



STATEMENT OF COMMON GROUND BETWEEN NEWCASTLE-UNDER-LYME BOROUGH COUNCIL AND ENVIRONMENT AGENCY

1. Introduction

- 1.1 This statement of common ground (SOCG) has been prepared by Newcastle-under-Lyme Borough Council and the Environment Agency in relation to the Newcastle-under-Lyme Borough Council Final Draft Borough Local Plan. It reflects the position between the two parties on a number of strategic matters and shared issues. This SOCG covers the Local Authority area of Newcastle-under-Lyme.
- 1.2 The purpose of the Statement is to document the strategic matters being considered and the progress made in cooperating to address them. It focuses on areas where there is agreement, and if appropriate those matters where work is ongoing to resolve differences. The Statement is intended to be 'live' and updated as circumstances change, and agreement occurs on any outstanding issues. Subsequent comments made on the final draft version of this document by EA clarify where issues have been resolved and where they remain unresolved, and a concern is maintained.
- 1.3 The Statement also forms part of the evidence to demonstrate compliance with the Duty to Co-operate during the preparation of the Newcastle-under-Lyme Borough Local Plan 2020-2040.
- 1.4 The Environment Agency were consulted at each consultation stage associated with the Local Plan at Issues and Strategic Options, First Draft Local Plan and Final Draft Local Plan stages.

2. Purpose and List of Parties Involved

- 2.1 The parties involved include Newcastle-under-Lyme Borough Council and the Environment Agency.
- 2.2 This is a statement of common ground between the parties. The statement provides a record of discussions between the parties and how far this has gone towards resolving issues. Meetings will continue on an ongoing basis and the statement of common ground may be updated accordingly.

3. Strategic Matters and Record of Agreement / Areas of Ongoing Discussion

- 3.1 The approach to the Statement of Common Ground is to follow the structure of the representations made by the Environment Agency at Regulation 19 stage.
- 3.2 In the representation made on the Final Draft Local Plan (at Regulation 19 stage), the Environment Agency have expressed a number of comments / concerns in relation to the NUL Local Plan, the following items set out the current position in relation to those elements and where agreement has been achieved.

Strategic Flood Risk Assessment (“SFRA”)

- 3.3 It is agreed between parties that the Level 1 SFRA has been prepared in line with relevant guidance.
- 3.4 The EA has recommended that further work be undertaken to assess flood risk impact of proposed allocations, particularly those in proximity to ordinary watercourses. This is to consider the suitability of the sites proposed in the Final Draft Local Plan for development and appropriate policy recommendations.
- 3.5 The Council has commissioned consultants JBA consulting to undertake an assessment of sites proposed for development and undertake a proportionate Level 2 SFRA, where required. This is intended to identify sites in flood zone 3 (and 2) and those impacted by ordinary / unmodelled watercourses (in flood zone 1) to understand the potential risk and developable area.
- 3.6 Following engagement on the Level 2 SFRA, it is agreed that it has been prepared in line with relevant guidance and will inform appropriate policy recommendations.
- 3.7 The EA reviewed the level 2 SFRA and provided comments and recommendations on 10th March 2025. Within which we advised upon the launch of our NaFRA2 data ([New national flood and coastal erosion risk information - GOV.UK](https://www.gov.uk/government/publications/new-national-flood-and-coastal-erosion-risk-information)) and likely future publications. We also recommended further Strategic flood risk assessment be undertaken for site TB23.
- 3.8 The EA received a copy of the Newcastle-under-Lyme Level 2 Strategic Flood Risk Assessment: NaFRA2 Addendum Final Report A1-C01 dated 28th March 2025, on 7th April 2025. The addendum has been provided to assess the changes within the NULBC administrative area following the publication of the NaFRA2 data.

- 3.9 We acknowledge that fluvial flood risk is not considered to vary significantly and as such is not considered to pose any additional barrier to development across the assessed sites compared to our previous level 2 SFRA assessment comments. The surface water mapping does however show more variation. We note site SP22 for example is shown to have notable 'surface water' flooding. The EA recommend consultation with the Lead Local Flood Authority in this regard.

