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Black Country Core Strategy
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Your ref:

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Dear Ms Martin

Black Country Core Strategy: Issues and Options Report

Thank you for consulting the Environment Agency on the Black Country Core Strategy: Issues and Options Report.

We are the main Agency providing advice on improving resilience and adaptation to the effects of climate change, with particular regard on flood risk, water resources, water quality and aquatic biodiversity.

We strive to make a positive contribution through our Statutory Consultee role and are happy to provide comments at this stage of the plan making process. We are also happy to work with the Black County Authorities on relevant policies in the emerging Core Strategy.

We welcome the Core Strategy Review which will set out a vision and strategy for the protection and enhancement of the Black Country which will be shaped by Ecological Network Study, Strategic Mapping of the Black Country's Natural Environment and Flood Risk/ Water Infrastructure study.

Key Issue 1 - Updating the Evidence Base

The Core Strategy review will need to be based on up to date and robust evidence.

The Black Country Strategic Flood Risk Assessment (SFRA) was published in 2009. It should be updated to reflect changes which have taken place since then.

The Review should also consider alignment with the Water Framework Directive (WFD). The WFD River Basin Management Plans (RBMP's) require that watercourses within the Core Strategy area continue to show improvements in line with specified quality standards. Where possible, all developments within the area should seek opportunities

to restore and enhance waterbodies. As a minimum, developments should comply with the WFD 'no deterioration' policy.

Like other public bodies, the Black Country Authorities must "*have regard to the River Basin Management Plan (RBMP) and any supplementary plans in exercising their functions*" and are required to provide information and such assistance as the Environment Agency may reasonably seek in connection with its WFD functions. This means, for example, they need to reflect RBMP data in Local Plan policies, Infrastructure Delivery Plans, and in the determination of planning applications.

Further information regarding the role of Local Authorities and WFD, including examples of local planning policies relating to WFD issues can be found here: http://www.sustainabilitywestmidlands.org.uk/projects/?/Public sector - Delivering the Water Framework Directive and Environmental Infrastructure with Local Authorities/2388 [1]

Other documents the review will need to take into account includes:

- Flood & Water Management Act 2010 - new role and responsibilities for the Black Country unitary authorities as Lead Local Flood Authorities (LLFAs).
- National Flood Risk Management Strategy, 2011
- NPPF supersedes PPS25
- Black Country Local Flood Risk Management Strategy, 2016
- Updated maps for surface water
- Humber Flood Risk Management Plan, 2016 (Includes West Midlands FRMP)
- Severn Flood Risk Management Plan, 2016
- Humber River Basin Management Plan, 2016
- Severn River Basin Management Plan, 2016
- Revised Climate Change Allowances, 2016
- New flood risk permitting regime (replacing flood defence consents)
- Flooding in June 2016 – Section 19 Flood Investigation Reports being prepared by the Black Country LLFAs

A number of EA modelling studies have been completed in the area since 2009:

- Ford Brook, 2009
- River Stour at Stourbridge, 2009
- Illey Brook, 2010
- Lutley Brook, 2010
- Mousesweet Brook (Mushroom Green Dam breach modelling), 2010
- Brandhall Brook, 2011
- Darlaston Hazard Mapping, 2012
- Smestoow Brook, 2012
- Wordesley Brook, 2013
- Coalbourne Brook, 2013
- Mousesweet Brook, 2013
- Waddems & Bentley Flood Relief Culvert – ongoing, nearing completion. (currently being reviewed by Walsall MBC)

Key Issue 8: Providing Infrastructure to Support Growth

We consider that physical infrastructure could include strategic SuDS or flood mitigation

[1] Local Authority Services and the Water Environment: Advice Note on the Water Framework Directive for Local Authorities across the Midlands, compiled by the Environment Agency and Sustainability West Midlands 2012.

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as well as brownfield remediation measures which could provide multiple benefits to enable and supporting growth.

Physical Infrastructure

The increased amount of waste water and sewage effluent produced by the new developments or project growth will need to be dealt with to ensure that there is no deterioration in the quality of the water courses receiving this extra volume of treated effluent. As such there may be a requirement for the expansion and upgrading of current sewage treatment systems, if the volume of sewage requiring treatment within the Core Strategy area increases. We therefore welcome engagement with the Black Country Authorities and water providers in paragraph 5.14 to ascertain if there are any issues with supply and treatment of water that would impact the ability to deliver future housing and employment growth. It is also important that discussions are held with the Severn Trent Water to ascertain the impact upon Combined Sewer Overflows (CSOs) and other storm related discharges (pumping stations, inlet CSOs at sewage works,) within the sewer network and at the receiving sewage works to determine whether a significant increase in spills to the environment could occur. We would therefore expect a new Water Cycle Study to be undertaken as part the Core Strategy review as its progresses.

In paragraph 5.23 where it highlights viability issues in developing Green Belt sites due to 'environmental constraints such as flood risk'. We would challenge the 'need' to develop sites which are at flood risk. The aim should be to avoid development in flood risk areas in line with national planning policy.

