

Examination into Shropshire Local Plan - Shropshire Local Plan Examination Stage 2 Matters, Issues and Questions. Environment Agency (Reference Number: A0347)

I refer to the email dated 24 July 2024 from Kerry Trueman (Programme Officer) regarding the Shropshire Local Plan Examination and deadline for the submission of hearing statements.

Environment Agency Statement (19/9/2024) - Comments to Inspector further questions:

1.

- **Site Allocations (including Bishops Castle place plan area) and River Clun catchment.**
- **Policy DP13 – Development in the River Clun Catchment (see MMs 045-046) 1. Is the policy justified, effective and consistent with national planning policy? 2. What is the latest position on this matter? 3. Are there any outstanding objections from the Environment Agency or Natural England.**

Representations and Statement of common ground

Our previous representations raised soundness concerns on the inclusion of sites (housing delivery) within the Clun catchment in the plan, along with associated policy DP13.

Key aspects of our Statement of Common Ground (SOCG) are below:

Section - 4.1.3. We have concerns on the deliverability of proposed allocation sites and deferral to this policy without detailed evidence etc upfront. See joint EA/NE advisory position statement (July 2021).

This position still stands based on current evidence and information presented.

SOCG - 4.1.5. At present there is not a sufficient level of certainty, and it is unclear when such would be available. In the absence of that restoration plan (action plan as part of the NMP) and sufficient evidence as part of the local plan (there is no evidence currently), there are concerns.

4.1.6. (The plan) - Does not seem effective, justified, or evidence based. Relies on the restoration plan being in place, which may not enable additional growth.

4.1.9. Evidence on likely mitigation including cost/feasibility etc should inform if this is necessary. Not just rely on 'if' a later potential from any restoration plan (which may not enable additional growth). It seems premature to include this related to your proposed allocation sites.

We also advised that (4.1.13) an SPD might provide general 'guidance' but a lot of the detail should be provided as 'evidence' up front now...Inclusion of any site allocations seems premature. We advise they are removed.

Current position

We maintain the concerns presented in our previous representations. Natural England advises that there needs to be confidence that the River Clun SAC can be restored before development is allowed in the catchment, even if that development is nutrient neutral.

The current evidence base does not provide us with sufficient confidence that the allocation sites will be deliverable. The policy is not justified or effective or consistent with national policy.

We previously commented on the timescale to produce the Nutrient Management Plan Restoration Plan (now a “Nature Recovery Blueprint”) relative to timescales for implementation of potential measures to achieve betterment for the SAC. Whilst we are working on a Diffuse Water Pollution Plan, a Nature Recovery Blueprint is in development, and there is a possible STW effluent transfer scheme for Bishops Castle, there remains significant uncertainty associated with future mitigation options that gives us cause for concern.

Environment Agency water quality monitoring and preliminary modelling for the Diffuse Water Pollution Plan indicates that very substantial reductions in nutrient inputs from agricultural land are required to meet water quality conservation objectives, and that these reductions cannot be achieved with the current suite of mitigation measures. The scale of reduction required (in the order of 70-90% for phosphate) is our main cause for concern.

The Nature Recovery Blueprint is an important piece of work that will include more sophisticated analyses than will be available to us for the Diffuse Water Pollution Plan. The Blueprint will improve understanding of the extent to which mitigation might deliver reductions in nutrient loads and improvements in river health. However, the amount of improvement, and in particular, the amount of “headroom” that might become available to enable development in the catchment is unknown. When the Blueprint is completed, we will be able to comment in more detail on what measures/locations (if any) might not be needed for river restoration, and therefore what might be available for Nutrient Neutrality.

Further, with regard to the effluent transfer scheme from Bishops Castle Waste Water Treatment Works, complex technical issues need to be addressed before a scheme can be approved/considered acceptable, including in relation to water resources and ecological impacts. The complete agreed PR24 Water Industry National Environment Programme (WINEP) will not be available until after Ofwat has made its final PR24 determination in December 2024. Severn Trent Water Limited may be able to provide further comment.

Bishops Castle Neighbourhood Plan

We acknowledge that Bishops Castle Neighbourhood plan was adopted. However, this should not give tacit approval to the inclusion of sites within the Clun catchment. In fact, the Inspector’s comments were based around the basic condition tests for the neighbourhood plan and conformity with the local plan. It was clear that the Inspector was making reference to this issue being appropriately considered at this higher order local plan examination. In terms of policy wording the Inspector said it “would not be appropriate for me to express an opinion on what is a matter for the ELP inspectors” and referenced “The Habitat Regulation Assessment for the ELP shows that development in the River Clun catchment is likely to have an adverse effect on the River Clun SAC. At present there are no mitigation measures which would remove this effect, but it is hoped that these will come forward during the draft NDP period. It seems likely that the higher standards for nutrient significant plant introduced by the Levelling-up and Regeneration Act 2023 with effect from 1st April 2030 will not in themselves be sufficient to solve the problem” *(i). It was also highlighted that it is possible that the problems will not be resolved by 2030. This brings into question the deliverability of sites.

