



Land at Tollgate Road, Colney Heath

**Statement of Common Ground
In Respect of Surface Water Flood Risk (Subterranean Stream)**

Between

**Stantec UK Ltd on behalf of Vistry Group
and
Hertfordshire County Council as Lead Local Flood Authority**

PINS REF:

APP/B1930/W/23/3323099

On behalf of **Vistry Group**

Project Ref: 332510999 | Rev: | Date: September 2023

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1 Introduction

1.1.1 This Statement of Common Ground (SoCG) has been prepared by Stantec UK Ltd, on behalf of Vistry Group (“the Appellant”) and agreed by Hertfordshire County Council as the Lead Local Flood Authority (LLFA). The SoCG sets out our common ground on surface water flood risk and the alleged subterranean stream for the appeal ref: APP/B1930/W/23/3323099.

1.1.2 This SoCG has been prepared to assist the Inspector in the consideration of Flood Risk matters in relation to an alleged subterranean stream referenced in the Rule 6 Proof of Evidence by Colney Heath Parish Council (CHPC) and various other objections lodged by 3rd party representatives against the following development.

“Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and self-build and custom housebuilding dwellings together with all ancillary works”.

1.1.3 The site is located at Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath, St Albans, Hertfordshire (“the Appeal Site”).

1.1.4 The planning application was supported by a Flood Risk Assessment and Surface Water and Foul Water Drainage Strategy which sets out flood risk from all sources of flooding and provides an outline drainage strategy for both surface water and foul drainage. These were prepared by Stantec UK Ltd.

1.1.5 This SoCG sets out the areas of agreement between the LLFA specifically in relation to surface water flooding and an alleged subterranean stream.

1.1.6 The LLFA have agreed to discuss issues around the alleged subterranean stream and the proposed planning condition for further ground water monitoring to be undertaken to support the next stage of the design.

1.1.7 The LLFA will not be providing comments or discuss the sequential test or the outline drainage design as the LPA used an external consultant to review the proposed drainage.

2 The LLFAs Consideration of the Scheme

2.1.1 In relation to Flood Risk the following key document was originally issued with the application.

- *Flood Risk Assessment, Surface Water and Foul Water Drainage Strategy, dated June 2022*

2.1.2 An additional document was submitted during the determination of the application.

- Technical Note – TN001 – Response to resident objection, dated 24 January 2023

2.1.3 An additional document was also submitted during the appeal.

- Technical Note – TN002 – Response to 3rd Party Representations, dated 22 August 2023

2.1.4 There is a total of one consultation response from the LLFA to St Albans City & District Council (Council) during the original application.

- 16 November 2022 – The LLFA confirms that as the Council has instructed an external consultant the LLFA will not provide formal comments on the application.

2.1.5 There are a total of three email responses from the LLFA to St Albans City & District Council (Council) during the original application regarding flood risk.

- 20 February 2023 at 09:38 – The LLFA wrote to confirm their agreement with Stantec's Technical Note – (TN001), see reference above, that flooding seen to the rear of the properties off Tollgate Road is understood to be due to localised depressions in the surface where due to the clay soils, the water cannot infiltrate fast enough hence it ponds temporarily in the depressions, see correspondence in Appendix A.
- 20 February 2023 at 12:17 – As a follow-on response to the correspondence above, the LLFA confirms there has been insufficient evidence to demonstrate there is an underground stream. The LLFA also goes on to say that groundwater monitoring would be useful to inform the SuDS design (Sustainable Drainage Systems) at the next stage of work, see Appendix A.
- 22 February 2023 at 09:42 – As a further response, the LLFA provides suggested wording for a planning condition to undertake a detailed ground investigation.

'No development shall be commenced until detailed ground investigations have been conducted across the site and submitted to the Local Planning Authority. The ground investigations should identify seasonal groundwater levels (to reflect that the initial testing was conducted in summer) and ensure areas of shallow groundwater will not compromise the development and vice versa. Where shallow groundwater is identified, appropriate measures to mitigate groundwater flood risk should be proposed to ensure the risk of groundwater flooding is not increased on or off site'.

2.1.6 There is a total of one email response from the LLFA to Stantec during the appeal process regarding flood risk.

- 5 September 2023 at 13:56 – The LLFA wrote to confirm their agreement that the main issue raised by the CHPC with regards to flooding, is the misunderstanding that the surface water flood maps indicate a potential underground watercourse, see Appendix A.