Where sites fall within the mapped floodplain, and as such if they are to be taken forward as site allocations in future plans, they need to be sequentially tested using an up to date level 1 and 2 SFRA. This work will need to be undertaken prior to the next stage of the plan process in order to demonstrate that decisions regarding which sites to take forward comply with overarching policies on flood risk are sound.

The Sequential Test can form a standalone evidence document which supports your 'final' allocated sites, or form part of the Sustainability Appraisal, however the decision making process regarding flood risk sites should be transparent. Guidance on how to apply the sequential test in conjunction with sustainability appraisal is available at https://www.gov.uk/guidance/flood-risk-and-coastal-change#aim-of-Sequential-Test.

Should any future sites pass the Sequential Test and progress forwards towards submission stage, they will need to be supported by a Level 2 SFRA which will look in more detail at issues raised within the Level 1 SFRA, enable the application of the Exception Test, and advise on the developable land and therefore housing yield of the site.

Funding for Site Development and Infrastructure

Paragraph 5.28 focuses on working in partnerships with the public and private sector to delivery development opportunities which we welcome. The EA has a number of capital project in our 6 year investment plan. Please find below a brief update and description of Flood Risk Management Projects / Schemes (6 year investment programme) in the Black Country. We wish these to be included in the Core Strategy in light of questions 26 and 27.

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Dudley

Mushroom Green Dam, Mousesweet Brook
The scheme is in construction to reduce flood risk to 42 properties. A new oversized culvert has been constructed through a 10m high embankment at Mushroom Green, Dudley to reduce the risk of sudden failure of the embankment and prevent it acting as an impounding structure. The main works of the scheme have been completed and the Mousesweet Brook diverted through the new culvert. Maintenance and reinstatement works are ongoing and are being co-ordinated with STW who are undertaking main sewer improvement works in the area.

Wordesley
A potential future property level resilience scheme has been identified in Wordesley to reduce flood risk to 10 properties from the Wordesley Brook, subject to availability of funding. This project will be led by the EA.

Halesowen
A potential future property level resilience scheme has been identified to reduce flood risk to 30 properties from the River Stour, subject to availability of funding.

Sandwell

Thimblemill Brook Flood Alleviation Scheme
Flooding has occurred in a number of locations around Thimblemill Brook. There likely solution is to include a combination of additional channel capacity in the Thimblemill Brook to provide online storage and upgrades to existing surface water drainage and highway networks. The scheme to protect 255 properties is in the 6 year investment programme but this is subject to project appraisal and the necessary funding being available.

Brandhall Brook, Wednesbury
This is a potential capital maintenance scheme has been identified to reduce flood risk to around 15 properties from the Brandhall Brook in Wednesbury. This project is subject to availability of funding.

Collins Road, Wednesbury
This scheme to refurbish existing sheet pile defences on the River Tame to maintain the standard of protection to over 60 properties. Work is currently planned to commence in 2018/19.

Walsall

Old Ford Brook, Tower Street, Walsall
This project relates to the replacement of a culvert to safeguard properties and pedestrians in the event of a collapse. A scheme to reduce flood risk to 12 properties is in the 6 year investment programme and is planned to commence in 2020.

Wolverhampton

Waterhead Brook
This is a potential future capital maintenance scheme that's has been identified to reduce flood risk to 11 properties from Waterhead Brook, subject to availability of funding. A proposed study would highlight the best course of action to re-naturalise the currently partially blocked watercourse. Any subsequent channel modification works

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would enable environmental improvements within the school and open up the opportunity of others linked to Water Framework Directive objectives.

POLICY AREA F: The Black Country Environment

We welcome the emerging Black Country Environment Spatial Plan which will draw together existing evidence base and define the ecological networks within the Black Country.

We consider that Policy CSP3 – Environmental Infrastructure, could include opportunities to reinstate natural river corridors and floodplains and opening up culverts, which will complement the Garden City and WFD principles.

Policy ENV5 – Flood Risk, Sustainable Drainage (SuDS) and Urban Heat Island Effects

Flood risk is a key issue at the national policy level due to the number and severity of recent floods across the country. Smaller watercourses and drains are often far more susceptible than larger rivers to flash flooding as a result of localised intense rainfall. Changing climate patterns mean that storms of this nature are likely to be become increasingly common, potentially increasing the risk posed to properties near local watercourses. This was demonstrated in June 2016 when parts of the Black Country experienced flash flooding causing many properties to flood and major transport disruption.

We consider there should be a stand alone Flood Risk policy within the revised Core Strategy. The wording of the policy should be appropriate, clear and in line with the National Planning Policy Framework. The NPPF advises that Local Planning Authorities should steer all new development away from those areas at highest flood risk by applying a sequential risk-based approach to the consideration of development in flood risk areas and by taking into account the flood risk vulnerability of land uses. We are keen to provide assistance to the Black Country Authorities on drafting any future flood risk policy.

Policy ENV5 requires significant revising to reflect the replacement of PPS25 by NPPF, and will need to have regard to the Black Country Local Flood Risk Management Strategy and the West Midlands Flood Risk Management Plan (included in the Humber FRMP). The existing SFRA will need to be updated to include the latest available data on flood risk as well as other changes listed above.

