

Statement of Common Ground

Folkestone & Hythe District Council and the Environment Agency

1. Overview

- 1.1 This Statement of Common Ground (SCG) has been prepared by Folkestone & Hythe District Council (FHDC) together with the Environment Agency (EA). It reflects the agreed position between the parties.
- 1.2 The purpose of this SCG is to document the cross-boundary matters being addressed and progress in cooperating to address them. It is the means by which the signatory authorities can demonstrate that their plans are based on effective and ongoing cooperation and that they have sought to produce strategies that as far as possible are based on agreements with other authorities.
- 1.3 FHDC and the EA have actively and positively agreed to work together to meet the requirements of the Duty to Cooperate. FHDC has prepared their Core Strategy Review for submission in early 2020.
- 1.4 Under section 33A of the Planning and Compulsory Purchase Act 2004 (amended by section 110 of the Localism Act 2011) and in accordance with the National Planning Policy Framework (NPPF) 2019 it is a requirement under the Duty to Cooperate for local planning authorities, county councils and other named bodies to engage constructively, actively and on an ongoing basis in the preparation of development plan documents and other local development documents. This is a test that local authorities need to satisfy at the Local Plan examination stage and is an additional requirement to the test of soundness.
- 1.5 The Duty to Cooperate applies to strategic planning issues of cross boundary significance. Local authorities all have common strategic issues and, as set out in the National Planning Practice Guidance (NPPG):

“local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination.”
- 1.6 The statutory requirements of the Duty to Cooperate are not a choice but a legal obligation. Whilst the obligation is not a duty to agree, cooperation should produce effective and deliverable policies on strategic cross boundary matters in accordance with the government policy in the NPPF, and practice guidance in the NPPG.
- 1.7 FHDC is to go out to a very limited public consultation on a revision to the Regulation 19 Core Strategy in November/December 2019 to bring it ‘in check’

Housing

- 2.3 Government policy places much emphasis on housing delivery as a means for ensuring economic growth and addressing the current national shortage of housing. The NPPF is very clear that:

“strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period.”

- 2.4 The Government’s new national formula calculated from household formation and housing affordability figures is published regularly by Office for National Statistics, and the most recently published figure for Folkestone & Hythe district currently stands at 738 new homes a year. FHDC’s Regulation 19 Plan outlines a housing requirement for 13,284 new homes over plan period (to 2036/37). Meeting this target over the plan period will be provided for by development in Core Strategy Review, Places and Policies Local Plan, existing planning permissions and small sites. Accordingly FHDC is not seeking any assistance from neighbouring authorities to meet its identified housing need.

Table 2.1: Core Strategy Review 2019/20-2036/37– elements of housing supply

Source of housing supply	Number of homes
Current planning permissions and sites under construction (with adjustment for lapsed permissions)	4,274
Places and Policies Local Plan and 2013 Core Strategy sites without planning permission	1,703
Windfall allowance (95 homes a year over 15 years)	1,425
New garden settlement (Core Strategy Review policies SS6-SS9)	5,925
Expansion of Sellindge (Core Strategy Review policy CSD9) (part of allocation without permission)	188
Total Core Strategy Review plan period	13,515

- 2.5 Bringing together the different sources of housing supply outlined above creates the anticipated supply of housing over the Core Strategy Review plan period. This is outlined in Table 2.1. This gives an anticipated housing supply of 13,515 homes over the Core Strategy plan period, exceeding the national minimum requirement of 13,284 homes by around 230 homes and, as a result, the district’s housing need requirement can be met in full.

Infrastructure

2.6 Within their response to the Core Strategy Review Regulation 19 plan document (Appendix 1 refers), the EA has advised that generally, the direction of, and considerations within, the Core Strategy Review appear to be sound and to concur generally with the approach and policies of the EA. The EA's response to the Core Strategy Review Regulation 19 plan document is separated out into the following headings, with associated commentary presented under each in turn:

- Groundwater & Contaminated Land
- Flood Risk (policies 4.77 - 4.82)
- Water Resources

Groundwater & Contaminated Land

2.7 Excerpts from the EA's response to the Core Strategy Review Regulation 19 plan document on groundwater and contaminated land are presented below:

"We have reviewed the amended Core Strategy for Folkestone and Hythe. We are pleased to see our earlier comments from 2018 have largely been acted upon in the proposed Core Strategy Review. We note that additional references have been made with regards to the appropriate assessment of risk arising from past land uses, the limitation of using SUDS in areas where high groundwater levels or contamination are present and the need to consider local and strategic waste water infrastructure at the early stages of a development plan. We therefore support these changes and have no further significant concerns.

However, under Section 5.72 (pollution prevention measures), we would recommend a minor wording change. See as follows: "Most of the district's water supply comes from groundwater sources. Water resources must be maintained and proposed developments must not have a negative impact to public water supplies or their associated Source Protection Zones. Pollution prevention measures are required in areas of high groundwater levels and/or vulnerability. (in consultation with the Environment Agency and Natural England)."