3 Matters agreed

- 3.1.1 The LLFA has confirmed there are no points of disagreement between the LLFA and Vistry relating to surface water flood risk and the alleged subterranean stream. The matters that are agreed include:
- CHPC and one resident in particular picked up on the Risk of Flooding from Surface (RoFfSW) mapping, based on data from the Environment Agency, from one of the documents Stantec had prepared in support of the planning application. For this site the flooding indicates where there are localised depressions on the surface and where the RoFfSW modelling (based on LiDAR data) assumes ponding occurs.
 - The concerned residents misunderstood the RoFfSW mapping and noticed a “blue ribbon” to the rear of the existing properties (off Tollgate Road), which they interpreted as groundwater flooding from an underground stream.
 - Stantec prepared a response to this assertion which referred to a ground investigation that had been undertaken on site, including in close proximity to this “blue ribbon”, which did not support the existence of an issue, spring or underground stream near the surface.
 - It is agreed that the ground conditions preclude the presence of an underground stream at the surface, and that the feature incorrectly identified as an underground stream by the CHPC and residents is in fact surface ponding in a localised depressions during and after a rainfall event, due to the underlying clay formation.
 - The concerned residents contacted HCC LLFA ordinary watercourses team because they wanted to have the potential underground stream designated as an ordinary watercourse/under riparian responsibility such that it couldn't be altered.
 - HCC LLFA advise the residents that while any potential underground streams should be considered and suitably mitigated as part of the site design, it would not be possible/reasonable for the LLFA to apply riparian law to a feature with no details of its depth, route or width, etc.
 - At this point HCC LLFA advised St Albans City & District Council (LPA) that noting the applicant had already undertaken some ground investigations, they could include a condition for groundwater is be investigated further and with appropriate measures to establish that both groundwater and the development do not have an adverse effect on each other.
 - The surface water flood mapping provided in the Strategic Flood Risk Assessment, which has been modelled with the inclusion of climate change) does not indicate surface water flooding in the area identified on the EA RoFfSW map.
 - Vistry's planning application was refused by the LPA, however surface water drainage/SuDS or flood risk was not a reason for refusal.

4 Mitigation agreed

4.1.1 The following mitigation is proposed due to localised surface water flooding.

- Proposed ground levels are to be engineered such that development areas are positively drained via surface water drainage features or overland flow, avoiding localised ponding of surface water.
- Ground floor levels to be set a minimum of 300mm above the modelled 1 in 100 annual probability, plus climate change, event level or a minimum of 150mm above the surrounding ground levels, whichever is higher.

4.1.2 HCC LLFA have proposed for further ground water monitoring to be undertaken, post planning, to assess the seasonal variations of groundwater levels to inform the future drainage design and to assess it would pose no risk to the development itself or compromise the proposed SuDS network. The following conditions has been suggested.

'No development shall be commenced until detailed ground investigations have been conducted across the site and submitted to the Local Planning Authority. The ground investigations should identify seasonal groundwater levels (to reflect that the initial testing was conducted in summer) and ensure areas of shallow groundwater will not compromise the development and vice versa. Where shallow groundwater is identified, appropriate measures to mitigate groundwater flood risk should be proposed to ensure the risk of groundwater flooding is not increased on or off site'.

5 Declaration

5.1.1 This Statement of Common Ground is agreed between the Appellant (Stantec UK on behalf of Vistry Group) and Hertfordshire County Council Lead Local Flood Authority.

Agreed on behalf of Stantec/the Appellant



.....Ron Henry, Director

Agreed on behalf of Hertfordshire County Council LLFA



.....David Uncle, Senior Flood Risk Officer

Appendix A Correspondence

From: Julie Manlove [mailto:Julie.Manlove@hertfordshire.gov.uk]
Sent: 16 November 2022 17:30
To: George Burgess <George.Burgess@stalbans.gov.uk>; Planning Applications <Planning.Applications@stalbans.gov.uk>
Subject: 5/2022/1988 - Land To The Rear Of 42-100 Tollgate Road & 42 Tollgate Road Colney Heath

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Dear George,

Thank you for re-consulting us on the above application for: 5/2022/1988 - Land To The Rear Of 42-100 Tollgate Road & 42 Tollgate Road Colney Heath St Albans. Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and custom-build dwellings together with all ancillary works.

