associated to watercourses.
- Inclusion of the requirements for a WFD impact assessment for development within 8-metres of a main river.
- Inclusion of text around overshadowing etc.

However, as communicated in our Regulation 18 response and the Duty to Cooperate meeting, we have significant concerns that the requested 8-metre buffer zone provisions have not been incorporated into this policy. Please see details below:

We recommend adding a clause related to the establishment of a minimum 8-metre buffer between all new development and the top of riverbank / flood defence / culvert. Leaving appropriate undeveloped buffer between river and development can reduce the risk of flooding and the need for a flood risk activity permit (FRAP). Additionally, these buffer zones also provide broader benefits towards biodiversity and assist in WFD compliance. Furthermore, as the Environment Agency is responsible for the management of main rivers, new development should not restrict access to main rivers and flood defence assets.

Please refer to Local Plans for neighbouring districts/boroughs for examples of this policy.

NEB 6: Biodiversity and Biodiversity Net Gain

As communicated in our Regulation 18 response, we recommend the inclusion of a clause which covers invasive non-native species and their management, including biosecurity measures.

Invasive species are a growing issue and must be addressed to stop the spread. Development sites should be checked for invasive species and measures should be put in place to follow biosecurity and eradicate the invasive species on site.

NEB 7: Biodiversity Provision in the Design of New Buildings and Open Spaces

We previously recommended the inclusion of a policy related to new buildings not overshadowing the river channel. We are pleased that this has been included in Policy NEB5.

NEB 8: Managing Flood Risk

We welcome the new text for this policy that includes information on the sequential and exception test, sequential approach, climate change considerations and FRA requirements.

We note that in our Regulation 18 response, we raised soundness concerns around this policy and can confirm that those concerns have now been addressed with the improvements made.

Please note that the text around buffer-zones, recommended above (NEB5: Blue Infrastructure) will also be relevant to this policy considering the impact on flood risk.

Chapter 13: Health and Wellbeing

We note that currently your new contaminated land policy and associated text appears to fall under the heading of Light Pollution. This may cause confusion for readers and planners later on; hence we recommend including a separate sub-heading as appropriate.

HW3: Contaminated Land

We welcome the inclusion of this new policy on contaminated land. We note that it may be helpful to indicate the direction of the groundwater pollution emanating from St Leonard's Court as has been included for Buncefield. This is approximately eastwards.

We also recommend the inclusion of 'with infiltration drainage or losing **or damaging** monitoring infrastructure' in the text related to Sandridge, St Leonard's Court.

HW3: Groundwater Pollution

We welcome the inclusion of this new policy on groundwater pollution and quality. We note that there appears to be a typing error in the text of the second paragraph: 'Development must take account of the relevant Source advice with regards to the Protection Zone that it lies within', we believe this should be:

Development must take account of the relevant ~~Source~~ advice with regards to the **Source** Protection Zone that it lies within.

Site allocations

Please take note of our **soundness concerns** related to site allocations (ST and ET) under the section on evidence base above.

Please note that as part of this consultation we are only providing comments on new site allocations or sites where an increase in area (since the Regulation 18) response has resulted in additional environmental constraints within our remit.

H1 - North Hemel Hempstead

We note that there is an increase in the area allocated for this site which has meant that this is now in close proximity to Tullochside Historic Landfill.

We note that development within close proximity / on-top of historic landfill may need to follow relevant waste and permitting legislation.

P3 - Friends Meeting House, Blackwater Lane, Hemel Hempstead, HP3 8LB

Constraints

- Source Protection Zone (SPZ) 3.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 3), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC53 - Motor Repair Garage, Paynes Yard, Park Street Lane, AL2 2NE

Constraints

- Source Protection Zone (SPZ) 2.
- Bedrock Aquifer.
- Possible contamination (garage).

