

Statement of Common Ground between
London Borough of Barnet and Environment Agency
September 2022

1.0 Introduction

- 1.1 This Statement of Common Ground (SCG) addresses the strategic planning matters specific to LB Barnet (LBB) and the Environment Agency (EA).
- 1.2 This SCG ensures that the requirements set out in the National Planning Policy Framework (NPPF) have been met. The NPPF states, “Local planning authorities are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”
- 1.3 The purpose of the SCG is to document the strategic matters being addressed and the progress in cooperating to address them. It focusses on areas of agreement or disagreement between both parties on strategic matters. The document is intended to be ‘live’, any updates to this document will be produced as matters progress and agreement is reached on any outstanding issues. It therefore includes details on mechanisms for review and updating. The SCG also forms part of the evidence to demonstrate compliance with the ‘duty to cooperate’.
- 1.4 In London, most strategic issues beyond borough boundaries (e.g. housing targets, major growth areas, etc.) are largely addressed by the London Plan.
- 1.5 Some strategic matters overseen by other organisations will be addressed in other Statements of Common Ground. This will serve to make the documents more concise for relevant parties.

2.0 Strategic Matters

- 2.1 EA have raised a number of concerns in response to the Reg 19 Local Plan consultation. In this Statement LBB highlights how it is proposed to modify the Plan to address these representations.
- 2.2 **Vision** – EA requests that the Vision make references to building resilience to climate change and improving water quality.

LBB response – *LBB agree EA’s proposed amendments to the Vision.*

MM12

...from flooding. At the same time we will build our resilience to climate change and improve water quality.

- 2.3 **Growth and Spatial Strategy** – EA have highlighted that LBB needs to provide evidence that sets out how the Site Proposals at risk of fluvial flooding (and surface water) have passed the Sequential Test. The EA also requests that LBB provide text to explain how the sequential test has influenced the Local Plan’s Spatial Strategy.

LBB response – *LBB have shared both the Sequential and Exceptions Test evidence with the EA. LBB will add new supporting text to Policy BSS01 to explain how the Sequential Test has influenced the Spatial Strategy.*

MM16

Reflecting the vision and objectives that have been set out, Policy BSS01 provides an overarching spatial strategy to capture the aspirations for Barnet's preferred approach over the Plan period. The Plan's approach to growth is supported by the recommendations of the Barnet Strategic Flood Risk Assessment Level 2 April 2021 (SFRA2) and the Barnet Flood Risk Sequential and Exceptions Test (February 2022).

- 2.4 **Policy GSS01 - Delivering Sustainable Growth** – EA consider that it remains unclear how LBB have applied Sequential Test to the spatial strategy and site proposals in accordance with the NPPF. There is a need for the Local Plan to take a pro-active approach to manage the long-term impacts of flood risk and directing development away from the areas of highest risk (informed by a Strategic Flood Risk Assessment (SFRA)). The SFRA is not the Sequential Test. Of the 67 sites, 8 are at risk from medium to high fluvial flooding. For the 8 sites at risk from fluvial flooding (plus sites at risk of surface water flooding) it needs to be clear why other sites at lower risk previously considered where not available/suitable. GSS01 should be amended to acknowledge that flood risk, waste-water, drainage and green infrastructure is also part of the infrastructure that will be required to meet Barnet's identified needs.

LBB response – *LBB agrees to revise GSS01 to include explanation on how the use of the Sequential Test has been used to inform the Local Plan's spatial approach to managing flood risk. LBB also agrees to incorporate proposed wording from EA on other infrastructure.*

MM40

The Council will create the conditions for sustainable growth to deliver the homes, jobs, retail floorspace and community facilities to meet Barnet's identified needs. Infrastructure is key to supporting growth, including investment in transport, education, health, flood risk, waste water drainage and open green spaces.

- 2.5 **Policy GSS05 - Edgware Growth Area** – EA have highlighted that GSS05 is not meeting the area's objectively assessed needs and achieving sustainable development. It is also not consistent with the aims of paras 20 (b), 20 (d) or 149 of the NPPF. The Edgware Town Centre is in effect surrounded by floodplains particularly on the eastern and southern boundaries by the Edgwarebury Brook, Deans Brook and Edgware Brook flowing into the Silk Stream. There are also two confluences with the Edgwarebury Brook and Deans Brook joining south of Brook Avenue and the Edgware Brook meeting the Deans Brook south of Deansbrook Road. Given these key features Policy GSS05 should include strategic principles aiming to achieve a reduction in flood risk from all sources, river restoration and enhancement and the improvement of or planning contributions towards strategic flood infrastructure where necessary. The preamble supporting text should explain the context for this.