Flood Risk

2.8 Excerpts from the EA's response to the Core Strategy Review Regulation 19 plan document on flood risk are presented below:

"We are pleased to see the sequential approach has been embedded in the CS and support both policies SS3 and CSD5 in particular. We support the continued approach to avoid residential development within the

Extreme Hazard area identified in the SFRA with an understanding that the SFRA is a 'live document' and should be continued to be updated as new modelling and data becomes available. The CS makes very clear reference to flood risk and in particular the F&H SFRA and the climate change tidal flood risk hazard maps. Whilst this is the predominant risk for F&H district the CS should make it clear that the sequential approach should take into account all forms of flooding."

Water resources

2.9 Excerpts from the EA's response to the Core Strategy Review Regulation 19 plan document on water resources are presented below:

"We are pleased to see our earlier comments have been acted upon in the proposed Core Strategy Review. We note that the "special Water Scarcity Status" in paragraph 5.57 has been clarified as that which was designated in 2006. In Policies SS8, SS100, SS11 and CSD9 we again applaud the high standards set for water efficiency in the New Garden Settlement, the Seafront, Shorncliffe and Sellindge developments, and more widely across the Area as set out in para 5.66 on p134, and Policy CSD5 on p135.

At the risk of seeming pedantic, in Policy SS6 section (2) b. on p89, for "carbon and water neutrality" might it be better to substitute "low carbon and high water efficiency" in a section concerning small or single developments? (Possibly zero carbon, which is defined in the glossary, although again there may be difficulty achieving this in a single or small development). Para 5.63 on p133 refers (reference 11) to "Affinity Water (June 2014) 'Our Plan for Customers and Communities' Final Water Resources Management Plan 2015-2020". Also reference 72 on p27 of the Sustainability Appraisal. I believe that should be 2015-2040 in both cases: <https://stakeholder.affinitywater.co.uk/docs/FINAL-WRMP-Jun-2014.pdf>.

Affinity Water themselves made the same misquote in one of their documents. We note that the relevant part of the Sustainability Appraisal is Chapter 8, and the preceding chapters are now not necessarily consistent with the Core Strategy Review, containing, as they do, recommendations for it. Initially this caused me some confusion, seeing the document is dated December 2018, and the references in the first 7 chapters are not now necessarily consistent with the Review. Examples are:

- *p28 (top) still refers to the Code for Sustainable Homes. It sets a standard at 105 litres/person/day where the Core Strategy Review*

has 110 (the 110 includes an allowance for external use and the 105 does not).

- *The same paragraph refers the Seafront development to Policy SS6 and Shorncliffe to SS7. The Core Strategy Review now has these as SS10 and SS11. This is only stated later in Chapter 8.”*

2.10 FHDC is grateful to the EA for bringing this information to our attention within the response to the Regulation 19 plan document. The proposed response/action is detailed out in section 3 below, and it is suggested that reference to minor amendments to incorporate additional text, corrections and/or points of clarification within the Core Strategy Review plan document is to be progressed through a Main Modification to be put to the appointed Inspector in advance of Examination in Public sessions being held. The wording of the Main Modification(s) is to be agreed by both parties in due course.

3. Actions going forward

Key issue	Agreed action
Infrastructure	<p>FHDC and EA to prepare and agree the wording of a Main Modification to explain how amendments raised by the EA in their response shall be incorporated into the Regulation 19 plan document.</p> <p>FHDC and EA to continue to liaise and work together with the infrastructure providers on all cross boundary infrastructure matters, including planning applications</p>

4 Governance arrangements



4.1 The NPPG outlines that the SCG should include governance arrangements for the cooperation process, along with a statement of how it will be maintained and kept up-to-date.

4.2 Officers of FHDC meet with representatives of the EA to discuss cross boundary strategic matters under the Duty to Cooperate. The narrative and outcome of these discussions is demonstrated in this SCG.

4.3 It is intended that the SCG will be updated going forward, particularly as FHDC progresses its Core Strategy Review. The SCG will then be kept under ongoing review and will be updated at key stages in FHDC plan making process and/or when new key strategic issues arise which require amendments to this SCG. If there are any changes of the content of the SCG these matters can be discussed at future Duty to Co-operate meetings.

- 4.4 It is confirmed by both signatory parties that agreement has been reached on all cross boundary issues referenced within this SCG, specifically Groundwater & Contaminated Land, Flood Risk: Policies and Water Resources.
- 4.5 At the time of signing this SCG the two parties accept that discussions that are still to be had involving both parties to prepare and agree the wording of a Main Modification to explain how amendments to incorporate additional text, corrections and/or points of clarification raised by the EA in their response shall be incorporated into the Regulation 19 plan document. The signing of this SCG, therefore, is on the proviso that no formal position has been reached on this single item, and that separate discussions are to proceed in respect of preparing a Main Modification.
- 4.6 Evidently, discussion of strategic matters under the Duty to Cooperate is an officer-led exercise. The process for reaching agreement and sign-off of SCG includes signatories from both FHDC and the EA, as declared under section 5 of this SCG.