Comments

Considering the sensitivity of groundwater (SPZ 2), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC54 - Harpenden Railway Station Car Park East, Harpenden, AL5 4SP

Constraints

- Source Protection Zone (SPZ) 1.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 1), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC55 - 44-52 Lattimore Road, St Albans, AL1 3XW

Constraints

- Source Protection Zone (SPZ) 2.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 2), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC56 - Garages to the rear of Portman House, Therfield Road, St Albans, AL3 6BN

Constraints

- Source Protection Zone (SPZ) 2.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 2), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC57 – Telford Court, Alma Road, St Albans, AL1 3BP

Constraints

- Source Protection Zone (SPZ) 2.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 2), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

UC58 - Cotlandswick Garages B, London Colney, AL2 1EG

Constraints

- Source Protection Zone (SPZ) 2.
- Bedrock Aquifer.

Comments

Considering the sensitivity of groundwater (SPZ 2), any proposals should include appropriate risk assessments and should not negatively impact groundwater quality as required by the NPPF and PPG.

Final comments

Thank you again for seeking our representation on the Draft Local Plan Regulation 19 consultation. We trust that the comments presented in this letter are clear and informative and would welcome the opportunity to meet with you to discuss in more detail any issues or queries you may have.

Should you have any queries regarding this response or require additional information or guidance on any of the points raised, please do not hesitate to contact me.

Yours sincerely,

Mohammad Ahmed
Sustainable Places Planning Specialist

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E-mail: HNL.SustainablePlaces@environment-agency.gov.uk

Appendix B – Environment Agency’s updated response to the St. Albans Draft Local Plan 2041

Dated: 27 January 2025

Chris Briggs
Spatial Planning Team,
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St Peters Street,
St Albans,
AL1 3JE.

Date: 27 January 2025

Email: planning.policy@stalbans.gov.uk

Environment Agency updated response: St. Albans Draft Local Plan 2041

Thank you for re-consulting us on the above draft local plan. As part of the re-consultation, we have reviewed the following document:

- Local Plan 2041, Flood Risk Sequential Test & Exception Test, St Albans City & District Council (dated: December 2024)

After a review of the above document, we are in a position to confirm that **our soundness concerns** regarding the Sequential (ST) and Exception (ET) tests' results for site allocations, raised as part of our representation to the regulation 19 consultation (dated: 8 November 2025), **have been addressed and resolved**.

Based on our review, we are satisfied that the ST and ET have been undertaken for the relevant proposed site allocations. We note that we did not review the justification for each site in detail, as this is not part of our statutory remit.

Duty to Cooperate

We note that St Albans City & District Council (SADC), under the duty to cooperate, has engaged with the Environment Agency (EA) to overcome our soundness concerns regarding the draft local plan. This has resulted in the resolution of soundness concerns around ST and ET as stated above.

Remaining concern

While not a soundness concern, the Environment Agency has **significant concerns** around the absence of policy wording calling for an 8-metre buffer zone along main rivers. This was communicated via our response to the statutory consultations and the aforementioned Duty to Cooperate meeting.

We recommend adding a clause in NEB5: Blue Infrastructure, related to the establishment of a minimum 8-metre buffer between all new development and the top of riverbank / flood defence / culvert. Leaving appropriate undeveloped buffer between river and development can reduce the risk of flooding and the need for a flood risk activity permit (FRAP). Additionally, these buffer zones also provide broader benefits towards biodiversity and assist in WFD compliance. Furthermore, as the Environment Agency is responsible for the management of main rivers, new development should not restrict access to main rivers and flood defence assets.

From our Duty to Cooperate meeting (dated: 5 November 2024), it is our understanding that SADC are looking to resolve these as part of modifications during examination.

Final comments

We do not have any further concerns regarding soundness and believe that the duty to cooperate (in relation to the EA's remit) has been met. However, we shared a number of other recommendations to improve the Local Plan at this stage. Please see our previous response to the regulation 19 consultation (dated: 8 November 2024) for further detail.

Should you have any queries regarding this response or require additional information or guidance on any of the points raised, please do not hesitate to contact me.

Yours sincerely,

Mohammad Ahmed
Sustainable Places Planning Specialist

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