* (i) Note – Under the above Act, a treatment works is exempt in relation to a nutrient pollution standard if it has a capacity of less than a population equivalent of 2000 (such as Bishops Castle works) when the designation of the associated catchment area takes effect).

(ii) Our comments on the final Neighbourhood plan are in the Appendix below.

Local Plan - Summary

It does not seem justified or effective to allocate sites within the plan, even at the end of the plan period, when there are currently uncertainties and indeed significant ‘unknowns’ which impact upon the consideration of deliverability and sustainable development, based around this reasonable prospect of delivery.

Plans shouldn’t have policies that are so aspirational that the plan will not be delivered. We do not support the allocation of sites where there is uncertainty around them ever being able to be developed. In this instance, certain allocations are reliant upon something that may never happen (based on current evidence) or may need to be significantly reviewed. That does not seem to be effective and is not evidence based.

We acknowledge and have previously suggested that the policy (DP14, as was DP13) needs to be robust to ensure any ‘windfall’ sites that may be submitted prematurely are appropriately managed and controlled. e.g. refused in the absence of suitable mitigation/wastewater disposal based on risk to the River Clun SAC.

We hope that the above is of assistance in the final decision-making process. We have previously advised that we do not propose to attend the hearing sessions but rely on our written representations.

Additional comments:

2.

DP21 Flood Risk

- ***DP21 Flood Risk (see MMs 053-054) 1. Is the policy justified, effective and consistent with national planning policy? 2. Are there any outstanding objections from the Environment Agency to this policy? If so, what is being done to resolve the matter?***

Statement of Common Ground - EA further comments

We previously advised that - The NPPG (Government policy) publishes the Climate Change (CC) guidance, but we have local (West Midlands) area CC Guidance.

The SFRA is likely to be out of date and in need of an update (from 20 July 2021), when new CC allowances for peak river flows (fluvial) were published and an update likely provided on NPPG.

See: <https://www.gov.uk/guidance/flood-risk1assessments-climate-change-allowances>

We previously commented on the flood risk policy elements and made some recommendations.

Further to the recent email of 5 September 2024, from Edward West (Planning Policy and Strategy Manager) of Shropshire Council, we were notified of the following document:

JBA Shropshire SFRA EiP Advice - 'Statement regarding the robustness of the SFRA' dated 24 May 2023. (available at: [V1.2 July 18 \(shropshire.gov.uk\)](https://www.shropshire.gov.uk)).

We have reviewed this, in the limited time available, and make the following comments to assist.

JBA confirm that – “Since the SFRA was completed in 2020, the EA published new climate change guidance in 2021, moving from allowances based on large river basins (River Severn) to distinct management catchments. Shropshire would fall into 4 new catchments below, each with different Central, Higher Central and Upper End allowances. Table 1 shows this information. Most of the new allowances in Table 1 are covered conservatively by the previously modelled +35% or +70% allowances (except for the Teme) and latest guidance suggests to use the Central or Higher Central allowances for the majority of instances for development, therefore having the previously modelled Upper End allowance gives a conservative estimate of climate change compared to the new allowances”.

We acknowledge and agree with the above.

We also note the Council’s amended text which says that – “The Environment Agency has produced guidance on the allowances for climate change for each river basin district which are regularly updated. Shropshire falls within the Severn River basin district. Depending on the vulnerability of development proposed, and the flood risk classification, different allowances should be taken into account as set out in the Shropshire SFRA-1 and any updates from the Environment Agency”.

We would support inclusion of this.

For information – The Environment Agency are planning to publish improvements to our national flood risk maps in early 2025. These improvements are the result of our new national flood risk assessment (NaFRA2). We are using new data and better methods. We will also publish flood risk data for national climate change scenarios for the first time. Further information is here: [Updates to national flood and coastal erosion risk information - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/updates-to-national-flood-and-coastal-erosion-risk-information)

Implications of the PPG update – This has been looked at by JBA.

JBA outline that – “The SFRA does not explicitly address all of the matters raised by the changes to policy and guidance in 2022”. However, “It is anticipated that additional modelling required by the latest PPG would not be expected to have a material effect on the site allocations, although without performing a more detailed exercise on the comparison of particular alternatives this cannot be verified for all circumstances. It is probable that the decision on whether the principle of development can be supported is not changed although it should be recognised that other technical matters will need to be addressed at the site-specific SFRA stage”.

We acknowledge this statement.

For **‘site allocations’**, the JBA report says – “The scope of site-specific FRAs will need to reflect the content of the latest guidance and policy and thus any adjustments to accommodate the differences arising since the allocation sites were identified would be expected to be accommodated”.