5 Signatories/declaration

<p>Signed on behalf of Folkestone & Hythe District Council (Officer)</p>  <p>JAMES HAMMOND</p>	<p>Signed on behalf of the Environment Agency</p>  <p>JENNIFER WILSON</p>
<p>Position: Strategy & Policy Senior Specialist</p>	<p>Position: PLANNING SPECIALIST</p>
<p>Date: 27/11/2019</p>	<p>Date: 29.11.2019</p>

Appendices

**Appendix 1. Environment Agency's response to Folkestone & Hythe Core Strategy
Review: Submission Draft 2019 (dated 11th March 2019)**

Folkestone & Hythe District Council
Civic Centre Castle Hill Avenue
Folkestone
Kent
CT20 2QY

Our ref: KT/2006/000338/CS-
09/PO1-L01

Your ref:

Date: 11 March 2019

Folkestone & Hythe Core Strategy Review: Submission Draft 2019

Dear Adrian,

Thank you for consulting us on the Folkestone & Hythe Core Strategy Submission Draft 2019. We have reviewed the submitted information and find the submission sound. We would like to offer the following advice.

Groundwater & Contaminated Land

We have reviewed the amended Core Strategy for Folkestone and Hythe. We are pleased to see our earlier comments from 2018 have largely been acted upon in the proposed Core Strategy Review. We note that additional references have been made with regards to the appropriate assessment of risk arising from past land uses, the limitation of using SUDS in areas where high groundwater levels or contamination are present and the need to consider local and strategic waste water infrastructure at the early stages of a development plan.

We therefore support these changes and have no further significant concerns.

However, under Section 5.72 (pollution presentation measures), we would recommend a minor wording change. See as follows:

"Most of the district's water supply comes from groundwater sources. Water resources must be maintained and proposed developments must not have a negative impact to public water supplies or their associated Source Protection Zones. Pollution prevention measures are required in areas of high groundwater levels and/or vulnerability. (in consultation with the Environment Agency and Natural England)."

Flood Risk: Policies 4.77 - 4.82

We are pleased to see the sequential approach has been embedded in the CS and support both policies SS3 and CSD5 in particular.

We support the continued approach to avoid residential development within the Extreme Hazard area identified in the SFRA with an understanding that the SFRA is a 'live document' and should be continued to be updated as new modelling and data becomes available.

The CS makes very clear reference to flood risk and in particular the F&H SFRA and the climate change tidal flood risk hazard maps. Whilst this is the predominant risk

for F&H district the CS should make it clear that the sequential approach should take into account all forms of flooding

Water Resources

We are pleased to see our earlier comments have been acted upon in the proposed Core Strategy Review. We note that the "special Water Scarcity Status" in paragraph 5.57 has been clarified as that which was designated in 2006. In Policies SS8, SS100, SS11 and CSD9 we again applaud the high standards set for water efficiency in the New Garden Settlement, the Seafront, Shorncliffe and Sellindge developments, and more widely across the Area as set out in para 5.66 on p134, and Policy CSD5 on p135.

At the risk of seeming pedantic, in Policy SS6 section (2) b. on p89, for "carbon and water neutrality" might it be better to substitute "low carbon and high water efficiency" in a section concerning small or single developments? (Possibly zero carbon, which is defined in the glossary, although again there may be difficulty achieving this in a single or small development).

Para 5.63 on p133 refers (reference 11) to "Affinity Water (June 2014) 'Our Plan for Customers and Communities' Final Water Resources Management Plan 2015-2020". Also reference 72 on p27 of the Sustainability Appraisal. I believe that should be 2015-2040 in both cases: <https://stakeholder.affinitywater.co.uk/docs/FINAL-WRMP-Jun-2014.pdf>.

Affinity Water themselves made the same misquote in one of their documents. We note that the relevant part of the Sustainability Appraisal is Chapter 8, and the preceding chapters are now not necessarily consistent with the Core Strategy Review, containing, as they do, recommendations for it. Initially this caused me some confusion, seeing the document is dated December 2018, and the references in the first 7 chapters are not now necessarily consistent with the Review. Examples are:

- p28 (top) still refers to the Code for Sustainable Homes. It sets a standard at 105 litres/person/day where the Core Strategy Review has 110 (the 110 includes an allowance for external use and the 105 does not).
- The same paragraph refers the Seafront development to Policy SS6 and Shorncliffe to SS7. The Core Strategy Review now has these as SS10 and SS11. This is only stated later in Chapter 8.

Yours faithfully,