We note that an external consultant has been instructed to review this case and in order to avoid conflicting reviews, the LLFA will not provide formal comments and therefore close the case from our side.

Please note that if the LPA decides to grant planning permission we wish to be notified for our records.

Regards

Julie



Julie Manlove
Senior Support Officer| Flood Risk Management
Environment & Transport & Sustainable Growth

Hertfordshire County Council
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Soderberg, Asa

From: George Burgess <George.Burgess@stalbans.gov.uk>
Sent: 29 August 2023 17:33
To: George Burgess
Subject: RE: Riparian responsibilities

From: David Uncle <David.Uncle@hertfordshire.gov.uk>
Sent: 22 February 2023 09:42
To: George Burgess <George.Burgess@stalbans.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>; Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

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Good morning George

Something along the lines of

No development shall be commenced until detailed ground investigations have been conducted across the site and submitted to the Local Planning Authority. The ground investigations should identify seasonal groundwater levels (to reflect that the initial testing was conducted in summer) and ensure areas of shallow groundwater will not compromise the development and vice versa. Where shallow groundwater is identified, appropriate measures to mitigate groundwater flood risk should be proposed to ensure the risk of groundwater flooding is not increased on or off site.

How does that sound?

Best wishes,



David Uncle
Senior Flood Risk Officer | Flood Risk Management
Environment, Transport & Sustainable Growth
Hertfordshire County Council
County Hall, Pegs Lane, Hertford, SG13 8DN Postal Point: CHN101
E: David.Uncle@hertfordshire.gov.uk
T: 01992 555839 (Internal: 25839)



From: George Burgess <George.Burgess@stalbans.gov.uk>
Sent: 21 February 2023 12:32
To: David Uncle <David.Uncle@hertfordshire.gov.uk>; Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

Hi David,

Thanks for your helpful email.

Your suggestion of a condition for additional boreholes to determine groundwater levels sounds sensible. Is there wording for this that you could recommend please?

Appreciate you don't want to tread on RAB's toes, but I'm wary that re-consulting them will cost the applicant an additional £840 which I imagine they will be reluctant to do. RAB commented on the application prior to the subterranean stream issue being raised and stated the application is acceptable subject to a drainage scheme condition (comments attached for reference).

Kind regards

George

George Burgess

Principal Planning Officer
Development Management
Community and Place Delivery

St Albans City and District Council

Council general home page: www.stalbans.gov.uk
Council contact details and address: www.stalbans.gov.uk/contact-us

My usual working days are Monday, Tuesday, Wednesday and Friday.

From: David Uncle [<mailto:David.Uncle@hertfordshire.gov.uk>]
Sent: 20 February 2023 12:17
To: George Burgess <George.Burgess@stalbans.gov.uk>; Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

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Hi George

I think at this stage there is insufficient information and it has not been demonstrated to us to confirm there is an underground stream here.

I agree with Mr Ellis that seasonal groundwater monitoring would be useful – underground stream or not – I believe the ground investigation report says the investigations were undertaken in the summer and therefore not necessarily representative of winter conditions, when the water table will be higher, but I'm conscious of treading on RAB's toes if they have been involved in the case previously. From a SuDS point of view we would want the groundwater levels confirmed across the seasons to ensure they do not pose a risk to the development itself or could compromise the SuDS network.

I've also not come across a subterranean stream flow survey before. If there was an underground stream here it would certainly be useful and important to understand the route it takes, its width and its depth. My view is there is not enough evidence of an underground stream yet to warrant putting this onus on the applicant at this stage and considering they have already undertaken ground investigations, but it may be worth keeping in mind. Certainly if evidence of an underground stream is uncovered at a later stage, it will be necessary to make sure this does not impact the development or increase flood risk on or off site.

Perhaps this could be secured by way of a condition to conduct a series of further boreholes etc across the site to confirm groundwater levels (which is beneficial anyway) and potentially pick up this stream, if it does exist? Then if it does exist the drainage strategy etc could be updated accordingly?