Flood Risk:

- 3.10 The EA received the level 2 SFRA for **site TB23**, on 7th April 2025. The report indicates the site to be located within flood zone 1 based upon our indicative flood map for planning but advises that the site is at risk of fluvial flooding from two ordinary (unmodelled) watercourses which cross the site. The level 2 assessment uses surface water mapping (NaFRA2 RoSFW) as a proxy to indicate potential fluvial risk associated with these watercourses. These watercourses are identified as significant contributors to flood risk, with flood extents reaching up to 25m from the central channel and subdividing the site with associated moderate to high hazard ratings.
- 3.11 The report advises that a flood risk assessment will be required at planning stage, due to the size of the site. This is not fully the case, as we highlight that this is also due to the flood risk, identified within the SFRA addendum, relating to the potential fluvial flooding from ordinary watercourses on site. A detailed hydraulic model should be required to provide certainty on the flood risk, inform developable areas (as some of the site may be floodplain and/or flow routes, impacting on number of houses that could be delivered) and appropriate mitigation.
- 3.12 With regard to the exception test, it is expected that safe access and escape could be achieved.
- 3.13 Similar to previous recommendations on some of the SFRA level 2 allocation sites, if you are minded allocating this site then a caveat should be included to require – 'a detailed hydraulic model at the planning stage to inform the developable area, including a site specific FRA with mitigation to reduce flood risk'. The Council has agreed to propose this as a modification to the Local Plan for site TB23
- 3.14 Additional mitigation may include the incorporation of green corridors to preserve flood flow paths; blue/ green infrastructure to manage water sustainably and potentially the realignment of watercourses subject to environmental and engineering feasibility.

- 3.15 The report provides a broadscale assessment regarding the possible implementation of SuDS on site TB23. The EA however highlight that it fails to identify the proximity to the landfill and potential contamination linkages to controlled waters. Should this allocation go ahead you should require an appropriate surface water drainage system, informed by an appropriate hydraulic and hydrogeological risk assessment. The Council has agreed to propose this as a modification to the Plan.

Recommendations from EA response of 10 March 2025 to SFRA level 2, version 1.

- 3.16 The EA has recommended that the Council confirm that they are satisfied on the Sequential Test and Exception Test, where indicated and within the SFRA (e.g Sites CH13...). The EA also recommend that additional text be included with the site-specific allocations, where necessary, to indicate the need for a detailed flood risk assessment and any specifics that should be included at the planning stage (as detailed within the individual site assessments e.g. assessment of culvert and blockage analysis etc). This is based on the information presented in SFRA in the absence of a detailed hydraulic model to confirm otherwise.
- 3.17 e.g. CH13 – Add site allocation wording: ‘A site- specific flood risk assessment should include a detailed assessment of the culvert (capacity and blockage scenarios, culvert route and condition), including an appropriate no build buffer over the culvert’. The Council has agreed to propose this as a modification to the Plan.
- 3.18 e.g. BW1 – ‘A site-specific flood risk assessment at planning stage should include a detailed hydraulic modelling of the drainage channels within the boundary to provide certainty on risk and inform mitigation. Modelling and assessment of the culvert to the south east shall be provided’. The Council has agreed to propose this as a modification to the Plan.

Water Cycle Study(“WCS”)

- 3.19 At the Regulation 18 stage of Plan making, the EA recommended that that Council update its WCS to address wastewater infrastructure issues. This has been undertaken by the Council and published [reference ED 014].
- 3.20 The WCS headroom assessment identified Wastewater Treatment Works (WwTW) which have limited treatment capacity during the plan period. It suggests Severn Trent Water and United Utilities highlighted upgrades to these works are planned in the short term to increase capacity. As such, both parties agree the treatment capacity should not be a constraint to growth in the borough.

