

CABINET – 30 JANUARY 2024

PROCEDURAL MATTERS

Members Questions:**Question (1) Clare Curran**

- A. Will Surrey's "Local Nature Recovery Strategy (LNRS)" be used to meet Part 6 of the Levelling-up and Regeneration Act 2023 ? (This defines "Environmental protection as "protection of the natural environment, cultural heritage and the landscape from the effects of human activity including, amongst other things, the protection of chalk streams from abstraction and pollution).
- B. Where groundwater flooding is a high risk (e.g. along the chalk spring line on the dip slopes of the North Downs above Surrey's primary and secondary aquifers) will Surrey's Strategic Flood Risk Assessment mandate the use of a Hydrogeological Risk Assessment and specialist SUDS advice for all developments (including Permitted Developments) so that Districts and Boroughs are properly supported in their duty, as Planning Authorities, to comply with NPPF paragraph 162 in their spatial strategy and in their policies e.g. the use of SUDS.

Reply:

- A. Part 6 of the Levelling Up and Regeneration Act (LURA) 2023 relates solely to the Government's proposals for Environmental Outcomes Reports (EORs) which it intends to introduce to replace the established Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) regimes.

The definition of environmental protection in Part 6 of the LURA places no obligations on the Surrey Local Nature Recovery Strategy which is required under separate legislation - Part 6 (Local Nature Recovery Strategies) of the Environment Act 2021.

The Surrey LNRS would not be used to meet any obligations that Part 6 (EORs) of the LURA 2023 may place in due course on planning authorities.

The government does state that EORs may be used to amplify Local Nature Recovery Strategies, however, final details on how exactly EORs will work have not been finalised and were subject to consultation in March 2023. The government response to this consultation has not yet been published.

- B. Groundwater flooding, as with all other sources of flooding, can present a significant risk to property and public health. Therefore, new development should be directed away from any areas at risk. Where this is not possible and proposed development is within high-risk flood areas it must meet both the Sequential and Exception Test; the latter of which states "the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall". Individual local planning authorities highlight the areas known to be at flood risk through their SFRA but planning policy (including mandatory

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assessments required to support applications they consider) is set through the National Planning Policy Framework (NPPF) and Local Plan process. Any local plan requirements must be proportionate to the size and level of risk associated with the development.

The Local Planning Authority is the arbiter of what evidence is required to validate a planning application. Surrey's Flood Risk and Climate Resilience Team support all LPAs in the development of both their SFRA's and Local Plans to ensure that all flood risk, including from groundwater, is appropriately considered within the planning process meeting the test required by the Planning Inspectorate. Given the complex and costly nature of a Hydrogeological Risk Assessment; it is unlikely that this would be reasonable for most non-major or permitted development applications, except on very high-risk sites.

We also recommend that Local Plans state that Sustainable Drainage Systems are required on all development unless shown to be inappropriate. Permitted Development guidelines are set nationally. The only Surrey wide SFRA is to guide planning applications considered by Surrey County Council in their role as planning authority for Materials or Waste applications and developments on its own properties.

Currently the NPPF states that all major applications and all those applications on sites at flood risk should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate. As statutory consultees for surface water drainage implications, Surrey's Flood Risk Planning and Consenting Team respond to all requests for support and advice within our remit.

Marisa Heath
Cabinet Member for Environment
30 January 2024