LBB response – *LBB agrees to revise GSS05 and incorporate proposed wording from EA on the context for managing flood risk around the Growth Area. LBB also agrees to incorporate the strategic principles within GSS05 as proposed by the EA.*

MM83

Improved flood risk resilience for the Growth Area and surrounding communities with provision of flood risk infrastructure and restored rivers;

- 2.6 **Policy GSS06 Colindale Growth Area** - EA have highlighted that GSS06 does not reflect the strategic context for flood risk in the Growth Area. Parts of Colindale are at risk of flooding from the Silk Stream and also surface water flood risk. There is a need to highlight that Grahame Park and Sunnyhill Park are Critical Drainage Areas and that Colindale receives a level of protection from flood storage areas created by the Silk Stream Flood Alleviation Scheme (FAS). The EA is working on a new Silk Stream FAS intended to protect areas in Colindale and Rushgrove Park from flood risk. This is likely to require partnership funding contributions to be viable. As stated with GSS05, EA consider that GSS06 is not meeting the area's objectively assessed needs and achieving sustainable development. It needs to have appropriate reference to strategic flood infrastructure and river restoration. Policy GSS06 needs to ensure it recognises flood risk infrastructure and river restoration as strategic priorities for this growth area so that future applicants are aware and will take the appropriate action. The preamble supporting text should explain the context for this.

LBB response – *LBB agrees to revise GSS06 and incorporate proposed wording from EA on the context for managing flood risk around the Growth Area. LBB also agrees to incorporate the strategic principles within GSS06 as proposed by the EA.*

MM89

Improvements to open spaces and the Silk Stream main river which enhances the amenity, biodiversity and makes provision for play space, including at Colindale, Montrose, Rushgrove and Silkstream Parks;

The provision of strategic flood risk infrastructure including contributions to fluvial flood risk schemes and measures to alleviate surface water flooding to ensure the Growth Area's resilience to the risks of flooding and climate change

- 2.7 **Policy CDH04 – Tall Buildings** - EA agree to changes made to the policy and supporting text in the draft Regulation 19 Plan, following comments made to the draft Regulation 18 Plan, in relation to the required setback for tall buildings from water courses.

LBB response – *Welcome support from EA.*

- 2.8 **Policy ECC02A Water Management** - EA welcomes the introduction at Reg 19 of the new policy on Water Management. However, it recommends changes to the text of ECC02A (a) to strengthen wording on flood defences.

LBB response - *LBB agrees to the revisions proposed by EA to ECC02A (a) i & ii*

MM263

any flood defences are maintained, repaired or replaced as appropriate, and realigned or set back where possible to provide amenity, and environmental enhancements and protection for the lifetime of development including climate change; and

MM264

land adjacent to flood defences is protected in order to allow space for flood water in the event of a breach, future replacement of defences and provision of public amenity and biodiversity.

- 2.9 **Policy ECC02A Water Management** - EA have expressed concerns with regard to the requirement for a Flood Risk Assessment for windfall sites within the “1% AEP plus 70% climate change fluvial flood extent”. Although EA acknowledge the merits of this approach as it could help discourage development in areas at risk of future flooding they have highlighted resource implications in terms of EA effectiveness in defending this at planning appeals. EA are also concerned about the use of 70% climate change extents in particular, as this now massively exceeds the requirements set out by the latest climate change allowance guidance. EA consider that the Sequential Test risk-based approach taking into account all sources of flood risk and current and future climate change is still an appropriate method for managing windfall flood risk. EA have highlighted potential for exploring other options for LBB. However, in the absence of any alternative approach the EA’s recommendation is to stick to what is required anyway via the NPPF and FRSA but remove the requirement for FRAs within 70% extent.

LBB response – *LBB acknowledge this clarification from the EA and seek a positive way forward, that allays the EAs concerns while allowing LBB to be proactive in managing flood risk across the Borough. In order to achieve satisfactory outcomes for ECC02A LBB is drafting appropriate wording for Policy ECC02A which it will share separately with the EA in March 2022.*

- 2.10 **Table 19** - EA have highlighted minor changes to Table 19 to clarify the need for a Sequential Test and the level of development for when Flood Risk Assessments are required.

LBB response - *LBB agree to the minor changes proposed by EA to Table 19*

MM255

Proposed development will need to demonstrate application of the sequential test and exception test where ~~inappropriate~~ development is proposed in areas of flood risk.

Minor, Major and large scale

MM256

Table 19

4th row Minor, Major and large scale

- 2.11 **Table 20** - EA have highlighted that a water efficiency calculator would be required for the commercial as well as residential.

LBB response - *LBB agree to the minor changes proposed by EA to Table 20*

MM259

Table 20
2nd row

To be demonstrated through a water efficiency calculator report.