Best wishes,



David Uncle
Senior Flood Risk Officer | Flood Risk Management
Environment, Transport & Sustainable Growth
Hertfordshire County Council
County Hall, Pegs Lane, Hertford, SG13 8DN Postal Point: CHN101
E: David.Uncle@hertfordshire.gov.uk
T: 01992 555839 (Internal: 25839)



From: George Burgess <George.Burgess@stalbans.gov.uk>
Sent: 20 February 2023 09:59
To: David Uncle <David.Uncle@hertfordshire.gov.uk>; Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

Hi David,

Thanks for your quick and helpful response.

Based on your comments it sounds to me that there is insufficient evidence to demonstrate that there is an underground stream in this location and this should not be a reason to restrict development at the site. Is this a fair summary?

Rob Ellis left further comments on the application portal on 16 Feb stating "*Hopefully the planning office will now liaise with other involved departments to instigate the subterranean stream flow survey and seasonal monitoring that will be necessary to decide the protection area over this stream together with the additional required "stream set back" provisions that will inevitably limit development to the Northern part of the site.*"

Do you feel that requiring a subterranean stream flow survey would be justified? I can't say I've come across such a survey before.

Many thanks

George

George Burgess
Principal Planning Officer
Development Management
Community and Place Delivery

St Albans City and District Council
Council general home page: www.stalbans.gov.uk
Council contact details and address: www.stalbans.gov.uk/contact-us

My usual working days are Monday, Tuesday, Wednesday and Friday.

From: David Uncle [<mailto:David.Uncle@hertfordshire.gov.uk>]
Sent: 20 February 2023 09:38
To: George Burgess <George.Burgess@stalbans.gov.uk>; Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

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Hi George

Thanks for your email, I have since seen this document thanks to Mr Ellis and I am in agreement with Stantec.

If ground investigations had not already been carried out I would have suggested this should be done to verify and hopefully resolve Mr Ellis' concerns. However, fortunately ground investigations have been done and luckily more or less exactly where the "blue ribbon" (circled in green in Fig. 1 of Stantec note dated 24 Jan 2024) is that Mr Ellis assumed indicated the route of the underground stream.

I agree with Stantec in that the "blue ribbon" identified is the risk of flooding from surface water mapping, which when cross-referenced with Mr Ellis' photographs does appear to be a localised depression in the ground. As the Stantec note identifies, a borehole and 2 trial pits were conducted along this area which identified what appears to be generally impermeable strata (lots of clay). As such I do not think it is a case of water coming out of the ground, but rather due to the clay the water simply cannot infiltrate fast enough so ponds in these depressions.

I think the key issue at the moment is the existence of an underground stream is anecdotal and not yet picked up by any investigations on site.

Best wishes,



David Uncle
Senior Flood Risk Officer | Flood Risk Management
Environment, Transport & Sustainable Growth
Hertfordshire County Council
County Hall, Pegs Lane, Hertford, SG13 8DN Postal Point: CHN101
E: David.Uncle@hertfordshire.gov.uk
T: 01992 555839 (Internal: 25839)



From: George Burgess <George.Burgess@stalbens.gov.uk>
Sent: 20 February 2023 09:21
To: Ordinary Water Courses <ordinarywatercourses@hertfordshire.gov.uk>; David Uncle <David.Uncle@hertfordshire.gov.uk>
Cc: FRMConsultations <FRMConsultations@hertfordshire.gov.uk>
Subject: RE: Riparian responsibilities

Good morning David,

Thanks for your email and for sharing your correspondence with Rob Ellis.

Rob has also been in touch with the Council, applicant and Environment Agency regarding the potential subterranean stream. The EA has said it does not change their comments on the application (which make no references to a subterranean stream).

The applicant has provided the attached note in response to Rob's comments, which suggests the ponding of surface water is due to localised low spots in the land. I appreciate the LLFA is not currently providing responses for SADC, but any thoughts you have on the attached note would be welcome. RAB hasn't commented on the attached.

Many thanks

George

George Burgess
Principal Planning Officer
Development Management
Community and Place Delivery

St Albans City and District Council

Soderberg, Asa

From: David Uncle <David.Uncle@hertfordshire.gov.uk>
Sent: 05 September 2023 13:56
To: Soderberg, Asa
Subject: RE: Tollgate Road, Colney Heath (APP/B1930/W/23/3323099)

Hi Asa,

I'm well thanks, hope you are too?