We also acknowledge and welcome that for some Shrewsbury sites (on the River Severn) JBA utilised ‘best available’ information in terms of their updated River Severn model outputs. i.e. the draft modelled outputs for the 2020 Environment Agency River Severn Modelling Study Phase 1 (covering Shrewsbury).

We would expect detailed FRA’s to be submitted at the planning stage and acknowledge JBA comments in the technical note.

Functional Floodplain - Flood Zone 3b changing to the 30-year extent instead of 20-year.

JBA confirm that – “The SFRA looked at a range of severity flood risk events, so sites would have been captured conservatively for assessment due to being at risk in more severe events: Flood Zone 3a, 2. The main implication is most likely to affect the potential developable area rather than the principle of development at a particular site allocation, but the Council propose to develop outside of the Flood Zones. This new Flood Zone 3b extent should be modelled and mapped as part of new FRAs in line with latest guidance”.

We note JBA’s comments. As part of a detailed FRA, we would expect the more precautionary functional floodplain extent to be established with built development kept out of this area.

As the SFRA does not currently include for this, it might be useful to add that to part 9 of the policy text e.g. ‘An assessment, including any remodelling, of functional floodplain 3b extents shall be included’.

Safe development - In terms of this flood risk policy, we previously made comment on specific ‘safe development’ considerations, in the absence of clarity on those points, perhaps, in the NPPG – e.g. dry ground above 1% river flood level plus climate change. But we noted that level of detail was taken out of the policy text.

Since our previous Statement of Common Ground, NPPG 'flood risk' policy revision has supplemented this area so we would not seek to duplicate that within the policy text. This will inform future development proposals and update on the detail within section 9.3.4 Access and egress of the SFRA.

To that end, we acknowledge amended policy DP23 (4.2.59) which states that (the FRA should...) "follow the guidance in the Flood and Coastal Erosion section of the NPPG and provide an evidence base for the Council to determine which option is the safest for that particular proposal".

I trust the above clarifies our position.

Mark Davies

Planning Specialist

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19 September 2024

Appendix:

EA response to Bishops Castle NP regulation 16.

Shropshire Council (Development Plans) Forward Planning Team Shirehall Abbey Foregate Shrewsbury Shropshire SY2 6ND	Our ref: SV/2016/109232/OR-13/PO1-L01 Your ref: Reg 16 Bishops Castle Date: 29 August 2023
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Dear Sir/Madam

Re: Bishops Castle Neighbourhood Plan Regulation 16 Consultation

Thank you for referring the Bishops Castle Neighbourhood Plan for our consideration.

We have previously provided comment on the SEA Scoping Report consultation (July 2021).

We note the allocation of a housing site at School House Lane to deliver up to 40 dwellings. The **Policy BC1: Housing allocation and change to the development boundary** acknowledges the need to protect the River Clun SAC and requires appropriate assessment and mitigation of nutrient pollution or inhibits development until after 2030, in line with a potential statutory duty on water and sewerage companies in England to upgrade wastewater treatment works to the highest technically achievable limits in nutrient neutrality areas.

It should be noted that the Levelling Up and Regeneration Bill, on which the 2030 date quoted in Policy BC1 relies, has not passed Royal Assent and there is no guarantee that this statutory duty will become law.

We have concerns on the deliverability of the proposed allocation site and consider its inclusion within the Bishop Castle Neighbourhood Plan premature.

We raised concerns about the inclusion of allocations for Bishop Castle, within the River Clun catchment, in the emerging Shropshire Local Plan due to issues of deliverability as a consequence of nutrient neutrality issues. These concerns remain outstanding.

The River Clun Catchment is an area at risk from nutrient pollution. Part of the River Clun is a Special Area of Conservation (SAC) notified solely for the presence of Freshwater Pearl Mussels. The SAC is within Unit 6 of the River Teme Site of Special Scientific Interest (SSSI), which was assessed at March 2014 as being in unfavourable declining condition for several reasons. These include high levels of silt and nutrients (particularly ortho-phosphate and nitrogen) which affect the health of the pearl mussel population.

The Habitat Regulations Assessment (HRA) for this Plan shows that most development in the River Clun catchment is likely to have an adverse effect on the River Clun SAC.

At present there is not a sufficient level of certainty that nutrient mitigation measures can deliver sufficient reduction in nutrient pollution to enable further development and it is unclear when such would be available.

We refer you to the statement of common ground between the EA and Shropshire Council, dated August 2021 which includes commentary on the issues within the catchment and our soundness concerns, and also our letter dated 7th December 2022 to Shropshire Council Planning Policy regarding matters relating to Clun catchment growth and nutrient neutrality.

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www.gov.uk/environment-agency

Cont/d..

You should seek consultation with Natural England on this matter.

Yours faithfully

Emma Millband
Planning Officer