- 3.21 The WCS details the STW plan, highlighting that Wastewater Treatment Works (WwTWs) improvements are planned in AMP8 (2025 to 2030) for Baldwin's Gate. Improvement Works are a long-term priority for Strongford and Ashley, spanning from 2020 to 2050. Loggerheads Sanatorium was identified for WwTW Improvement Works as a focus between 2030 and 2050.
- 3.22 The EA agrees with the WCS in section 8.7 (page 81) and would advise that the Council consult with Severn Trent Water and United Utilities who are the operators of the WwTWs serving growth across the borough.
- 3.23 The EA acknowledge the water quality assessment within the WCS.
- 3.24 As the WCS confirms, a new/variation to the Environmental Permit (EP) may be required (from the EA) for the WwTW to improve the quality of the final effluent, so that the increased pollution load will not result in a deterioration in the water quality of the watercourse. This is known as "no deterioration" or "load standstill". The need to meet river quality targets is also taken into consideration when setting or varying a permit.
- 3.25 The WCS has considered this in section 9.2 of the WCS onwards. The EA has not reviewed the modelling but note that there were 'no significant deteriorations' found in the Water Framework Directive assessment which the WCS suggest can't be prevented by improved treatment standards. There are no red assessment outcomes, which indicates growth alone would not prevent achievement of good ecological status in future across the borough.
- 3.26 The EA support the recommendation in section 9.8 of the WCS – to liaise with Severn Trent Water to determine whether Baldwins Gate WwTW upgrades planned in AMP8 (2025 to 2030) will prevent >10% deterioration of river Ammonia concentration". It is agreed that policy wording could be added to policy IN1 (Infrastructure), criteria 14, to state 'Proposals within areas of infrastructure capacity constraint, as identified by the Water Cycle Study (and any major development) should demonstrate that there is adequate water infrastructure in place to serve the development'.
- 3.27 Separately to the comments received from the Environment Agency, the parties acknowledge that the site at Baldwins Gate has outline planning permission for 200 dwellings (planning reference 21/01041/OUT) which was granted planning permission at appeal (12 July 2023).

3.28 In terms of water efficiency, the EA highlights the recommendations of the Water Cycle Study for the council to adopt tighter water efficiency standards. The WCS acknowledges that Severn Trent Water supply area is defined as being under 'serious' water stress (see EA Water Stress Areas Classification: [Water stressed areas – 2021 classification - GOV.UK](#)), consequently it recommends tighter efficiency standards of 100lts/person/day with scope to further tighten this during the plan period.

3.29 The EA maintain a concern on this. We recommend this be recognised within the plan and policy wording be updated accordingly.

Sites TB23 'land west of Galingale View' and SP23 'land at Cemetery Road/Park Road'

3.30 The EA have highlighted concerns regarding the allocation of TB23 and SP23 in proximity to Walley's Quarry.

3.31 Both parties note that the EA has issued a closure notice to Walleys Quarry Ltd on the (28 November 2024). The closure notice was appealed by the operator of Walleys Quarry Ltd. The Operators of Walleys Quarry Ltd commenced voluntary liquidation proceedings in February 2025.

Areas of Ongoing Discussion

Newcastle-under-Lyme Borough Council

3.32 Sites TB23 and SP23 have been considered through the site selection process and identified as suitable for allocation in the Final Draft Local Plan. Policy criterion for TB23/SP23 site policies identify that no dwellings are to be occupied before the cessation of the disposal of non-hazardous waste at the Walleys Quarry Landfill Site. Both site policies require the submission of a land contamination assessment, odour assessment and associated mitigation strategy in relation to the impact of Walley's Quarry. The Council acknowledges that the situation at Walleys Quarry has changed following the commencement of voluntary proceedings of the previous operators of Walleys Quarry Limited in February 2025. The Council is working with relevant partners, including the Environment Agency, to establish an acceptable future for the site but this position is currently uncertain at this time, as set out in the position of the Environment Agency below.