- 2.12 **ECC06 Biodiversity** - EA consider that a solid reference to the Biodiversity Net Gain (BNG) 10% target would demonstrate the Borough's commitment and endorsement of BNG and it helps prepares applicants early for the requirement. Table 21 and para 10.26.9 should also be amended accordingly.

LBB response - *LBB agrees to revise ECC06 and supporting text to strengthen and clarify matters on Biodiversity Net Gain.*

MM279

Paragraph 10.26.6

Development proposals should consider any impact on biodiversity including areas designated for nature conservation, protected species and habitat/species prevent loss and provide mitigation to these areas as well as providing opportunities to create or improve habitat and linkages for wildlife. Development should aim to avoid loss of areas of biodiversity. Where loss cannot be avoided then adequate mitigation should be provided or compensation provided as a last resort.

MM280

Paragraph 10.26.9

The Environment Bill Act 2021, ~~which is expected to be enacted towards the end of 2024~~ requires all qualifying development for which planning permission is granted to provide at least a 10% increase on the pre-development biodiversity value of the onsite habitat. This is being referred to as Biodiversity Net Gain (BNG). The most up to date version of the Government's mandatory Biodiversity Metric at the time of planning application should be used to calculate the ~~2.0 is the current method for calculating BNG, this may change in the regulations that are intended to accompany the Environment Act legalisation.~~

MM283

Table 21

All development proposals should provide as part of an application submission a baseline ecological assessment and clearly demonstrate at least 10% BNG based on in a Biodiversity Net Gain Plan, using this the baseline assessment and the Government's most recent mandatory Biodiversity Metric. The scale of development will determine the level of detail required. ~~This statement should demonstrate how protection of biodiversity and habitat quality will be achieved and provide the level (%) of BNG improvement that will be achieved onsite as well as recommendations on where enhancements to biodiversity can be made onsite.~~ Where a development is unable to achieve the appropriate level of BNG an offsite contribution equivalent to the deficit % will be agreed with the Council.

MM284

ECC06D

ensuring that development makes the fullest contributions to enhancing biodiversity and protects existing site ecology. To realise this aim it is expected that an overall net gain of at least 10% the required level of biodiversity is achieved, net gain, stated by regulation, is attained. This should be achieved both through on-site measures and where necessary by contribution to local biodiversity improvements. Consideration of how this will be achieved should be detailed at the start of the development process and by providing a Biodiversity Net Gain Plan as part of the application;

- 2.13 **Site 5 Edgware Hospital** – EA have highlighted that the confluence of two rivers (Deans Brook and Silk Stream) converge at the northern part of the site, then flowing to the Silk Stream. Any proposal would need to control the fluvial flood risk from two rivers with no current defences, in addition to the other sources of flood risk from surface water. EA therefore consider that inclusion of this proposal requires justification through the Sequential and Exceptions Test. EA consider that if the site passes the Sequential and Exceptions Test, and reflecting the size of the area, the supporting text should state that the sequential approach should be applied on site to direct more vulnerable uses to the areas of lowest risk including climate change within the site based on a Flood Risk Assessment. EA also require the proposal to state that early engagement with the Environment Agency is advised to discuss potential flood management solutions being considered as part of the Silk Stream Flood Alleviation Scheme.

LBB response - *LBB has carried out the Sequential and Exceptions Flood Risk tests on the Schedule of Site Proposals as required by the NPPF. LBB have consulted the EA and have amended the Sequential and Exceptions Test as a result of feedback received. LBB propose to make the following modifications to Site No.5 requirements and development guidelines as follows:*

*The hospital will continue in operational use and full unrestricted access must be maintained. **Evidence from the SFRA L2 shows that the design and mitigation measures can enable development on the site while managing flood risk. While much of the site is within Flood Zone 2, and a proportion within Zone 3a, the 19% of the site within Zone 3b (functional flood plain) should not be built on, and proposed developments on the site should be restricted to locations outside of the 10m Silk Stream buffer zone.** Development should avoid those parts of the site in Flood Zone 3b (functional flood plain). **Climate Change is predicted to place the site at greater risk of fluvial flooding, increasing the extent and maximum flood depth. More vulnerable developments should be restricted to the western half of the site which is not at predicted risk of fluvial flooding under the climate change scenario. The sequential approach must be applied to the wider site, and not just individual phases, to maximise opportunities for more vulnerable elements of the development to be located in the lowest flood risk areas. A detailed FRA must be submitted alongside any planning application which should assess flood risk from all sources and provide details of any mitigation including finished floor levels, floodplain compensation and safe access and egress.** Proposals should refer to the SFRA Level 2 for flood risk avoidance and mitigation measures. The opportunity to remove obsolete weirs at the confluence of the Silk Stream and Deans Brook in northern part of site should be considered.*

