

Duty to Cooperate
Memorandum of Understanding
East Herts Council and the Environment Agency

- 1.1. This memorandum of understanding establishes the outcomes of co-operation between East Herts District Council and the Environment Agency with respect to strategic planning and development issues.
- 1.2. Local Authorities are required through the Duty to Co-operate to engage constructively and actively on an on-going basis on planning matters that impact on more than one local planning area. The NPPF sets out the requirement that public bodies should cooperate on planning issues that cross administrative boundaries particularly those which relate to the following strategic priorities:
 - The homes and jobs needed in the area.
 - The provision of retail, leisure, and other commercial development.
 - The provision of infrastructure for transport telecommunications, waste management, water supply, wastewater, flood risk and coastal change management.
 - The provision of minerals and energy (including heat).
 - The provision of health, security, community and cultural infrastructure and other local facilities.
 - Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment including landscape.
- 1.3. The NPPF requires Local Planning Authorities to work collaboratively with other bodies to make sure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans. Local Planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross- boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position. Cooperation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.

2. Parties to the Memorandum

- 2.1. The Memorandum is agreed by the following authorities:
 - East Hertfordshire District Council
 - Environment Agency

3. Limitations

- 3.1. It is recognised that there might not always be full agreement with respect to all the issues on which they have agreed to cooperate. For the avoidance of doubt the Memorandum will not restrict the discretion of any organisations in the

determination of any planning application, or in the exercise of any its statutory powers and duties or in its response to consultations and is not intended to be legally binding.

4. Objectives

4.1. The Memorandum has the following broad objectives:

- To help secure a consistent approach to strategic planning issues affecting East Hertfordshire District Council and the Environment Agency,
- To identify and manage spatial planning issues that impact on both East Hertfordshire District Council and the Environment Agency.
- To make sure that the local planning and development policies prepared by each local authority are, where appropriate, informed by the views of the other local authority. This will normally involve engagement in the preparation of Development Plans.
- To ensure compliance with the Duty to Co-operate.

5. Matters Agreed

5.1. The matters identified below have been discussed and agreed having had regard to comments received during the various consultation stages undertaken throughout the preparation of the District Plan as well as Officer level meetings.

Proposed Site Allocations

5.2 A number of proposed allocations contained within the District Plan are partially located within either Flood Zone 2 or 3, namely; the Goods Yard (BISH7), Old River Lane/Causeway (BISH8) and the Mill Site (BISH10) in Bishop's Stortford, and Mead Lane (HERT2) in Hertford.

5.3 Through the Environment Agency's response to the Pre-Submission consultation, it was agreed that there is an evidence base to justify the allocation of BISH7, BISH8 and HERT2. For each of the sites the evidence base consists of the following:

- A Sequential Test which justifies that there are no reasonable alternatives to the proposed allocation.
- A Level 2 Strategic Flood Risk Assessment (SFRA).

5.4 With regards to BISH10, the Mill Site, the Environment Agency objected on the basis that neither the Sequential Test nor a Level 2 SFRA had been undertaken. However, following the consultation, this work was undertaken to the satisfaction of the Environment Agency. It is therefore agreed that this objection has been resolved and that there is sufficient evidence to justify the site's inclusion in the District Plan as a proposed allocation.

5.5 It is also agreed that, for all four sites, a site specific Sequential Test should be carried out at the planning application stage in order to ensure that

development is located in those areas that are at the lowest risk of flooding. In addition a site specific Flood Risk Assessment, which takes account of the Level 2 assessments already undertaken, will be required at the planning application stage.

Development Management Policies

- 5.6 Agreement has been reached between the Council and the Environment Agency on the wording of a number policies contained in the District Plan. In their response to the Pre-Submission consultation, the Environment Agency has made some suggestions that they feel would improve policy wording in some areas. It is therefore agreed that these suggestions can be discussed further prior to adoption of the District Plan, where such changes would not be 'material' in nature.