Environment Agency

- 3.33 TB23 / SP23: The EA recommend you remove these sites from your allocations.
- 3.34 In general terms emissions from landfill sites are required by permit to be free from odour at levels likely to cause pollution outside the site. In practice this requires effective containment, capture, and destruction of landfill gas, by means of engine and / or flare. There is likely to be greater impact in the surrounding area from fugitive emissions in certain (cold, still) weather conditions, which affect dispersion, and with certain locations affected by their relative topography. The EA has produced a short video explaining how the weather impacts landfill odour, including by means of katabatic flow, which can be seen [here](#) on the Engagement HQ website.
- 3.35 It would appear, on the basis of Figure 1-1: Location of Site TB23, that the proposed land allocation (shown edged red) lies directly between Walleys Quarry and Galingale View, a location known to have experienced elevated levels of landfill gas emissions at certain times, believed to have been affected by katabatic flow.
- 3.36 Leachate management is also an important aspect of landfill operations, with control of leachate necessary to prevent contamination of ground and surface water. Where leachate levels in landfill are not controlled, including by means of appropriate treatment, the risk of pollution arising is increased. Saturation of landfill waste can also contribute to the generation of landfill gas, including hydrogen sulphide.

Current situation:

- 3.37 The environmental permit for the landfill and title to the site have been disclaimed by the former operator (Walleys Quarry Ltd). By the legal process of escheat ownership of the site has 'reverted' to the Crown. The Crown Estate has made it clear that it will not itself take any action in respect of the site consistent with ownership or management. The EA is arranging for steps to be taken to remove a risk of serious pollution further to its discretionary powers under Regulation 57 Environmental Permitting (England and Wales) Regulations 2016 (EPR). **Those steps include:** Limited excavation of waste to facilitate access to landfill liners; Realignment of gas and leachate infrastructure to facilitate access to areas of the site; Management of leachate and surface water through pumping and disposal offsite; Installation and maintenance of temporary capping, and more genialised capping repairs.
- 3.38 There is no definitive timeline for these steps, which are intended to prevent or reduce odorous landfill gas emissions from the site. The EA will at the same time, subject always to review, continue monitoring activities in relation to the site

in respect of risks of serious pollution. The EA has limited discretionary powers in respect of the site, should risks of serious pollution be removed. The future ownership and management of the site are uncertain.

- 3.39 In the short to medium term, while some of these works are taking place, there is potential for landfill gas emissions to increase temporarily. Due to the nature of these works, there may be limited mitigations possible to prevent or minimise offsite impacts.
- 3.40 In the longer term there may be ongoing monitoring and maintenance of the site to ensure the integrity of the capping is maintained. The incumbent gas contractor continues to manage the gas field and operation of the gas utilisation plant, but the EA cannot provide assurance as to its longer term business intent, so there remains some residual uncertainty in this respect.
- 3.41 Broadly, the closer any development is to the landfill, the more likely it is any sensitive receptors could be affected by fugitive emissions of landfill gas.

Other Emission considerations:

- 3.42 Gas migration, as noted in previous correspondence to the LPA, will be an ongoing risk and require further technical assessment and ongoing monitoring of perimeter boreholes. The existing monitoring boreholes may not be sufficient to provide the level of assurance for housing in such close proximity to the site, and putting in additional measures to mitigate the risk identified would be challenging. (We would question how this monitoring could be required of a developer, as it would require activity on land not in the developer's control. This is not a situation where it can be assumed that a permitted operation will be controlled by the permit – there is no longer a permitted operation or permit.)
- 3.43 The former landfill operator left the site with elevated levels of leachate within the waste mass, that has potential to frustrate the capture of landfill gas deeper within the site. There is a greater risk of gas migration where existing gas collection infrastructure has a lesser zone of influence, or there is unknown damage to the engineered side-wall liner of the landfill, providing a preferential pathway for gas to leave the site. Further comprehensive technical assessment would be required. (Again, we question how this could be required of a housing developer on land it does not control.)
- 3.44 The location of the gas utilisation plant, including flares, is in close proximity to the proposed development.