Agreed that the main thing the interested parties wish to cover is the supposed underground stream, which I agree has largely come from a misunderstanding from the Parish Council that assumed the surface water flood maps indicated a potential underground watercourse.

As far as I am aware there are no points of disagreement here between HCC LLFA and Vistry specifically on this topic of the underground stream. I would just note that regarding the actual surface water drainage design, St Albans quite understandably chose to consult RAB in place of the LLFA when this application was made because at the time HCC employed no flood risk officers. So on that basis just wanted to confirm that we (HCC) will not be passing any judgement on the SuDS and drainage etc, but happy to support on the flood risk/underground stream issue.

I'm not going to be around much this afternoon but happy to schedule in a 30 min Teams call tomorrow to ensure we're on the same page? I can do whenever suits you apart from 09:30 – 11:30. I'm quite confident that we agree on the same position but might be worth discussing. If it helps I have briefly set out my understanding of the issues below

- The Parish Council and one resident in particular picked up on the Risk of Flooding from Surface Water (RoFfSW) from one of the documents Stantec had provided in support of the planning application
- The concerned residents misunderstood the RoFfSW mapping and noticed a "blue ribbon" to the near of the existing properties, which they interpreted as an underground stream. This is where there are localised depressions on the site and where the RoFfSW modelling assumes ponding occurs, based on LIDAR data.
- Stantec prepared a response to this assertion which referred to ground testing that had been undertaken on site including in close proximity to this "blue ribbon" which did not support the existence of an underground river near the surface
- This is where the concerned residents contacted HCC LLFA ordinary watercourses because they wanted to have the potential underground stream designated as an ordinary watercourse/under riparian responsibility such that it couldn't be altered
- HCC LLFA (me) advise the residents that while any potential underground streams should be considered and suitably mitigated as part of the site design, it would not be possible/reasonable for us to apply riparian law to a feature we're not sure exists with no details of its depth, route, width etc.
- At this point we advise St Albans LPA that noting the applicant had already undertaken some ground investigations, they could include a condition to ensure groundwater is investigated further and with appropriate measures to ensure that both groundwater and the development do not have an adverse effect on each other.
- Vistry's application was refused by the LPA however surface water drainage/SuDS was not a reason for refusal

Best wishes,



David Uncle
Senior Flood Risk Officer | Flood Risk Management
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From: Soderberg, Asa <asa.soderberg@stantec.com>

Sent: 05 September 2023 12:29

To: David Uncle <David.Uncle@hertfordshire.gov.uk>

Subject: Tollgate Road, Colney Heath (APP/B1930/W/23/3323099)

Importance: High

Dear David,

I hope you are well. We have been asked by our client Vistry, to prepare evidence of proof at short notice for the upcoming inquiry for this appeal site and we have also been asked to contact you to see if you would be happy for us to prepare a SoCG between the LLFA and Vistry with regards to Flood Risk. I was going to refer to the different sources of flood risk and identify whether we consider it being a risk to the development.

In my mind the main thing that interested parties are objecting to with regards to flood risk and the sequential test is the very localised surface water flood risk which has been misunderstood as ground water flooding from an underground stream. This seems to be the main issue raised by the Parish Council where they have referred to the surface water flood risk as ground water flood risk and state that it has been ignored and as a result the sequential test should be applied.

In my mind and as you confirm in your email to the LPA in February, see attached, the surface water flood risk is due to some localised low spots where rainwater is ponding due to poor infiltration potential of the soils beneath. This will be mitigated easily when designing the final ground levels suitably so that no rainwater will accumulate and pond in gardens etc.

There are no surface water flow routes entering the site so all the flooding shown is site generated and once a surface water drainage network is installed the majority of the rainfall will be managed through the drainage system in any case.

If you are in agreement, I am hoping to get a short SoCG prepared to close out any misunderstanding with regards to the risk of flooding at this site, for submission this week but our planner has confirmed as a worst case scenario it goes in late but he thinks the inspector would still be minded to accept it.

If you wish to discuss I can give you a call after 2pm today.

Kind regards,

Åsa Söderberg

Senior Associate
(she/her)

3rd Floor, 50-60 Station Road, Cambridge, CB1 2JH

Direct: 01223 802 911

Mobile: 07469 118 527

asa.soderberg@stantec.com

Please note my working hours are 0900 -1730 Monday to Thursday, I am not working Fridays.





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