All new development should minimise the risk of flooding to people, property and the environment within the site and without increasing risk elsewhere. Where possible it should also seek to <u>reduce</u> flood risk elsewhere.

Where it is not always possible to direct development to sites with the lowest probability of flooding, the development should seek to minimise risk to the site and make the development resistant to any residual risk and make the development flood resilient. Opportunities should also be sought to reduce the overall level of flood risk through the layout and form of development. Development should be designed to be safe throughout its lifetime, taking account of the potential impacts of climate change. Provision for emergency access and egress must also be included.

We do not support the proposed change to Policy ENV5 para 6.1.57 in relation to removing the requirement to provide SuDS in all new developments. Although the

Ministerial Statement states this approach only needs to be applied to major development we feel that the policy should be more aspirational and still seek to include SuDs wherever practical, whilst recognising that in some cases it may not be appropriate. Developers should be encouraged to secure reduction of flood risk by the provision or enhancement of green infrastructure wherever possible.

We would welcome the inclusion of a requirement for long-term maintenance arrangements for all SuDS to be in place for the lifetime of development and agreed with the relevant risk management authority.

It should be a requirement for all new development (greenfield and brownfield) to reduce surface water runoff to greenfield rates, and the layout and design of a development should take account of surface water flows in extreme events in order to avoid flooding or properties both on and off site therefore we welcome the suggestion in paragraph 6.1.59 to add specific requirement for greenfield sites to maintain surface water flows at greenfield rates.

Many of the watercourses within the Black Country are culverted. Although this provides a reasonable degree of flood protection, this inhibits the potential for natural drainage and areas could be affected by flooding in extreme events or if blockages occur in these culverts. This should be taken into account when applying the sequential approach to new development as well as applying flood mitigation and resilience measures where appropriate. Where feasible, opportunities to open up culverted watercourses should be sought to reduce the associated flood risk and danger of collapse whilst taking advantage of opportunities to enhance biodiversity and green infrastructure. Existing open watercourses should not be culverted.

For any sites located near main rivers we will require a minimum of 8m development easement from the top of the bank to allow for essential maintenance access. This is required regardless of the extent and location of the floodplain and should be taken into account when considering the developable area.

An Environmental Permit from the Environment Agency will be required for any development within this 8m strip. Where the development site is situated above a culverted main river watercourse, we will require a minimum of 10m development easement from the centre line of the culvert and the area above the culvert should be regarded as a no build zone.

We consider that the revised Core Strategy should make references to the WFD and its objectives. This could be incorporated in a water quality/ water resource policy, which requires that development proposals do not lead to deterioration of WFD water body status, and which help to conserve and enhance watercourses and riverside habitats.

Policy ENV1- Nature Conservation

We are pleased to note Policy ENV1- Nature Conservation has worked effectively to protect and enhance biodiversity and geo-diversity across the Black Country.

Policy Area G – Waste

Locational Considerations for new Waste Management Facilities

With regards to policy WM4 we consider it is important that there is sufficient buffering between different land uses such as proposed residential development next and

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existing industrial use such as waste facilities and as such that they do not disadvantage each other with regard to amenity issues. Exposing new sensitive receptors to perceived or actual environmental and human health impacts should also be avoided. It is therefore important that policies in the Core Strategy complement each other in these respects.

Groundwater comments

The protection and enhancement of controlled waters via the planning regime and the redevelopment of contaminated land is encouraged as it provides an opportunity to remove areas of contamination that would otherwise continue to present a risk to our environment, controlled waters and human health.

The Black Country is largely made up of Carboniferous Coal Measures strata (classed as Secondary A aquifers, the former Minor ones), but also contains some more important Principal sandstone aquifers towards the eastern side. There are also numerous surface waters worthy of protection from ongoing or new pollution and/or low flow issues.

Key Issue 5 'Protecting and enhancing the environment' and Policy Area F 'Protecting the environment' does not make reference to any geology, groundwater and/or contaminated land issues.

We recommend there should be specific references to the hydrogeological environment and especially to issues such as groundwater and surface water protection (quality and quantity), contaminated land assessment (and clean-up where needed) and indeed the legislative drivers underpinning all this, such as Environmental Permitting Regulations and Water Framework Directive.

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil and/or water pollution. Paragraph 120 states that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution.

Government policy also states that planning policies and decisions should ensure that the site is suitable for its new use taking into account of ground conditions [...] pollution arising from previous uses and any proposals for mitigation, including land remediation on impacts on the natural environment arising from that remediation and adequate site investigation information prepared by a competent person, is presented (NPPF, paragraph 121).

We recommend that you refer to our Groundwater Protection: Policy and Principles (GP3, on www.gov.uk) to get a better understanding of the issues important to us. This document sets out a framework for our regulation and management of this precious resource and describes our aims and objectives for groundwater, our technical approach to its management and protection, the tools we use to do our work and our policies and approach to the application of legislation. Also, there is of course the risk management framework for contaminated land as set out in CLR11: The Model Procedures for the Management of Land Contamination.

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The Environment Agency hopes you find the above comments useful and we look forward to being consulted in the next stage of your consultation process regarding your Core Strategy.

Yours sincerely

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