- 3.45 The LPA should be aware that surface water is discharged from the site. This takes place at an emission point that will require further technical consideration in respect of the proposed development. This is in addition to the storage of ground water in lagoons, that could overflow or suffer failure, with subsequent localised flood risk, and potential pollution risk, if not appropriately managed. There is no certainty of longer-term EA intervention at the site under its statutory powers.
- 3.46 As indicated, the landfill has been abandoned and the site disclaimed, following the insolvency of the operator. The EA can provide no assurance that there will be comprehensive site restoration, as required by the landfill planning permission issued by Staffordshire County Council.
- 3.47 Given the above, we consider it a risk to allocate the site within this plan period. We previously stated that the landfill will continue to generate gas and leachate, which will need to be monitored and managed by the site owners for several years after closure. The current timeframes on when the issues on site can/will be resolved are uncertain. The proposed restrictions on occupancy of homes until the cessation of non-hazardous waste disposal at the quarry, or a latter part of the plan period, does not adequately mitigate the risks.

Other Matters

- 3.48 The Environment Agency have requested amendments / additions to some of the wording in the Local Plan. The following table shows the response to the comments made by the Environment Agency. The table below acknowledges when a matter raised is considered of strategic significance: -

Policy / Page	EA recommendation	NUL Comment / Proposed Amendment	EA further comment
CRE1 'Climate Change', pg 26	Policy should allow for a future reduction in the water efficiency target	Noted, the Council policy CRE1 is considered to be appropriately framed, with regard to the requirements of Building Regulations and also the outcomes of the Viability Study [ED04] prepared to support the Local Plan	Maintain concern/agreement not reached - We previously requested (extract below) you include a more stringent water efficiency target of 100l/p/day, informed by your WCS evidence base recommendations. We recommend this be updated... "Policy advises that residential developments should be designed to achieve a maximum of 110 litres per

			<p>person per day in line with the optional standard of Building Regulations, part G. This doesn't reflect recommendations within the Water Cycle Study. Water Cycle Study (MEN-JBAU-XX-XX-RP-EN-0001-D1-C01-Water_Cycle_Study, issue date 22.7.2024). Section 4.7.3 highlights that Severn Trent Water supply area is defined as being under 'serious' water stress (see EA Water Stress Areas Classification: https://www.gov.uk/government/publications/water-stressed-areas-2021-classification). Your policy supporting text section 6.6 currently refers to the area being under moderate water stress, which is incorrect and should be amended to read serious water stress.</p> <p>Recommendations within WCS for mitigating future water stress outlined in Table 4-3 Recommendations for water resources: recommends that policy should require a water efficiency standard of 100l/p/d. The Government's Environmental Improvement Plan (section 3.7.2) commits to considering a new standard for new homes in England of 105lts/p/d and 100l/p/d where there is a clear local need. The WCS indicates that it is likely that this or similar standards will be adopted. The policy should, therefore, allow for a future reduction in the water efficiency target" ...</p>
IN1 'Infrastructure', pg 58	Support the inclusion of financial contributions	Noted	Support