- 2.14 **Site 6 Watling Avenue carpark and market** – EA have expressed major concerns that a large proportion of the site (38%) lies within the functional floodplain (Flood Zone 3b) and the vast majority of the remainder of the site lies within the 1 in 100 year (Flood Zone 3a) fluvial flood extent with 95% of the site covered during the 1 in 100 year plus climate change event. Therefore, flood risk is a very significant constraint at this site and compared to the other site allocations there is very limited scope to apply the sequential approach, provide floodplain compensation or ensure a safe means of access and egress. EA strongly recommend that this site is withdrawn from the Plan. Allocating the site for residential development would be contrary to the aims of para 155 of the NPPF and Table 3: The only permissible use classes in this zone are ‘water compatible’ or essential infrastructure (the latter if it passes the Sequential and Exceptions Test). The site also appears to be at high risk of surface water flooding. Overall, given the evidence and potential risks we do not think this is a suitable or sensible site for a residential/mixed use development. The inclusion of this site in EA’s view would not be consistent with the aims of national planning policy and it’s not justified without actual evidence that the flood risk Sequential Test has been applied. Our strong recommendation is that the site is withdrawn.

LBB response - *LBB has carried out the Sequential and Exceptions Flood Risk tests on the Schedule of Site Proposals as required by the NPPF. LBB have consulted the EA and have agreed that the site should be removed from the draft Local Plan. LBB acknowledge that a large part of this site is on functional flood plain (Zone 3b) and that development on this site is likely to be highly constrained and it is not currently clear whether detailed mitigation solutions will be able to demonstrate the site is safe over its lifetime.* LBB propose, for the reasons above, to remove Site 6 and all references to Site 6 from the Draft Local Plan, together with consequential changes to housing numbers.

MM324

Delete Site 6

- 2.15 **Site 9 Colindeep Lane** – EA have expressed major concerns about this site. The Level 2 SFRA highlights the site’s vulnerability. The predicted flood risk extent for the climate change scenario is greater, leaving most of the site's area by the southern/western boundary at risk of flooding and approximately 24.8% of the site would be expected to be inundated during this event. Access and egress is likely to be challenging to address safely. EA consider that this is not a sensible site to propose housing given its vulnerable position, a thin strip of land less than a hectare between a railway embankment and floodplain of the Silk Stream, the difficulty with access, and the implications of climate change both now and in the longer-term. Although the functional floodplain only currently covers 7.2% of site according to SFRA, the site is effectively surrounded by the functional floodplain to the south. Although we can’t predict with absolute certainty what the nature of flood risk will be in 50 years or 100 years’ time, it is likely that the site’s vulnerability over time is going to increase not decrease. It would be difficult to compensate for the flood storage taken up by a development and therefore possible flood risk would be increased elsewhere to nearby properties. The inclusion of this site in EA’s view would not be consistent with the aims of national planning policy and it’s not justified without actual evidence that the flood risk Sequential Test

LBB response - . *LBB has carried out the Sequential and Exceptions Flood Risk Tests on the Schedule of Site Proposals as required by the NPPF. LBB have consulted the EA and have agreed that the site should be removed from the draft Local Plan. LBB acknowledge that although only part of the site is in Zone 3 site access is difficult and there is concern over entry and exit to the site during flood events, particularly when the effects of climate change are taken into account. LBB propose, for the reasons above, to remove Site 9 and all references to Site 9 from the Draft Local Plan, together with consequential changes to housing numbers.*

MM329

Delete Site 9

- 2.16 **Site 14 Sainsbury's The Hyde** – EA have expressed concerns about the recommendations within the SFRA Level 2 with regard to this site. EA have highlighted that although this site *has received planning permission (19/4661/FUL) consents* are not always implemented, and circumstances such as flood modelling changes, the durability and condition of flood defences, climate change can happen over time

LBB response – *LBB can confirm that the planning consent (19/4661/FUL) has been implemented and the site is under construction with completion expected in 2027.*

3 Governance Arrangements

- 3.1 This statement has been informed by on-going engagement between the parties. This statement of common ground is a live document and will be reviewed on a regular basis, informed by continued communication between the parties through meetings, statutory consultation at key plan making stages and electronic communication.

Signatories

All signatories agree that this statement is an accurate representation of areas of agreement and disagreement between the two parties

Signed: 
Name: Neeru Kareer
Position: Assistant Service Director Planning & BC
London Borough of Barnet
Date: 23.09.2022

Signed:
Name: Kai Mitchell
Position: Planning specialist
Environment Agency
Date 16/09/22