	<p>development and identify flood flow impacts/improvements.</p> <p>Section 4 Policy wording is poor and lacks clarity. What is meant by 'high risk' areas - is this focusing on flood zones e.g 'high risk' flood zone 3, or cumulative impact areas?</p> <p>(a) what are the specific minimum floor levels?</p> <p>(b) This (8 metre easement from top of bank of) is required regardless of the extent and location of the floodplain. It also relates to culverted watercourses, with the area above to be a 'no build zone'.</p> <p>(c) Should also include River Basin Management Plans.</p> <p>SFRA Cumulative Impact Assessment</p>	<p>supporting information (paragraph 11.10) on the definition of flood risk as follows:-</p> <p><u>"For the purposes of this policy, 'high-risk areas' are defined as:</u></p> <p><u>-Land located within Flood Zones 2, 3a, or 3b.</u></p> <p><u>-Sites 1 hectare or greater located within Flood Zone 1 where the current SFRA identifies a risk of flooding from any source.</u></p> <p><u>-Areas where the current SFRA identifies that development would increase flood risk or exacerbate existing flooding, particularly in those catchments identified as 'highly sensitive' to cumulative impact, which includes the following watercourses: Lyme Brook, Fowlea Brook, Valley Brook, and Englesea Brook.</u></p> <p><u>-Areas identified as being susceptible to groundwater flooding, including those within Source Protection Zones (SPZs) 1,2, or 3.</u></p> <p><u>-Areas identified on the current SFRA Groundwater Emergence map where groundwater levels are between 0 and 0.5m below ground level."</u></p>	<p>Easement? An 8-metre maintenance easement along main rivers. no further comment</p> <p>Note the supporting information will include clarification on the definition of risk for cumulative impact assessment. This would open up quite a large area.</p> <p>These watercourses identified are the key areas.</p>
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	<p>(pg 11) Table 2 -4: Catchments deemed highly sensitive - includes Lyme Brook, Fowlea Brook, Valley Brook and Englesea Brook as high risk cumulative impact catchments.</p> <p>The SFRA suggests that Local planning policies can also be used to identify areas where the potential for development to increase flood risk is highest and identify opportunities for such new development to positively contribute to decreases in flood risk downstream. To be more effective and link up with the SFRA, the policy should have specific regard to these.</p> <p>The policy should also require flood risk</p>	<p>Section 4, reference to River Basin Management Plans. It is proposed to incorporate the following wording after paragraph 11.12, as follows: -</p> <p><u>“The SFRA has given due consideration to the requirements and objectives of River Basin Management Plans (e.g. the Humber and North West River Basin Management Plans) when assessing flood risk and where relevant, FRAs should also have regard to River Basin Management Plans, as appropriate”.</u></p>	<p>Note – Agree (RBMP confirmation)</p>
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Policy BW1 Chatterley Valley, Criteria 4	To reflect outcomes of the Level 2 SFRA	To add additional text to the criteria, as follows: - <u>“A site-specific flood risk assessment at planning stage should be prepared and include a detailed hydraulic modelling of the drainage channels within the boundary to provide certainty on risk and inform mitigation. Modelling and assessment of the culvert to the south east shall be provided”</u>	Noted
Policy CH13 Castletown Grange, criteria 4	To reflect outcomes of the Level 2 SFRA	Additional text added to the policy as follows: - <u>“A site-specific flood risk assessment should be prepared for the site which includes a detailed assessment of the culvery (capacity and blockage scenarios, culvert route and condition) including an appropriate no build buffer over the culvert”</u>	Noted
Policy TB23 ‘Land West of Galingale View, Criterion 3	To reflect outcome of the Level 2 SFRA	Additional text added to the policy as follows: - Add additional text to the end of criterion 6, as follows:-	Noted

		<p><u>“A detailed hydraulic model should be prepared at the planning stage to inform the developable area, including a site specific Flood Risk Assessment with mitigation to reduce flood risk. This study should also inform an appropriate surface water drainage system, informed by an appropriate hydraulic and hydrological risk assessment”</u></p>	
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1. **Duty-to-Co-operate Agreement**

- 1.1 The parties agree that constructive and active engagement has taken place on strategic matters to date and will continue to do. The parties recognise that there are outstanding issues and that both will continue to work closely and where relevant with other prescribed bodies on strategic issues.

2. **Signatories and Governance Arrangements**

- 2.1 In terms of governance, the authorities agree:

- that in response to any new evidence / changes in circumstances, informal discussions will occur between the parties on the issues referred to in this SoCG in the form of officer level meetings with escalation to more senior levels where necessary.
- that this SoCG will be reviewed when required including adding additional issues that may be identified through the process of forming the Local Plan.

Newcastle-under-Lyme Borough Council
Name: Allan Clarke
Position: Planning Policy Manager
Date Agreed: 30/04/2025
Signature: 

Environment Agency
Name: Mark Davies
Position: Planning Specialist
Date Agreed: 30/4/25
Signature: 